

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF THE PFIZER SETTLEMENT,
APPROVAL OF PLAN OF ALLOCATION, AND
AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

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INTRODUCTION

After four years of hard-fought litigation and months of negotiations assisted by David W. Aemmer, the Chief Circuit Mediator for the Tenth Circuit, Plaintiffs KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc.; FWK Holdings, LLC; and César Castillo, LLC, on behalf of themselves and the Direct Purchaser Plaintiffs (“DPPs” or “Plaintiffs”), and Defendants Pfizer, Inc., King Pharmaceuticals LLC, and Meridian Medical Technologies, Inc. (collectively, “Pfizer”), entered into a class action settlement agreement (“Settlement”) requiring Pfizer to pay \$50,000,000 into a non-reversionary Settlement Fund for the benefit of the Settlement Class (“Class”).¹

The Settlement is an excellent result for the Class considering the risks of continued litigation. Given the Court’s holding that DPPs lacked antitrust standing to assert claims against Pfizer, *see* ECF No. 241-1 at 86, members of the Class faced a substantial risk of receiving no recovery for their claims against Pfizer. Although the Tenth Circuit accepted DPPs’ appeal of the Court’s order, it was far from certain whether the Tenth Circuit would rule in DPPs’ favor. Additionally, even if DPPs were able to prevail with their appeal, they still would need to prevail at class certification, survive summary judgment, and win at trial to receive any recovery from Pfizer via litigation.

In contrast to these substantial risks, the Settlement makes significant and immediate relief available to Class members without the risks of continued litigation. To receive a cash payment from the \$50 million Settlement, Class members need only complete and submit a claim form with appropriate documentation. Each Class member who timely submits a valid claim form with supporting documentation will receive a *pro rata* share of the fund. For all these reasons, Co-Lead

¹ Unless otherwise noted, the capitalized terms used in this Memorandum of Law have the same meanings as defined in the Settlement Agreement. *See* Settlement Agreement, ECF No. 372-2.

Counsel for the Settlement Class (“Co-Lead Counsel”) respectfully submit that the Settlement is fair, reasonable, and adequate.

The Court-approved notice program is substantially complete. Class members were mailed direct notice of the Settlement on April 24, 2024; notice was posted on the settlement website, www.EpiPenDPPSettlement.com the same day; and publication notice appeared on the Pink Sheet website, in *Business Wire*, and in *The Wall Street Journal* by May 2, 2024. See Declaration of Tracy M. Hanson (“Hanson Decl.”) ¶¶ 5, 6, 9-11, attached as Exhibit 7. No opt-out requests or objections have been submitted as of the time of this filing; Class members have until May 28, 2024, to object to or opt out of the Settlement. *Id.* ¶¶ 14, 15.

DPPs respectfully submit that final approval of the Settlement should be granted.

For the exceptional results Co-Lead Counsel achieved for the Class, and the hard work required to secure those results, Co-Lead Counsel seek an attorneys’ fee award of one-third of the Settlement Fund (\$16,666,667), reimbursement of costs and expenses incurred in the amount of \$536,157.61, and a \$5,000 service award for each class representative, KPH Healthcare Services, Inc., FWK Holdings, LLC, and César Castillo, LLC. The requested fee compares favorably to attorneys’ fee awards in similar cases and is reasonable and justified given the results secured, the risky and complex nature of this case—including the fact that Plaintiffs’ claims against Pfizer were dismissed by this Court and were on appeal, and the resources expended by Plaintiffs’ counsel in the form of 21,669.2 hours and \$536,157.61 in costs and expenses.

Co-Lead Counsel’s request for reimbursement of \$536,157.61 for costs and litigation expenses incurred by Plaintiffs’ counsel to advance this matter is reasonable and consistent with what the market would award in a private setting. The requested service awards of \$5,000 are likewise reasonable given the significant time and effort the class representatives and their

employees put into advancing this litigation and the fact that, without their efforts, Class members would receive none of the sizeable benefits they will receive under the Settlement.

BACKGROUND AND PROCEDURAL HISTORY

I. Procedural Background

Plaintiffs in this class action lawsuit allege that, on April 26, 2012, Defendants Pfizer and Mylan² entered into an illegal pay-for-delay agreement with Teva under which Teva was provided with substantial and valuable consideration in exchange for its agreement to delay market entry of its generic EpiPen until June 22, 2015. Plaintiffs allege that the agreement violated Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, and enabled Mylan and Teva to charge supra-competitive prices for EpiPens and their generics. Fourth Amended Complaint, ECF No. 128 ¶¶ 239–56.³

On August 8, 2022, the Court granted Pfizer’s motion to dismiss Plaintiffs’ claims against Pfizer for lack of antitrust standing, concluding that “*Illinois Brick* barred plaintiffs’ Sherman Antitrust Act claims against Pfizer because plaintiffs are indirect purchasers of EpiPen from Pfizer.” ECF No. 241-1 at 86. The Court held that “neither the Supreme Court nor the Tenth Circuit has recognized a ‘conspiracy exception’ to *Illinois Brick*” and that neither of the two recognized exceptions—the cost-plus contract exception or the customer owned or controlled exception—applied to the facts Plaintiffs alleged here. *Id.* The Court went on to note “that both the Supreme Court and our Circuit have cautioned against expanding the narrow and limited exceptions to the

² “Mylan” refers collectively to Defendants Mylan, N.V., Mylan Pharmaceuticals Inc., and Mylan Specialty L.P. Plaintiffs continue to litigate this case against Mylan.

³ On November 4, 2022, the Court appointed Michael L. Roberts at Roberts Law Firm US, PC and Linda P. Nussbaum at Nussbaum Law Group, P.C. Interim Co-Lead Counsel, and Bradley T. Wilders at Stueve Siegel Hanson LLP as Interim Liaison Counsel, for the putative DPP Class. ECF No. 306.

Illinois Brick rule” and that “no court ever has applied a co-conspirator exception to an antitrust conspiracy claim premised on a generic delay theory” like that alleged by the Plaintiffs here. *Id.* 49-50. The Court granted in part and denied in part Mylan’s motion to dismiss. *Id.* at 86.

On August 22, 2022, Plaintiffs moved this Court to certify for interlocutory appeal the question of whether “plaintiffs’ claims against Pfizer, as an alleged co-conspirator to delay entry of generic competition in the EAI market, [are] barred by *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), because plaintiffs did not purchase EpiPens directly from Pfizer.” ECF No. 251. Over Pfizer’s opposition, ECF No. 261, the Court granted Plaintiffs’ motion on October 31, 2022, ECF No. 305.

On November 14, 2022, Plaintiffs sought permission from the Tenth Circuit to appeal the portion of the Court’s August 8, 2022 order dismissing Plaintiffs’ claims against Pfizer as barred by *Illinois Brick*. Appeal No. 23-3014, Doc. No. 010110767942. On January 23, 2023, the Tenth Circuit granted Plaintiffs’ petition. Appeal No. 23-3014, Doc. No. 010110801525. On March 28, 2023, Plaintiffs filed their opening brief. Appeal No. 23-3014, Doc. No. 010110834381.

Around the time of the filing of Plaintiffs’ opening appellants’ brief in March 2023, Pfizer and Plaintiffs began to discuss the possibility of settlement. These discussions were facilitated and assisted by Tenth Circuit Chief Mediator David A. Aemmer. After several months of arms-length mediation with Mediator Aemmer, the exchange of damages information, and analysis of the legal and factual posture, Plaintiffs and Pfizer entered into the Settlement on September 28, 2023, that, among other things, resolved Plaintiffs’ claims against Pfizer in exchange for a non-reversionary \$50 million payment from Pfizer for the Class. ECF No. 372-2.

On September 29, 2023, the parties jointly moved the Tenth Circuit for a limited remand to allow this Court to consider preliminary approval of the Settlement Agreement with Pfizer.

Appeal No. 23-3014, Doc. No. 010110929475. The Tenth Circuit granted the motion on October 3, 2023. Appeal No. 23-3014, Doc. No. 010110931180.

On October 10, 2023, Plaintiffs filed their Motion for Certification of a Settlement Class, Preliminary Approval of Settlement with Pfizer Defendants, and Related Relief. ECF No. 371.

On March 28, 2024, the Court issued its Memorandum and Order certifying the Settlement Class and granting preliminary approval to the Settlement. ECF No. 393. The Court issued an Amended Memorandum and Order shortly thereafter, on April 4, 2024. ECF No. 394.⁴

II. The Parties Engaged in Extensive Discovery

Plaintiffs have engaged in substantial discovery involving the Defendants, Plaintiffs, and numerous third parties, federal agencies, and generic drug manufacturers, including Teva and Teva's device manufacturer Antares, Kaleo, Sanofi, and Amneal/Impax. Declaration of Michael L. Roberts ("Roberts Decl.") ¶ 29, attached as Exhibit 1. Plaintiffs responded to multiple sets of interrogatories, negotiated discovery protocols with Defendants, collected, reviewed, and produced thousands of Plaintiff documents along with detailed purchase and sales data, analyzed Defendants' transactional data, and served document requests on Defendants and third parties. Roberts Decl. ¶¶ 20-32, 70-71, 75-76. This discovery resulted in the production of approximately 1.5 million documents, which Plaintiffs then carefully reviewed and analyzed, further shaping their theories of the case. *Id.* ¶ 31. There also have been numerous discovery disputes, including motions to compel originating from both sides and objections to producing documents by third parties that were resolved only by motions to compel. *Id.* ¶¶ 20-32. Plaintiffs also consulted extensively with experts concerning discovery, damages, class certification, and other issues. *Id.* ¶¶ 32.

⁴ The only substantive change in the Amended Order was to move the date of the Final Approval Hearing to June 25, 2024.

III. Material Terms of the Settlement Agreement with Pfizer

The Settlement provides a \$50 million non-reversionary, cash payment from Pfizer (the “Settlement Amount”) in exchange for a release by Settlement Class members. Settlement, ECF No. 372-2 ¶ 7. In accordance with the terms of the Settlement, Pfizer transferred five million dollars into the Settlement Fund Escrow Account on April 4, 2024. Roberts Decl. ¶ 41. The Settlement requires Pfizer to transfer the remaining \$45 million into the Escrow Account on or before June 10, 2024—fifteen calendar days before the Final Approval Hearing on June 25, 2024. Roberts Decl. ¶ 41; Settlement, ECF No. 372-2 ¶ 7(a). The Settlement Fund, which consists of the Settlement Amount and all the interest and accretions thereto, will be used to pay costs of settlement administration (including the costs of notice to the Class, taxes, and tax expenses), and, as allowed by the Court, Plaintiffs’ attorneys’ fees, litigation costs and expenses, and service awards to the class representatives. *Id.* ¶¶ 7(e), 11. The balance of the Settlement Fund (the “Net Settlement Fund”) will be distributed pursuant to the Plan of Allocation to Settlement Class members who submit timely and valid claim forms to the Settlement Administrator. ECF No. 372-9.

In addition, Pfizer has agreed to file in this Court a stipulation regarding the authentication and admissibility of documents produced by Pfizer in this matter. Settlement ¶ 15; Roberts Decl. ¶ 42. This will greatly benefit the Class in its continued litigation against Mylan.

IV. Preliminary Approval and Class Notice

Plaintiffs filed their motion for preliminary approval of the Settlement on October 1, 2023, ECF No. 372, which the Court granted on April 3, 2024, ECF No. 394. In its order granting preliminary approval, the Court appointed A.B. Data, Ltd. as the Settlement Administrator and approved the form and manner of notice to Class Members as “constitut[ing] the best notice to the Class Members practicable under the circumstances; . . . [being] reasonably calculated, under the

circumstances, to describe the terms of the Settlement and to apprise Class Members of their right to object; and satisfy[ing] Fed. R. Civ. P. 23(e), the principles of due process, and are otherwise fair and reasonable.” *Id.* ¶ 8.

A.B. Data has implemented the notice program approved by the Court. Since entry of the preliminary approval order, A.B. Data has: (i) mailed copies of the long-form notice to identified Class members, along with a claim form, (ii) executed the approved media plan to publish notice of the Settlement on the Pink Sheet website and in *Business Wire* and the *Wall Street Journal*, and (iii) provided and managed the case-specific website, www.EpiPenDPPSettlement.com. *See* Hanson Decl. ¶¶ 5-6, 9-11. The Settlement website provides information to Class members about the litigation and the Settlement, contains important case filings and Settlement documents, including notice and the Settlement, and allows Class members to file a claim electronically. To date, at least 76 users have visited the Settlement Website. *Id.* ¶ 13. A.B. Data will mail a reminder notice by May 22, 2024. *Id.* ¶ 8.

The deadline for Class members to object to the Settlement is May 28, 2024, and the deadline for Class Members to file a claim is July 24, 2024. The majority of claims are typically filed close to the claims filing deadline; therefore, A.B. Data (and Plaintiffs’ counsel) expect the claims rate to increase by the July 24, 2024 deadline. *Id.* ¶ 14.⁵

V. Plaintiffs’ Counsel Invested Considerable Time and Resources Prosecuting the Case

As described in detail above and in the accompanying declarations, and as is reflected in the Court docket, Plaintiffs’ counsel devoted substantial time, energy, and resources prosecuting

⁵ Co-Lead Counsel will provide the Court with an update on the response of the Class, including all claims and any objections and requests for exclusion filed to date, in a supplemental filing ahead of the June 25, 2024 Final Approval Hearing.

this risky litigation—on a completely contingent basis—to reach a successful resolution with Pfizer. *See* Roberts Decl. ¶¶ 5-6, 51-63. Plaintiffs’ counsel made this investment knowing that the case would involve years of extensive discovery, defending against dispositive motions by experienced and sophisticated defendants, significant class certification motions, and a substantial risk that there may be no recovery. *See* Roberts Decl. ¶ 53.

From the outset, Plaintiffs’ counsel performed substantial work, including researching and drafting the complaints, coordinating with Co-Lead and Liaison counsel, successfully defending against Defendants’ motions to dismiss, and researching and drafting an appeal to the Tenth Circuit and opposition to Mylan’s cross-appeal of the Court’s Order on Defendants’ motions to dismiss. *Id.* ¶¶ 3-19. At the same time, Co-Lead Counsel oversaw and continue to oversee extensive discovery, including written discovery, subpoenas to non-parties, the review of approximately 1.5 million documents and data, and the retention of experts for class certification and damages, among other issues. *Id.* ¶¶ 20-32.

With respect to the Settlement, Co-Lead Counsel analyzed the posture of the case, relevant Tenth Circuit law, and various issues regarding damages and liability, participated in multiple mediation sessions with the Tenth Circuit Mediator Mr. Aemmer, successfully negotiated the Settlement, drafted the Settlement Agreement in coordination with Pfizer’s counsel, sought and obtained preliminary approval of the Settlement, retained and oversaw the Settlement Administrator and notice program, and prepared the pending motion for final approval of the Settlement. *Id.* ¶¶ 33-48. Co-Lead Counsel have also communicated to Class members details of the Settlement via mailed, website, and publication notice. *See* Hanson Decl. ¶¶ 5, 6, 9-11. Co-Lead Counsel will ensure proper distribution of the settlement proceeds pursuant to the Allocation Plan approved by the Court and to address any issues that arise after final approval of the

Settlement. Roberts Decl. ¶ 48.

Through April 30, 2024, Plaintiffs' counsel incurred costs and expenses of \$536,157.61 and invested a collective total of more than 21,500 hours of time, with a lodestar of \$18,743,955.50 in the prosecution of this litigation. *Id.* ¶¶ 58, 61. The collective lodestar includes time for all the law firms representing DPPs that did work at various points in the litigation at the request and under the supervision of Co-Lead Counsel. *Id.* ¶ 60. All firms that did work at the request of Co-Lead Counsel agreed in advance to submit detailed monthly time and expense reporting throughout the litigation. *Id.* In addition to counsel's costs and expenses, the Settlement Administrator, A.B. Data, has submitted an invoice for the successful implementation of the Class notice plan in the amount of \$64,668.11.⁶ Ex. E to Hanson Decl.

VI. The Class Representatives Provided Significant Assistance

The three named class representatives, KPH Healthcare Services, Inc. a/k/a Kinney Drugs Inc., FWK Holdings, and César Castillo, LLC, have each made significant contributions to the litigation that inured to the benefit of the Class. Roberts Decl. ¶¶ 64-77; Declaration of Linda P. Nussbaum ("Nussbaum Decl.") ¶¶ 14-19, attached as Exhibit 2. They gathered information, produced responsive documents, and worked with Plaintiffs' Counsel to provide written responses to Defendants' discovery requests. *See* Roberts Decl. ¶ 64. Further, the class representatives stayed informed of case developments and procedural matters over the course of the case and reviewed and approved the settlement with Pfizer. *Id.* ¶ 65. They performed their class representative duties willingly and ably for the benefit of the Class, and they did so without any guarantee of reimbursement or compensation for the work they performed on behalf of the Class. *Id.* ¶ 65.

⁶ Co-Lead Counsel will provide the Court with an update as to any additional invoices from A.B. Data ahead of the Final Approval Hearing.

A. KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc.

KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc. (“KPH”) operates retail and online pharmacies in the Northeast under the name Kinney Drugs, Inc. KPH purchased EpiPen directly from McKesson, which purchased those EpiPen directly from Mylan. McKesson assigned to KPH its antitrust claims against Defendants. *Id.* ¶ 68.

KPH has been an excellent representative for the Class. KPH was the first plaintiff to bring this case, to be later joined by its co-class representatives, and has doggedly maintained its dedication to this case since its first complaint. *Id.* ¶ 69. KPH is currently participating in ongoing, extensive defensive discovery and has responded to multiple sets of discovery requests served by Pfizer and Mylan. *Id.* ¶ 70. KPH has responded to interrogatories served by the Defendants and has supplemented responses to some interrogatories. *Id.* In addition, KPH has expended significant effort in searching for, collecting and producing documents responsive to Defendants’ discovery requests. *Id.* ¶ 71. KPH has made three productions which include go-get documents, custodial documents, and transactional purchase and sales data. *Id.* Further, KPH worked diligently to produce downstream discovery as ordered by the Court. *Id.* ¶ 72. Thus far, KPH has produced 2,913 documents and 16,396 pages. *Id.* Through counsel, KPH served its assignor with two Rule 45 subpoenas that sought additional transactional data and documents. *Id.*

Fact discovery continues in this case, and KPH will make additional document productions. Plaintiffs’ counsel have met and conferred on multiple occasions and exchanged correspondence with defense counsel regarding responses to interrogatories, custodians, search term negotiations, and document productions. *Id.* ¶ 73.

B. FWK Holdings, LLC

FWK Holdings, LLC (“FWK”) is an assignee of pharmaceutical wholesaler Frank W. Kerr Co. (“Kerr”) and is based in Illinois. Kerr purchased EpiPen directly from Mylan during the Class Period. FWK pursues relief in this action as Kerr’s assignee. *Id.* ¶ 74.

Like KPH, FWK has satisfactorily represented the Class in prosecuting its claims against Defendants. *Id.* ¶ 75. FWK is participating in ongoing, extensive defensive discovery. *Id.* FWK has responded to written discovery requests and has supplemented responses to some interrogatories. *Id.* FWK’s document productions also involved significant effort in searching for, collecting, reviewing, and producing documents responsive to Defendants’ discovery requests. *Id.* ¶ 76. FWK has made four productions which include go-get documents, custodial documents, and transactional purchase and sales data. *Id.* FWK also worked diligently to comply with the Court’s order to produce downstream documents. *Id.* FWK has produced 2,452 documents and 14,425 pages to date. *Id.*

As discussed above, fact discovery continues in this case, and FWK will make additional document productions. *Id.* ¶ 77. Plaintiffs’ counsel have met and conferred on multiple occasions and exchanged correspondence with defense counsel regarding responses to interrogatories, custodians, search term negotiations, and document productions. *Id.*

A. César Castillo, LLC

Plaintiff César Castillo, LLC (“Castillo”) is a family owned and operated wholesaler of pharmaceuticals and health and beauty products headquartered in Guaynabo, Puerto Rico. Castillo purchased EpiPen and generic EpiPen directly from Defendant Mylan during the relevant period. Castillo’s service as a class representative has been exemplary. Castillo provided documents and consulted with counsel to assist with the drafting of Castillo’s motion to intervene and class action complaint which Castillo’s managing director reviewed before it was filed on August 13, 2021.

Nussbaum Decl. ¶ 17. Castillo also provided information and assisted in drafting Plaintiffs’ Fed. R. Civ. P. 26 disclosures served on November 15, 2021 and responded to and supplemented interrogatories on May 17, 2022, June 20, 2022, and September 15, 2022. *Id.* Castillo’s purchasing and sales department also collected and ultimately produced thousands of pages of documents as well as detailed transaction data for purchases and sales of EAI products. *Id.* ¶ 18. In addition, Castillo’s managing director regularly consulted with counsel to monitor the litigation. *Id.* ¶ 19.

ARGUMENT

I. The Settlement Is Fair, Adequate, and Reasonable

Settlement is strongly favored as a method for resolving disputes. *See, e.g., Sears v. Atchison, Topeka & Santa Fe Ry., Co.*, 749 F.2d 1451, 1455 (10th Cir. 1984). This is particularly true in large, complex class actions such as the current case. *See Big O Tires, Inc. v. Bigfoot 4x4, Inc.*, 167 F. Supp. 2d 1216, 1229 (D. Colo. 2001) (“in complex cases the litigants should be encouraged to determine their respective rights between themselves”) (citing Manual for Complex Litigation (2d ed.) § 23.11 (1985)).

The Settlement is fair, reasonable, and adequate. Rule 23(e)(2) directs that courts must consider the following factors when determining the fairness of a class action settlement at final approval:

(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).⁷

Traditionally, the Tenth Circuit has instructed courts to analyze four factors when deciding whether a Rule 23 agreement is fair, reasonable, and adequate:

(1) whether the proposed settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and (4) the judgment of the parties that the settlement is fair and reasonable.

Chavez Rodriguez v. Hermes Landscaping, Inc., No. 17-2142-JWB-KGG, 2020 WL 3288059, at *2 (D. Kan. June 18, 2020) (citing *Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F.3d 1180, 1188 (10th Cir. 2002)).

Because the Tenth Circuit’s factors “largely overlap” with the Rule 23(e)(2) factors, “with only the fourth factor not being subsumed” into it, courts in this district now “consider[] the Rule 23(e)(2) factors as the main tool in evaluating the propriety of [a] settlement,” while still addressing the Tenth Circuit’s factors. *Rodriguez*, 2020 WL 3288059, at *2. The Court has already preliminarily determined that the \$50 million cash Settlement meets these standards and is fair, reasonable, and adequate. ECF 394, ¶ 6. As discussed below, the Court’s initial disposition was correct, as the Settlement easily satisfies each of the Rule 23(e)(2) and Tenth Circuit factors. Accordingly, DPPs respectfully request that the Court grant final approval of the Settlement.

⁷ While the Rule 23(e) factors were not intended to replace the factors previously developed by the Tenth Circuit in evaluating the fairness of a class settlement, they were intended to codify prior practice. Fed. R. Civ. P. 23(e)(2) Advisory Committee Note on 2018 Amendments (“The goal of [the Rule 23(e)(2)] amendment is not to displace any factor, but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.”); 4 Newberg on Class Actions § 13:14 (5th ed.) (similar).

C. The Settlement Satisfies the Rule 23(e)(2) Factors

i. Settlement Class Counsel and the Class Representatives Have Adequately Represented the Settlement Class

Courts consider a class to be adequately represented where the representative plaintiffs' interests do not conflict with the interests of the other class members they seek to represent, and their counsel prosecute the case vigorously. *In re Motor Fuel Temperature Sales Pracs. Litig.*, 271 F.R.D. 221, 231 (D. Kan. 2010). Here, Plaintiffs share the same interests and suffered the same types of alleged injuries as the absent Class members. As previously discussed, DPPs aptly defended against multiple motions to dismiss, participated and continue to participate in extensive discovery, pursued their claims against Pfizer on appeal, and adequately represented the interests of the Class.

With respect to the adequacy of counsel requirement, this factor focuses on “the actual performance of counsel acting on behalf of the class.” Fed. R. Civ. P. 23(e)(2) Advisory Committee Note on 2018 Amendments.⁸ Here, Co-Lead Counsel have adequately represented the Class as required by Rule 23(e)(2)(A). As discussed above, Co-Lead Counsel engaged in extensive discovery and discovery-related motion practice prior to entering the Settlement and were fully aware of the strengths and weakness of the case. Among other things, Plaintiffs' counsel: (i) investigated the relevant factual events; (ii) drafted the detailed Complaint and amendments thereto, and fought off multiple motions to dismiss; (iii) engaged in extensive document and written discovery, including reviewing well over 1 million documents produced by Defendants and third parties, (iv) sought and obtained certification of its appeal from this Court and permission from the Tenth Circuit to appeal the Court's order dismissing the claims against Pfizer; (v) filed

⁸ See also *Lawrence v. First Fin. Inv. Fund V, LLC*, No. 219CV00174RJSCMR, 2021 WL 3809083, at *5 (D. Utah Aug. 26, 2021) (quoting Advisory Committee Note).

their opening appellate brief before the Tenth Circuit, and (vi) engaged in a lengthy mediation sessions with an experienced, and well-regarded mediator, David W. Aemmer, who has served as the Chief Circuit Mediator for the Tenth Circuit for over a decade.

Moreover, Co-Lead Counsel have significant experience prosecuting complex antitrust and pharmaceutical class actions. Courts around the country and in this Circuit recognize the expertise and ability of Co-Lead Counsel to effectively litigate complex class actions.⁹

As a result, despite the risk of no recovery posed to the Class of Pfizer’s dismissal, Co-Lead Counsel achieved a significant all-cash Settlement of \$50 million with Pfizer, which will provide immediate relief to the Class. Roberts Decl. ¶ 3; *Rodriguez*, 2020 WL 3288059, at *3 (“a finding of adequate representation must “[b]alanc[e] the entirety of the case with the ultimate resolution.”).

ii. The Settlement Was Reached After Arm’s Length Negotiations

The second factor under Rule 23(e)(2)(B) overlaps with the first factor considered by courts in the Tenth Circuit, assessing whether “the settlement was fairly and honestly negotiated.” *In re Syngenta Ag Mir 162 Corn Litig.*, No. 14-MD-2591-JWL, 2018 WL 1726345, at *2 (D. Kan. Apr. 10, 2018). As a general matter, where a settlement results from arm’s-length negotiations between experienced counsel, “the Court may presume the settlement to be fair, adequate, and reasonable.” *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006) (citing *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir. 2005)); *Marcus v. Kansas Dep’t of Revenue*, 209 F. Supp. 2d 1179, 1182 (D. Kan. 2002) (finding this factor satisfied where the settlement was reached “by experienced counsel for the class”).

⁹ See Memorandum in Support of Motion for Appointment of Interim Co-Lead and Liaison Counsel for the Direct Purchaser Class, ECF No. 274; see also Ex. 1 to the Roberts Decl.; Ex. 1 to the Nussbaum Decl.

Here, as noted, the Settlement is the product of arm's-length negotiations between the settling parties, advised by their experienced counsel, and assisted by the Tenth Circuit's Chief Mediator. Significant discovery was undertaken prior to settlement, so the parties possessed more than sufficient evidence and knowledge to allow them to make informed decisions about the strengths and weaknesses of their respective cases. During mediation, the relevant legal issues were fully presented, not only for the benefit of the mediator, but also for the settling parties to effectively evaluate liability and damages. As a result, the settling parties were well prepared for the negotiations that led to the Settlement and were well-informed of the opposing party's arguments. *See In re Motor Fuel*, 258 F.R.D. at 675-76.

Moreover, this Court preliminarily concluded that the Settlement was "the result of arm's-length negotiations under the guidance of Chief Circuit Mediator for the Tenth Circuit, David W. Aemmer." ECF No. 394 ¶ 6. Mr. Aemmer is a neutral, experienced, and well-regarded mediator, who has served as the Chief Circuit Mediator for the Tenth Circuit for over a decade. In the mediation process with Mediator Aemmer, which continued for half a year, Plaintiffs and Pfizer delivered detailed presentations regarding their evaluations of liability and damages. Roberts Decl. ¶ 36.

Throughout the negotiations, Pfizer maintained that Plaintiffs' claims were without merit and denied all allegations of wrongdoing whatsoever. Co-Lead Counsel vigorously advocated for the Class, with the full belief that the Class's claims could be successful at trial. Co-Lead Counsel were prepared to continue with litigation if no settlement had been reached, along with the ongoing litigation that continues against the other non-settling Defendants. In short, the Court's initial assessment of the Settlement's negotiation in its order granting preliminary approval was correct.

iii. The Relief Provided for the Settlement Class is Fair, Reasonable and Adequate

Given the risks faced by the Class, the Settlement represents a substantial recovery. The Court's ruling dismissed the claims against Pfizer. Plaintiffs believed in their claims against Pfizer, pursuing them to the Tenth Circuit; however, they well understood that even a win at the appellate court—which was far from guaranteed—did not guarantee the Class recovery. The Settlement provides \$50 million in cash to the Class. The Settlement protects the Class's rights to seek the full value of their damages from the non-settling defendants to the fullest extent permitted or authorized by law. *See* Settlement Agreement ¶ 12(a) (“For the avoidance of doubt, the Released Claims under paragraph 12 of this Settlement Agreement do not pertain to any claims asserted, or which reasonably could have been asserted, or may in the future be asserted, against Mylan and/or Viatrix Inc.”). Thus, Plaintiffs may continue to seek full damages against the remaining Defendants, and, therefore, losing nothing by way of the Settlement.

iv. The Settlement Is Adequate in Light of the Costs, Risks, and Delay of Future Litigation

That a Settlement is fair, reasonable, and adequate is premised on the fact that the class “is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried and all appeals are exhausted.” *McNeely v. Nat'l Mobile Health Care, LLC*, No. CIV-07-933-M, 2008 WL 4816510, at *13 (W.D. Okla. Oct. 27, 2008).

As a result of the substantial discovery and motion practice completed ahead of the Settlement, Co-Lead Counsel possessed the information necessary to evaluate the Settlement, considering the costs, risks, and delays associated with litigating the case through trial. While Co-Lead Counsel submit that their claims against Pfizer have significant merit and will continue to vigorously prosecute their claims against the non-settling defendants, the Class would face

significant risks, expenses, and difficult challenges were the litigation to continue against Pfizer.

As discussed, the claims against Pfizer are no longer at issue, and Pfizer is no longer a defendant in this litigation. On August 8, 2022, the Court granted Pfizer's motion to dismiss, concluding that "*Illinois Brick* barred plaintiffs' Sherman Antitrust Act claims against Pfizer because plaintiffs are indirect purchasers of EpiPen from Pfizer." ECF No. 241-1 at 86. Even were DPPs able to successfully appeal that dismissal and Pfizer reinstated as a defendant, there remain numerous factual and legal issues on which DPPs and Pfizer still intensely disagree. Indeed, Pfizer steadfastly denies that it engaged in any wrongdoing as alleged by DPPs, denies any liability whatsoever for any of the claims alleged by DPPs, and denies that DPPs have suffered any injuries or damages. Conversely, DPPs have advanced numerous complex legal and factual issues under federal antitrust statutes.

The issues on which the parties disagree are many, but include: (1) whether Pfizer engaged in conduct that would give rise to any liability to DPPs under the Sherman Antitrust Act; (2) whether Pfizer has valid defenses to any such claims of liability; (3) the amount of damages DPPs and Class members suffered, if any, by reason of Pfizer's alleged wrongdoing, as well as the methodology for estimating any such damages; and (4) whether Pfizer had other meritorious defenses to the alleged claims, including but not limited to: (a) statute of limitations, (b) whether Defendants possessed market power, (c) whether additional EpiPen patents would have served as independent barriers to generic entry, (d) whether the procompetitive benefits of Pfizer's conduct outweighs any alleged anticompetitive effects, (e) whether Pfizer's alleged conduct was the legal and proximate cause of Class members' alleged injuries, and (f) whether the relief sought by DPPs is duplicative of that sought by other plaintiffs in other lawsuits.

These complicated legal and factual questions concerning the outcome of the litigation

weigh heavily in favor of settlement, “because settlement creates a certainty of some recovery, and eliminates doubt, meaning the possibility of no recovery after long and expensive litigation.” *In re Quest Commuc’ns Int’l Sec. Litig.*, 625 F. Supp. 2d 1133, 1138 (D. Colo. 2009).

Had the parties not settled, the Court or a jury would ultimately have to decide these issues, placing the ultimate outcome in doubt. Although DPPs believe their claims would be borne out by the evidence presented at trial, they recognize that there are significant hurdles to proving liability or even proceeding to trial. For these reasons, “[t]he presumption in favor of voluntary settlement agreements is especially strong in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.” *Rothe v. Battelle Mem’l Inst.*, No. 1:18-CV-03179-RBJ, 2021 WL 2588873, at *7 (D. Colo. June 24, 2021) (quoting *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 595 (3d Cir. 2010)).

v. Immediate Recovery Is More Valuable than the Mere Possibility of a More Favorable Outcome After Continued Litigation

Considering the risks associated with continued litigation, as discussed above, the immediate, substantial relief offered by the Settlement outweighs the “mere possibility of a more favorable outcome after protracted and expensive litigation over many years in the future.” *Syngenta*, 2018 WL 1726345, at *2; *In re Thornburg Mortg., Inc. Sec. Litig.*, 912 F. Supp. 2d 1178, 1244 (D.N.M. 2012) (“[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now”) (quoting *Reynolds v. Beneficial Nat’l Bank*, 288 F.3d 277, 284 (7th Cir. 2002)).

Further, this litigation has already been pending for four years. DPPs, Pfizer, and the Court would need to expend significant additional time, resources, and costs to proceed to trial, with inevitable appeals following a trial (not to mention any further interlocutory appeals) likely extending years into the future. *Rodriguez*, 2020 WL 3288059, at *3 (observing that “the costs and

time of moving forward in litigation would be substantial”); *Lucas*, 234 F.R.D. at 694 (“If this case were to be litigated, in all probability it would be many years before it was resolved.”). Considering the complex legal and factual issues associated with continued litigation, as discussed above, there is an undeniable and substantial risk that—even after years of continued litigation—the Settlement Class could receive an amount significantly less than the \$50 million in the Settlement, or even nothing at all for their claims against Pfizer.

“By contrast, the proposed settlement agreement provides the class with substantial, guaranteed relief” now. *Lucas*, 234 F.R.D. at 694; *see also McNeely*, 2008 WL 4816510, at *13 (“The class . . . is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried, and all appeals are exhausted.”). *In re Crocs, Inc. Sec. Litig.*, 306 F.R.D. 672, 691 (D. Colo. 2014) (“The immediate recovery in this case outweighs the time and costs inherent in complex securities litigation, especially when the prospect is some recovery versus no recovery.”); *In re King Res. Co. Sec. Litig.*, 420 F. Supp. 610, 625 (D. Colo. Aug. 10, 1976) (“In this respect, ‘[i]t has been held proper to take the bird in the hand instead of a prospective flock in the bush.’”); *accord Tennille v. W. Union Co.*, No. 09-cv-00938- JLK-KMT, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014), *appeal dismissed*, 809 F.3d 555 (10th Cir. 2015).

Accordingly, the \$50 million immediate recovery obtained in the Settlement, particularly when viewed in the context of the risks, costs, delay, and the uncertainties of further proceedings, weighs in favor of final approval of the Settlement.

vi. The Settlement Provides an Effective Method to Distribute Relief to the Settlement Class

Under Rule 23(e)(2)(C)(ii), the Court “scrutinize[s] the method of claims processing to ensure that it facilitates filing legitimate claims” and “should be alert to whether the claims process

is unduly demanding.” Fed. R. Civ. P. 23 Advisory Committee Notes on 2018 Amendments. Here, the Settlement provides a straightforward process for Settlement Class members to submit claims and receive their pro rata share of the settlement distribution.

The Court-approved Settlement notice plan involves individual notice by First-Class Mail to all Class members, supplemented by website and publication notice, as well as reminder notice. Hanson Decl. ¶¶ 5, 6, 8-11. To receive a payment under the Settlement, Class members need only timely complete and submit a claim form along with records or data showing direct purchases of brand, authorized generic, or generic EpiPen from March 13, 2014, through April 3, 2024 (the date of the amended preliminary approval order). Claimants who have not been identified are able to participate in the Settlement if they timely submit a valid claim form and demonstrate that they purchased during the relevant period. ECF No. 372-9 ¶ 7.

The settlement administrator will then distribute the Net Settlement Fund to authorized claimants on a *pro rata* basis under the Plan of Allocation, as discussed further in Section II. *Id.* ¶¶ 12-16. ECF No. 372-9.

vii. Attorneys’ Fees

Rule 23(e)(2)(C)(iii) addresses “the terms of any proposed award of attorney’s fees, including timing of payment.” The Notice provides that Co-Lead Counsel will apply to the Court for an award of attorney’s fees in an amount up to one-third of the Settlement Fund, plus payment of Plaintiffs’ counsel’s expenses incurred in connection with the litigation, as well as any interest earned on these amounts at the same rate earned by the settlement fund. Notice ¶ 10, ECF No. 372-4. Plaintiffs’ counsel’s anticipated fee request is the same percentage as the Court approved in the prior Pfizer settlement. *See In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ, 2021 WL 5369798, at *4 (D. Kan. Nov. 17, 2021), *judgment entered*, No. 17-MD-2785-DDC-TJJ, 2021 WL 5369815 (D. Kan. Nov. 17, 2021).

With respect to the timing of payment, the Settlement Agreement provides that Plaintiffs' fees and expenses, as awarded by the Court, shall be paid to Plaintiffs' counsel within seven calendar days of the Court entering the judgment and an order awarding such fees and expenses. See *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-MD-2591-JWL, 2021 WL 102819, at *4 (D. Kan. Jan. 12, 2021) ("courts routinely allow the immediate payment of attorney fees") (quoting *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 479 (S.D.N.Y. 1998) (collecting cases)).

viii. The Settling Parties Have No Additional Agreement

Rule 23(e)(2)(C)(iv) requires the disclosure of any other agreement. The settling parties have no additional agreements.

ix. Settlement Class Members Are Treated Equitably

As discussed below, the Plan of Allocation provides a standardized method for calculating each Claimant's *pro rata* share of the Net Settlement Fund based on the Class members' purchases during the Class Period. Plan of Allocation ¶¶ 12-16, ECF No. 372-9. All Class members are treated alike under the Settlement.

x. The Settlement Satisfies the Remaining Factor Considered by Courts in the Tenth Circuit

The final, additional factor courts in the Tenth Circuit consider in evaluating a settlement for final approval is "the judgment of the parties that the settlement is fair and reasonable." *Rodriguez*, 2020 WL 3288059 at *2. In analyzing this factor, courts recognize that the recommendation of a settlement by experienced counsel is entitled to great weight. *Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *5 (D. Kan. Feb. 15, 2018); *Marcus*, 209 F. Supp. 2d at 1183 ("Counsels' judgment as to the fairness of the agreement is entitled to considerable weight").

Co-Lead Counsel, each with considerable experience in complex antitrust actions, agreed to settle this litigation only after extensive investigation, discovery, motion practice, and rigorous

arm's-length negotiations. Co-Lead Counsel have compared the recovery that the Class will receive from the Settlement against the delays, risks, and uncertainties of continued litigation and appeals. In analyzing the comparison, Plaintiffs and Co-Lead Counsel believe the Settlement is fair, adequate, and reasonable and should be approved. *Rutter*, 314 F.3d at 1188 (that settling parties ask the court to approve the settlement suggests that “the judgment of the parties” is “that the settlement is fair and reasonable.”).

II. The Plan of Allocation is Fair, Adequate, and Reasonable

The standard for approval of a plan of allocation is the same as the standard for approving a settlement: whether it is “fair, reasonable, and adequate.” *See Lucas*, 234 F.R.D. at 695. In making this determination, courts again give great weight to the recommendation of experienced counsel. *See id.* (“An allocation formula need only have a reasonable, rational basis, particularly if recommended by ‘experienced and competent’ class counsel.”).

The proposed Plan of Allocation (ECF 372-9) details how the Net Settlement Fund is to be allocated among eligible Claimants. The Plan of Allocation was prepared based on information provided by DPPs’ expert economist and in consultation with Court-appointed settlement administrator A.B. Data. Each Claimant’s *pro rata* share of the Net Settlement Fund shall be calculated by the Settlement Administrator, in coordination with the DPPs’ expert economist, by combining each Claimant’s total qualifying net purchases of brand, authorized generic, and generic EpiPen, and dividing that total by the combined total of qualifying purchases of brand, authorized generic, and generic EpiPen for all Claimants during the Class Period. ECF No. 372-9 ¶ 13. The economist will apply a multiplier to brand purchases, and a different multiplier to generic purchases, to account for the fact that alleged damages from purchases of brand drugs are higher than those from generic drugs. ECF No. 372-9 ¶ 14. This Plan is described in the notice mailed to Class members and is available for review on the Settlement website. Hanson Decl. ¶ 5, Ex. A.

Plaintiffs anticipate that all funds will be distributed to Class members pursuant to the Plan of Allocation at one time; however, the Plan provides that the Court shall instruct Plaintiffs on what to do if there is any *de minimis* amount leftover following distributions. ECF No. 372-9 ¶ 18. There is no right of reversion under the Settlement and under no circumstances will any portion of the Settlement Fund be returned to Pfizer once the Settlement becomes final. A *pro rata* allocation has been considered fair, reasonable, and adequate by other courts in similar types of cases.¹⁰ Co-Lead Counsel submit that this method of distributing settlement funds is fair, reasonable, and adequate, and warrants this Court’s final approval. Additionally, no objection has been filed to the Plan of Allocation. *In re Crocs*, 306 F.R.D. at 692 (citing *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 367 (S.D.N.Y. 2002) (“the favorable reaction of the Class supports approval of the proposed Plan of Allocation”)).

III. The Requested Attorneys’ Fees Are Reasonable

“In a certified class action, the court may award reasonable attorney’s fees . . . that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). In the case of a common fund for the benefit of a class, the Supreme Court has long recognized that “a litigant or a lawyer

¹⁰ See *Shockey v. Huhtamaki, Inc.*, No. 09-CV-2260-JAR-DJW, 2012 WL 3562136, at *2 (D. Kan. Aug. 17, 2012) (approving a *pro rata* allocation plan); *In re HIV Antitrust Litig.*, No. 3:19-cv-02573-EMC (N.D. Cal. Jan. 19, 2024), ECF No. 2170 ¶ 2; *In re Glumetza Antitrust Litig.*, No. 19-cv-05822-WHA, 2022 WL 327707, at *2 (N.D. Cal. Feb. 3, 2022); *In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig.*, No. 18-md-02819, 2020 WL 6193857, at *3 (E.D.N.Y. Oct. 7, 2020); *In re Loestrin 24 Fe Antitrust Litig.*, No. 13-md-02472 (D.R.I. Jan. 22, 2020), ECF Nos. 1396-8, 1462 (approved Sept. 1, 2020); *In re Lidoderm Antitrust Litig.*, No. 14-md-02521-WHO (N.D. Cal. Sept. 20, 2018), ECF Nos. 1004-5, 1004-6, 1054; *In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.*, No. 14-md-02503 (D. Mass. July 18, 2018), ECF Nos. 1163-4, 1179; *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 14-cv-00361 (E.D. Va. Apr. 18, 2018), ECF Nos. 609-4, 630; *In re Aggrenox Antitrust Litig.*, No. 14-md-02516 (D. Conn. Dec. 19, 2017), ECF Nos. 733-1, 740; *In re Asacol Antitrust Litig.*, No. 15-cv-12730 (D. Mass. Dec. 7, 2017), ECF Nos. 419-9, 648; *King Drug Co. of Florence, Inc. v. Cephalon, Inc.*, No. 06-cv-01797 (E.D. Pa. Oct. 15, 2015), ECF Nos. 864-17, 870.

who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). This understanding "prevent[s] . . . inequity" by proportionately spreading payment among those who benefit from others' labor. *Id.* at 478. The Settlement and notice to the Class provide that Co-Lead Counsel plan to seek from the Settlement Fund attorneys' fees of up to one-third of the Settlement Fund, plus any proportionate interest accrued thereon. *See* Settlement Agreement ¶ 11, ECF No. 372-2 at 12. Co-Lead Counsel request a fee award of one-third of the Settlement Fund. To determine whether the requested fee amount is appropriate, the Court's role is to assess whether such amount is reasonable. Fed. R. Civ. P. 23(h). As discussed below, the requested fees are reasonable.

A. The Requested Fee Award Is a Reasonable Percentage of the Settlement Fund

The preferred method for determining attorneys' fees in common fund cases in the Tenth Circuit is based on the percentage of the settlement fund. *See Chieftain Royalty Co. v. Enervest Energy Institutional Fund XIII-A, L.P.*, 888 F.3d 455, 458 (10th Cir. 2017) (citing *Gottlieb v. Barry*, 43 F.3d 474, 483 (10th Cir. 1994)); *accord Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984) (noting that "under the 'common fund doctrine,' . . . a reasonable fee is based on a percentage of the fund bestowed on the class").¹¹ The percentage of the fund approach is favored by courts in the Tenth

¹¹ *See also, e.g., In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ, 2022 WL 2663873, at *4 (D. Kan. July 11, 2022) (awarding one-third fee); *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ, 2021 WL 5369798, at *4 (D. Kan. Nov. 17, 2021), *judgment entered*, No. 17-MD-2785-DDC-TJJ, 2021 WL 5369815 (D. Kan. Nov. 17, 2021); *Rosenbaum v. MacAllister*, 64 F.3d 1439, 1445 (10th Cir. 1995); *Nakamura v. Wells Fargo Bank, N.A.*, No. 17-4029-DDC-GEB, 2019 WL 2185081, at *1 (D. Kan. May 21, 2019); *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d 1094, 1113-14 (D. Kan. 2018); *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1269 (D. Kan. 2006); *Chieftain Royalty Co. V. Laredo Petro., Inc.*, No. CIV-12-1319, 2015 WL 2254606, at *3 (W.D. Okla. May 13, 2015).

Circuit because “a percentage of the common fund ‘is less subjective than the lodestar plus multiplier approach,’ matches the marketplace most closely, and is the better suited approach when class counsel were retained on a contingent fee basis.” *Shaw v. Interthinx, Inc.*, No. 13-CV-01229-REB-NYW, 2015 WL 1867861, at *5 (D. Colo. Apr. 22, 2015) (quoting *Lucken Family Ltd. P’ship, LLLP v. Ultra Res., Inc.*, No. 09-CV-01543-REB-KMT, 2010 WL 5387559, at *2 (D. Colo. Dec. 22, 2010) (quoting *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 484 (10th Cir. 1988))).

The requested fee award of one-third of the \$50 million Settlement Fund is approximately \$16.67 million. The requested amount is reasonable and is supported by the *Johnson* factors, as explained below.

B. The *Johnson* Factors Support the Requested Fee Award

Courts in the Tenth Circuit, like many federal courts across the country, analyze the reasonableness of the requested fee award under Rule 23(h) by applying the factors laid out in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974):

- (1) the time and labor involved;
- (2) the novelty and difficulty of the questions;
- (3) the skill requisite to perform the legal services properly;
- (4) the preclusion of other employment by the attorney due to acceptance of the case;
- (5) the customary fee;
- (6) any prearranged fee—this is helpful but not determinative;
- (7) time limitations imposed by the client or other circumstances;
- (8) the amount involved and results obtained;
- (9) the experience, reputation, and ability of the attorneys;
- (10) the undesirability of the case;
- (11) the nature and length of professional relationship with the client; and
- (12) awards in similar cases.

Brown, 838 F.2d at 454-55 (citing *Johnson*, 488 F.2d 717-19). The Tenth Circuit “characterize[s] this ‘percentage plus *Johnson* factors’ framework as a ‘hybrid’ approach to attorneys’ fees.” *In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1193 (10th Cir. 2023) (quoting *Chieftain*, 888 F.3d at 459). This hybrid approach combines “the percentage fee method with the specific factors

used to calculate the lodestar” to assess whether the fee is reasonable. *Id.* Not all *Johnson* factors are necessarily applicable or carry the same weight in the common fund context, as they would in a statutory-fee shifting case. *Id.*; *see also Law v. Nat’l Collegiate Athletic Ass’n*, 4 F. App’x 749, 752 (10th Cir. 2001) (“We have never held that a district court abuses its discretion by failing to specifically address each *Johnson* factor.”) (quoting *Gudenkauf v. Stauffer Communications, Inc.*, 158 F.3d 1074, 1083 (10th Cir. 1998)). The pertinent *Johnson* factors described below support the requested one-third fee award.¹²

ii. The Difficult Factual and Legal Issues Support the Fee Request

Beginning with the second of the *Johnson* factors, the difficulty and novelty of the factual and legal issues presented, justifies the requested fees in this instance. “Courts emphasize the risk undertaken by counsel” in awarding fees: “complex cases justify higher fees, and simple cases lower fees.” *Been v. O.K. Indus., Inc.*, CIV-02-285-RAW, 2011 WL 4478766, at *7 (E.D. Okla. Aug. 16, 2011), *report and recommendation adopted*, CIV-02-285-RAW, 2011 WL 4475291 (E.D. Okla. Sept. 26, 2011). Class actions are widely regarded as “being most complex,” *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977); *see also Columbus Drywall & Installation v. Masco Corp.*, No. 1:04-cv-3066-JEC, 2012 WL 12540344, at *4 (N.D. Ga. Oct. 26, 2012) (quoting *Edmonds v. United States*, 658 F. Supp. 1126, 1137 (D.S.C. 1987)), but “antitrust class action[s] are] arguably the most complex action to prosecute,” *In re Motorsports Merchandise Antitrust*

¹² The following *Johnson* factors are inapplicable here: (7) time limitations imposed by the client or the circumstances; and (11) the nature and length of the professional relationship with the client. *See* 5 Newberg on Class Actions § 15:77 n.15 (5th ed. 2015) (relationship with client “has little relevance in the class setting given that the ‘client’ is the class.”); *see also, e.g., In re: Motor Fuel Temperature Sales Practices Litig.*, 07-MD-1840-KHV, 2016 WL 4445438, at *9 (D. Kan. Aug. 24, 2016) (noting that in class action context, nature and length of professional relationship with client did not apply); *In re Urethane Antitrust Litig.*, No. 04-1616-JWL, 2016 WL 4060156, at *4 (D. Kan. July 29, 2016) (in evaluating class action settlement for approval, the seventh and eleventh *Johnson* factors did not apply).

Litig., 112 F. Supp. 2d 1329, 1337 (N.D. Ga. 2000). “The legal and factual issues involved are always numerous and uncertain in outcome.” *Id.*; *see also Wal-Mart Stores*, 396 F.3d at 118 (“antitrust cases are complicated, lengthy, and bitterly fought”).

As discussed, this litigation has been complex from the start, based upon the relatively uncommon reverse-payment factual allegations that Mylan and Pfizer traded settlements on separate drugs as a form of payment to the generic to delay its generic EpiPen from competing with brand EpiPen, and as a way of allocating the market. Non-settling defendants continue to protest this relatively uncommon fact pattern for a reverse payment. *See, e.g.*, Mylan’s Motion for Partial Judgment on the Pleadings, ECF No. 386. The multiple rounds of motions to dismiss raised many complex issues with these allegations, which Plaintiffs in large part successfully defeated; indeed, Plaintiffs continue in the litigation against Mylan.

In assessing Pfizer’s motion to dismiss Plaintiffs’ Fourth Amended Complaint, however, this Court held in favor of Pfizer on a purely legal issue that was challenging enough—indeed, “hotly disputed” and “both difficult and novel”—for this Court to certify for interlocutory appeal. Memorandum and Order, ECF No. 305 at 3, 4 (granting certification for interlocutory appeal). That issue was whether Pfizer, the manufacturer of EpiPen and the holder of EpiPen’s key patents, as a co-conspirator with Mylan, was properly included in Plaintiffs’ lawsuit—i.e., whether Plaintiffs had antitrust standing to sue Pfizer. Following the Court’s certification of the interlocutory appeal, Plaintiffs’ petition for permission to appeal was accepted by the Tenth Circuit. *See* Appeal No. 23-3014, Doc. No. 010110805667 (10th Cir. Jan. 30, 2023) (docketing appeal). Although Plaintiffs argue the issue on appeal was not one of first impression, this Court recognized the complexity of the issue and the lack of guidance in this Circuit, and the Tenth Circuit, in allowing the appeal, ostensibly agreed. ECF No. 305 at 6. By the time the Settlement was reached,

Plaintiffs had submitted their opening brief arguing how Pfizer was properly a party in this antitrust class action. The novelty and complexity of this undecided issue supports the requested fee award.

iii. The Contingency of the Fee and Significant Risk Undertaken by Counsel—and Related Undesirability of the Case—Support the Requested Fee Award

Turning to the sixth *Johnson* factor regarding the contingency of the fee, and tenth *Johnson* factor regarding the case’s undesirability, also justifies the requested fee award. “[T]he results obtained may be given greater weight when . . . the trial judge determines that the recovery was highly contingent and that the efforts of counsel were instrumental in realizing recovery on behalf of the class.” *See Brown*, 838 F.2d at 456. As this Court has previously explained, litigation that required plaintiffs’ counsel to “risk huge expenditures on a contingent basis, with a substantial risk of no recovery,” “made the case less than desirable” to other attorneys who might prosecute plaintiffs’ claims against the defendants. *In re Syngenta*, 357 F. Supp. 3d. at 1114; *see also Eatinger v. BP America Prod. Co.*, No. 07-cv-01266-EFM-KMH, at 13 (D. Kan. Sept. 17, 2012), ECF No. 375 (“The time, effort, and out-of-pocket investment makes a class action undesirable to most attorneys.”).

“It is an established practice to reward attorneys who assume representation on a contingent basis with an enhanced fee to compensate them for the risk that they might be paid nothing at all.” *Kanawi v. Bechtel Corp.*, No. C 06-05566 CRB, 2011 WL 782244, at *2 (N.D. Cal. Mar. 1, 2011) (citing *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299 (9th Cir. 1994)). “Such a practice encourages the legal profession to assume such a risk and promotes competent representation for plaintiffs who could not otherwise hire an attorney.” *Id.*; *see Been*, 2011 WL 4478766, at *8 (“Fees that are contingent on success present definite risks. Payment, if any, is deferred, and there is always a risk, often a substantial risk, that there may be no payment [R]isk demands a premium. And, as a general rule, the greater the uncertainty of payment the

greater the premium should be.”) (quoting *In re Superior Beverage/Glass Container Consol. Pretrial*, 133 F.R.D. 119, 127 (N.D. Ill. 1990)).

Co-Lead Counsel brought the case against Pfizer, and continue litigating this case against Mylan, knowing that “there would be no fee without a successful result and that such a result would be realized only after lengthy and difficult effort.” *Cecil v. BP Am. Prod. Co.*, No. 16-CV-00410-KEW, 2018 WL 8367957, at *8 (E.D. Okla. Nov. 19, 2018) (“Courts consistently recognize the risk of receiving little or no recovery is a major factor in considering an award of attorneys’ fees.”); see *In re: Urethane Antitrust Litig.*, No. 04-1616-JWL, 2016 WL 4060156, at *4 (D. Kan. July 29, 2016) (recognizing that when liability is less than certain, a case presents “a great deal of risk, as counsel was required to advance all expenses and attorney time to litigate a hard-fought case against highly experienced opposing counsel hired by a defendant with ample resources”); *In re Ocean Power Techs., Inc.*, 3:14-CV-3799, 2016 WL 6778218, at *28 (D.N.J. Nov. 15, 2016) (“Courts across the country have consistently recognized that the risk of receiving little or no recovery is a major factor in considering an award of attorneys’ fees.”). The risk Co-Lead Counsel assumed deserves to be compensated, and courts have held that “[l]awyers who are to be compensated only in the event of victory expect and are entitled to be paid more when successful than those who are assured of compensation regardless of result.” *Jones v. Diamond*, 636 F.2d 1364, 1382 (5th Cir. 1981) (en banc). This is because “[t]he contingent fee nature of the representation . . . supports the requested award [as it] shifts the risk of loss from plaintiff to plaintiff’s counsel.” *Freebird, Inc. v. Merit Energy Co.*, No. 10-1154-KHV, 2013 WL 1151264, at *4 (D. Kan. Mar. 19, 2013).

Here, Co-Lead Counsel continued to zealously pursue the Class’s claims against Pfizer even after they were dismissed entirely, seeking certification of an interlocutory appeal, petitioning

for permission to appeal at the Tenth Circuit, and then beginning to brief the appeal, all without any guarantee of payment whatsoever—especially after Pfizer’s dismissal. *See* Roberts Decl. ¶¶ 3, 53. Despite their strong belief in their claims against Pfizer, counsel well understood that the likelihood of reversal on appeal, and that the Class’s opportunity to receive any benefit from Pfizer, were uncertain. Even if Plaintiffs did succeed on appeal, Co-Lead Counsel understood this also did not guarantee any recovery for the Class or compensation for counsel, as years of vigorous litigation—discovery, class certification, dispositive motion practice, and more—stood between them and trial, where again, there was no guarantee of success. In continuing to prosecute the claims against Pfizer, Co-Lead Counsel “assumed a significant risk of non-payment or underpayment.” *Gevaerts v. TD Bank*, No. 1:14-CV-20744-RLR, 2015 WL 6751061, at *13 (S.D. Fla. Nov. 5, 2015) (“Numerous cases recognize such a risk as an important factor in determining a fee award.”). In short, considering the riskiness of success to the Class’s recovery and Counsel’s compensation, these factors supports the reasonableness of the requested fee award.

iv. The Results Obtained Benefit the Class

Next, the eighth *Johnson* factor regarding the results obtained on behalf of the Class—perhaps the most important factor in determining an appropriate fee—weighs in favor of the requested fee award. *Farrar v. Hobby*, 506 U.S. 103, 114 (1992) (“[T]he most critical factor in determining the reasonableness of a fee award is the degree of success obtained.”) (citation and internal quotation marks omitted). *Koehler v. Freightquote.com, Inc.*, No. 12-2505-DDC-GLR, 2016 WLF 3743098, at *7 (D. Kan. July 13, 2016) (Settlement “avoids the uncertainty and rigors of trial and produces a favorable result for plaintiffs. This factor favors approval of the fee award.”).

Here, as discussed, Plaintiffs’ recovery from Pfizer was uncertain. Even had Plaintiffs succeeded on appeal, class certification, and summary judgment, any case like this one involving

battling expert opinions, highly complex economic theories, and an unusual fact pattern for a reverse-payment case made it “impossible to predict with any certainty which arguments would find favor with the jury.” *Ressler v. Jacobson*, 822 F. Supp. 1551, 1554 (M.D. Fla. 1992); *see also*, e.g., *In re HIV Antitrust Litig.*, No. 3:19-cv-02573-EMC, ECF No. 2057 (N.D. Cal. June 30, 2023) (jury returned verdict for defendants after six-week antitrust trial following plaintiffs’ successful class certification and survival of summary judgment).

Under these circumstances, the guaranteed \$50 million non-reversionary cash Settlement Fund created by the Settlement with Pfizer represents an excellent result for the Class. The difficulty and risk under these circumstances, plus counsel’s skill and effort in reaching the result on behalf of the Class, justify the requested fee award. *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204–05 (S.D. Fla. 2006) (“Factors indicating ‘exceptional success’ include success achieved under unusually difficult or risky circumstances and the size of plaintiffs’ recovery.”)

v. The Requested Fee Award Is Comparable to Fees Awarded in Similar Cases and in Contingent Fee Cases

The requested one-third fee here is consistent with fees awarded in similarly complex class actions—the twelfth *Johnson* factor. “In this Circuit and District, courts typically award one-third of the fund as payment for attorneys’ fees in complex class action cases[.]” *In re Hill’s Pet Nutrition, Inc. Dog Food Prods. Liab. Litig.*, No. 19-MD-2887-JAR-TJJ (D. Kan. July 30, 2021), ECF No. 132 ¶ 9 (citations omitted); *see, e.g., In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, 2022 WL 2663873, at *4 (awarding one-third of the settlement fund in attorneys’ fees); *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d at 1110 (same); *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *8 (same); *Hershey v. ExxonMobil Oil Corp.*, No. 07-1300-JTM, 2012 WL 5306260, at *1, 7-8 (D. Kan. Oct. 26, 2012) (same). As this

Court has recognized, class actions have “become more complex and riskier” since 2015 and that “increased complexity and risk has led to requests for higher percentages” for attorneys’ fees, resulting in some awards exceeding one-third and reaching 40% of the settlement fund. *Nakamura*, 2019 WL 2185081, at *2 (internal quotations and citations omitted). This Court held that “in our court, an attorneys’ fee award of one-third is consistent with fees awarded in comparably high-risk, high potential damage, complex class actions resulting in creation of a common fund, such as here.” *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, 2022 WL 2663873, at *5. Thus, the twelfth *Johnson* factor supports the requested fee award.

The fifth *Johnson* factor asks whether the requested fee award is customary. “In contingent-fee cases, a one-third fee is customary.” *In re Syngenta*, 357 F. Supp. 3d. at 1113-14; *see also Nakamura*, 2019 WL 2185081, at *3 (“33% is within the range of customary fees awarded in similar cases”); *Nieberding v. Barrette Outdoor Living, Inc.*, 129 F. Supp. 3d 1236, 1250 (D. Kan. 2015) (recognizing a one-third fee of the common fund was “well within the range typically awarded in class actions.”); *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *5 (“The Court agrees with counsel that a one-third fee is customary in contingent-fee cases[.]”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Stud. 27 (2004), at 35 (“Substantial empirical evidence indicates that a one-third fee is a common benchmark in private contingency fee cases.”). This factor supports the requested fee award.

vi. The Litigation Required Highly Experienced Counsel Who Have Zealously Represented the Class

Johnson factors 3 and 9—the skill required and the experience, reputation, and ability of the attorneys, respectively—further support Co-Lead Counsel’s requested fee award. In assessing these factors, courts analyze whether the litigation “required great skill in a highly specialized field . . . , against highly skilled opposing counsel, and [whether] plaintiffs’ attorneys, . . . demonstrated

great skill throughout.” See *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *4. Courts also consider the experience and skill of opposing counsel. See, e.g., *Chieftain Royalty Co.*, 2018 WL 2296588, at *5 (“[T]he fact that Class Counsel litigated such difficult issues against the vigorous opposition of highly skilled defense counsel and obtained a significant recovery for the Settlement Class further supports the fee request in this case.”).

As discussed, this complex antitrust litigation, already four years in the making, raised challenging questions of fact and law sufficient to warrant an interlocutory appeal to the Tenth Circuit before the litigation had even proceeded to class certification. Plaintiffs have successfully faced multiple motions to dismiss with extensively researched and articulated oppositions, as well as amendments to the complaints on behalf of the DPP Class. Roberts Decl. ¶¶ 11-16. Plaintiffs have successfully moved to compel Defendants to produce hundreds of documents wrongfully classified under the common-interest privilege. *Id.* ¶ 23. Plaintiffs further persuaded this Court to certify for interlocutory appeal Pfizer’s dismissal, then persuaded the Tenth Circuit to accept the appeal. *Id.* ¶ 17. Plaintiffs continue to meet the complexities of this case head-on as they litigate against Mylan. *Id.* ¶ 30. These challenging issues have required Plaintiffs’ counsel to rely on their combined decades of experience in antitrust class actions and other complex litigation and histories of successfully resolving cases on behalf of classes. *Id.* ¶ 55; see also Memorandum in Support of Motion for Appointment of Interim Co-Lead and Liaison Counsel for the Direct Purchaser Class, ECF No. 274; Roberts Decl. Ex. 1; Nussbaum Decl. Ex. 1. Furthermore, that Co-Lead Counsel obtained a favorable settlement against such well-represented and -funded defendants confirms the reasonableness of the requested fee award.

vii. Counsel Dedicated Significant Time and Resources to the Litigation

The first and fourth *Johnson* factors, that is, the time and resources counsel dedicated to the litigation, often at the expense of other opportunities, also support the requested fee award. A

fee is justified where the engagement required extensive time and resources such that it “precluded or reduced [the attorneys’] opportunity for other employment.” *Brown*, 838 F.2d at 455. “This guideline involves the dual consideration of otherwise available business which is foreclosed because of conflicts of interest which occur from the representation, and the fact that once the employment is undertaken the attorney is not free to use the time spent on the client’s behalf for other purposes.” *Johnson*, 488 F.2d at 718.

In this case, it should come as no surprise that the factual and legal issues required and continue to require significant commitment from counsel in terms of time and resources, especially in light of the risks involved, as discussed *supra* and in the attached declarations. Specifically, Plaintiffs’ counsel thus far have dedicated 21,669.2 hours to the litigation. Roberts Decl. ¶ 58. Plaintiffs’ counsel have crafted multiple complaints, fended off multiple attempts at dismissal by defendants, and pursued an appeal to the Tenth Circuit. Roberts Decl. ¶¶ 3, 53. Co-Lead Counsel have litigated and continue to vigorously litigate through discovery, filing motions to compel and defending against motions to compel and to quash, and spending countless hours drafting discovery correspondence and meeting and conferring with Defendants. Roberts Decl. ¶¶ 20-32. The time and resources dedicated to this case has meant that Plaintiffs’ counsel were forced to forego other engagements. *See, e.g.*, Roberts Decl. ¶ 78.

Based on these facts, these factors weigh in favor of the requested fee award.¹³

¹³ This Court previously stated that “a lodestar analysis (or crosscheck) is neither required nor needed to assess reasonableness in a percentage of the fund determination.” *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litig.*, 17-MD-2785-DDC-TJJ, 2022 WL 2663873, at *5 (D. Kan. July 11, 2022); *see also Shaw*, 2015 WL 1867861, at *3 (citing *Brown*, 838 F.2d at 456, 456 n.3; *Chieftain Royalty Co. v. XTO Energy, Inc.*, No. CIV-11-29-KEW, 2018 WL 2296588, at *3 (E.D. Okla. Mar. 27, 2018) (lodestar analysis and lodestar cross-check not required); *Childs v. Unified Life Ins. Co.*, No. 10-CV-23-PJC, 2011 WL 6016486, at *15 n.10 (N.D. Okla. Dec. 2, 2011) (“Because the other *Johnson* factors, combined, warrant

IV. The Requested Costs and Expenses Are Reasonable

Co-Lead Counsel also request that the Court award the reasonable expenses incurred in prosecuting and resolving this litigation as to the Pfizer Defendants. Rule 23(h) authorizes the reimbursement of counsel for “non-taxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). The Settlement Agreement provides that Co-Lead Counsel “intend to seek, solely from the Settlement Fund, . . . the reimbursement of reasonable costs and expenses incurred in the prosecution” of their action against Pfizer.” Settlement Agreement ¶ 11, ECF No. 372-2. “Reasonable costs and expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionately by those class members who benefit by the settlement.” *Yarrington v. Solvay Pharmaceuticals, Inc.*, 697 F. Supp. 2d 1057, 1067 (D. Minn. 2010) (quotations omitted); *see also Vaszlavik v. Storage Tech. Corp.*, No. 95-B-2525, 2000 WL 1268824, at *4 (D. Colo. Mar. 9, 2000) (“[A]n attorney who creates or preserves a common fund for the benefit of a class is entitled to receive reimbursement of all reasonable costs incurred . . . in addition to the attorney fee percentage.”).

Plaintiffs’ Counsel have incurred \$536,157.61 in reasonable costs and expenses in prosecuting this litigation. Roberts Decl. ¶ 61. Courts determine whether the requested costs are reasonable by analyzing whether the costs are the type typically billed by attorneys to paying clients in the marketplace. *See In re Bank of America Wage and Hour Employment Litig.*, Case No.

approval of the common fund fee sought by Plaintiff’s Counsel, the Court need not engage in a detailed, lodestar type analysis of the ‘time and labor required’ factor.”)). Consequently, Plaintiffs’ counsel have not provided a detailed lodestar cross check analysis but represent that their lodestar, which is approximately \$18,744,000, exceeds the requested attorney’s fee on the current recovery. *See Roberts Decl.* ¶¶ 58-59. Should the Court nevertheless be inclined to engage in a lodestar cross-check and desire additional documentation, Plaintiffs will provide such documentation upon the Court’s request.

10-md-2138-JWL, 2013 WL 6670602, at *4 (D. Kan. Dec. 18, 2013) (awarding costs and expenses that are “typically borne by clients in non-contingent fee litigation”) (citing *Case v. Unified Sch. Dist. No. 233*, 157 F.3d 1243, 1257 (10th Cir. 1998)). The unreimbursed costs and expenses incurred by counsel in litigating this action consist of such items, including expert costs, filing fees, electronic research, and photocopying, among other costs. Roberts Decl. ¶ 62. All the costs and expenses were directly related and necessary to Co-Lead Counsel’s prosecution of the litigation and are typical of complex class actions such as this. *Id.* ¶ 62. Plaintiffs’ counsel that have advanced or incurred these expenses maintained careful records to document them, and these records have been reviewed and approved by Co-Lead Counsel and Liaison Counsel. *Id.* ¶ 60; Wilders Decl. ¶ 4. A summary of the expenses is included in the Roberts Declaration ¶ 61, and each firm’s declaration includes a more detailed summary of incurred costs and expenses. *See* Exhibits 1-6.

Plaintiffs therefore respectfully request that the Court approve fully an award reimbursing Co-Lead Counsel’s costs and expenses in the amount of \$536,157.61.

V. The Requested Class Representative Service Awards Are Merited

The named class representative Plaintiffs have each earned a service award for their work and dedication to this case on behalf of the Class. “At the conclusion of a class action, the class representatives are eligible for a special payment in recognition of their service to the class.” 5 Newberg on Class Actions § 17:1 (5th ed. 2021). “Service payments induce individuals to become class representatives and reward them for time sacrificed and personal risk incurred on behalf of the class.” *Harlow v. Sprint Nextel Corp.*, 2018 WL 2568044, at *7 (D. Kan. June 4, 2018).

“When considering the appropriateness of an award for class representation, the Court should consider: (1) the actions the class representative took to protect the interests of the class; (2) the degree to which the class has benefitted from those actions; and (3) the amount of time and

effort the class representative expended in pursuing the litigation.” *Tuten v. United Airlines, Inc.*, 41 F. Supp. 3d 1003, 1010 (D. Colo. 2014); *Cecil*, 2018 WL 8367957, at *10 (“Federal courts regularly give incentive awards to compensate named plaintiffs for the work they performed—their time and effort invested in the case and the risks they take.”) (citations omitted); *In re Lorazepam & Clorazepate Antitrust Litig.*, 205 F.R.D. 369, 400 (D.D.C. 2002) (“incentive awards are not uncommon in class action litigation and particularly where . . . a common fund has been created for the benefit of the entire class”); *Lucken Family Ltd. P’ship*, 2010 WL 5387559, at *6 (“Courts have held that incentive awards are an efficient and productive way to encourage members of a class to become class representatives, and to reward the efforts they make on behalf of the class.”); *Ponca Tribe of Indians of Oklahoma v. Continental Carbon Co.*, No. 05-445 (C), 2009 WL 2836508, at *2 (W.D. Okla. July 30, 2009) (“The practice of granting incentive awards to Class Representatives is common and widespread in class litigation.”) (citations omitted).

Here, the class representatives consist of only three plaintiffs. In recognition of their time, service, personal risk, and willingness to serve, Counsel requests service awards of \$5,000 for each class representative. As discussed *supra*, the class representatives spent significant time and effort on this case, investigating facts in support of the case, reviewing draft complaints, responses to discovery requests, and initial disclosures. *See* Nussbaum Decl. ¶¶ 14-19, Roberts Decl. ¶¶ 64-77. The service awards are fair and reasonable in light of what the class representatives contributed and achieved on behalf of the Class and should be approved. *See Rodriguez v. 5830 Restaurant Corp.*, No. 21-cv-01166-KLM, 2023 WL 1507195, at *12 (D. Colo. Feb. 2, 2023) (“Although Plaintiff was not compelled to testify either by deposition or at a court hearing or to answer discovery, he advocated for the interests of the class members and made sure that the interests of the class were at the forefront of negotiations”); *In re APA Assessment Fee Litig.*, 311 F.R.D. 8, 22

(D.D.C. 2015) (“Finally, class counsel seeks incentive awards of \$5,000 for each of the named plaintiffs, who assisted in the prosecution and settlement of the case. While the named plaintiffs’ level of participation does not seem extensive here, the Court has approved incentive awards of this magnitude in similar situations”); *Carlson v. Target Enterprise, Inc.*, 447 F. Supp.3d 1, 5 (D. Mass. 2020) (“The Court grants the request for an incentive award in the amount of \$7500.00 because Plaintiff Carlson was an active participant in the litigation”); *Brown v. Rita’s Water Ice Franchise Co., LLC*, 242 F. Supp.3d 356, 372 (E.D. Pa. 2017) (class representative granted service award who prepared documents, responded to discovery requests and “kept in touch regarding case status”).

CONCLUSION

For the foregoing reasons and in the supporting declarations, Plaintiffs respectfully request that the Court grant Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards.

DATED: May 7, 2024

Respectfully submitted,

/s/ Bradley T. Wilders

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EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF MICHAEL L. ROBERTS IN SUPPORT OF
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION,
AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Michael L. Roberts, hereby declare as follows:

1. I am an attorney duly licensed to practice in the States of Arkansas, Florida, Illinois, New York, Tennessee, and Texas. I am the managing partner of Roberts Law Firm US, PC (“RLF”) and Court-appointed as one of Co-Lead Settlement Class Counsel (“Co-Lead Counsel”) for the Settlement Class (“Class”) of Direct Purchaser Plaintiffs (“DPP” or “Plaintiffs”). RLF’s firm resume is attached as Exhibit 1. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

2. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards (“Motion”).

I. The Direct Purchaser Litigation

3. Following the dismissal of Pfizer, the Court’s certification of an interlocutory appeal of that dismissal, the Tenth Circuit’s acceptance of Plaintiffs’ petition for appeal, and the filing of DPPs’ opening appellant brief, DPPs reached a Settlement with Pfizer providing for Pfizer’s payment of \$50 million to resolve DPPs’ claims against it. The Settlement was reached after months of exhaustive negotiations assisted by the Tenth Circuit’s Chief Mediator, David W. Aemmer, ahead of Pfizer’s deadline to file its appellees’ brief. The Settlement is an excellent result for the Class and readily exceeds the requisite final approval standard of fair, adequate, and reasonable.

4. The Settlement is a result of the judgment and skill of Plaintiffs’ counsel and zealotness with which Plaintiffs’ counsel continued to litigate their claims even after they were dismissed as to Pfizer. The litigation has been and continues to be complex, based upon relatively uncommon reverse-payment factual allegations that Mylan and Pfizer traded settlements on separate drugs as a form of payment to the generic manufacturer to delay its generic EpiPen from

competing with brand EpiPen, and as a way of allocating the market. The fact pattern is so novel that non-settling Defendants continue to protest it in various forms. *See, e.g.*, Mylan's Motion for Partial Judgment on the Pleadings, ECF No. 386.

5. To reach this result, Plaintiffs' counsel have crafted a detailed complaint and survived several motions to dismiss through thorough oppositions or amendments to the complaints (indeed, the operative complaint is the fourth iteration of the complaint). Plaintiffs' counsel have engaged in extensive discovery efforts, having obtained approximately 1.5 million documents produced by Defendants and third parties, and reviewed and analyzed—and continue to review and analyze—those documents in preparation for depositions, class certification, and summary judgment; engaged experts to analyze their claims and prepare for class certification and expert discovery; and filed and defended against multiple discovery motions, along with multiple rounds of meet-and-confers and correspondence with Defendants and third parties, including Pfizer following its dismissal. Plaintiffs' counsel also convinced this Court to certify for interlocutory appeal the issue ground its dismissal of Pfizer from the case and persuaded the Tenth Circuit to accept that appeal. Plaintiffs' counsel's efforts produced successful results for the Class: Co-Lead Counsel negotiated a settlement in which Pfizer will pay \$50 million for the benefit of the Class.

6. Plaintiffs' counsel report having expended 21,669.2 hours working on the litigation for a collective lodestar, based on current rates, of \$18,743,955.50. Plaintiffs' counsel also report having incurred unreimbursed costs and expenses of \$536,157.61 in furtherance of the litigation.

7. The following describes the background of the litigation, including its procedural history, motion practice, settlement negotiations, and other activities. This declaration further supports that the Settlement should be finally approved and that the requested award of attorneys'

fees, costs, and expenses, as well as class representative service awards, are reasonable and justified.

A. Factual Investigation, Complaints, Motion to Dismiss, and Appeal

8. KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. (“KPH”) engaged in exhaustive investigation of a potential claim on behalf of itself and the Class. KPH’s counsel researched the underlying facts and investigated the allegations supporting antitrust claims and potential damages for KPH and the Class. KPH investigated its purchases of brand and generic EpiPen. Following Plaintiffs’ counsel’s careful analysis of the evidence and law in support of their claims, KPH filed its initial complaint on February 14, 2020, against Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals, Inc. (collectively, “Mylan”), Pfizer, Inc., King Pharmaceuticals, Inc., and Meridian Technologies, Inc. (collectively, “Pfizer”). ECF No. 1. The case was transferred to the Honorable Daniel D. Crabtree on March 30, 2020 under D. Kan. Rule 40.1, but in so doing, the Court did not rule on arguments the parties raised concerning whether KPH’s case should be related to and coordinated with *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, No. 17-md-2785 (“EpiPen MDL”). ECF No. 22.

9. On May 15, 2020, in response to KPH’s initial complaint, Mylan filed a motion to compel mandatory pre-suit mediation between Mylan and McKesson, KPH’s assignor, under the Distribution Services Agreement between McKesson and Mylan, and stay the case until the mediation process is completed. ECF Nos. 37, 38. KPH opposed Defendants’ motion on May 29, arguing that the agreement does not cover antitrust claims and that the agreement is inapplicable considering it was entered into almost five years after the start of the Class Period. ECF No. 44. Mylan filed its reply on June 16.

10. On June 18, 2020, the Court granted in part and denied in part Mylan’s motion to compel pre-suit mediation. ECF No. 49. As a result of the Court’s order, KPH and Mylan

proceeded to mediation on August 20, 2020 before Judge Jeffrey J. Keyes (Ret.), which, despite the parties' efforts, was unsuccessful in resolving KPH's claims on behalf of itself and the DPPs against Mylan. *See* ECF Nos. 52, 53.

11. Pursuant to Court-approved, jointly stipulated deadlines and having completed the required pre-suit mediation with Mylan, KPH filed its First Amended Complaint on September 10, 2020. ECF No. 54. In response, on October 13, both Mylan and Pfizer filed motions to dismiss the complaint, raising alleged issues ranging from lack of antitrust standing as to Pfizer, statute of limitations, failure to alleged any plausible injury caused by Defendants, and failure to allege a large reverse payment as required, among several other issues. ECF Nos. 65, 68.

12. In response to Defendants' motions, KPH filed its Second Amended Complaint on November 3, 2020 "as a matter of course," within 21 days of service of Defendants' motions. *See* ECF No. 72 at 4 n.1. Defendants filed new motions to dismiss on December 11, 2020, raising multiple complex issues again ranging the gamut from standing, to timeliness, to whether the complaint stated an antitrust claim. ECF Nos. 76, 78. On February 12, 2021, KPH filed its opposition to Mylan's and Pfizer's motions to dismiss. ECF No. 87. Defendants then moved to stay all discovery while the motions to dismiss were pending, ECF No. 88, before replying in support of their motions to dismiss, ECF Nos. 90, 91. KPH opposed the motion to stay as, among other things, unwarranted and causing further delay to the case. ECF No. 93. Following Defendants' reply, Magistrate Judge James denied the stay, concluding Defendants did "not clearly show[] a compelling reason for the court to issue a stay of all discovery." ECF No. 96.

13. On July 26, 2021, the Court granted Defendants' motions to dismiss without prejudice and with leave to amend, holding that the original assignment from McKesson to KPH

did not confer standing to assert the claims in the Second Amended Complaint, and that the Addendum to the Assignment did not cure the issue. ECF No. 113.

14. On August 13, Plaintiff César Castillo LLC (“Castillo”) filed a motion to intervene in the case as a class representative on behalf of the existing Direct Purchaser Class and its initial complaint. ECF Nos. 115, 116-1. Three days later, KPH filed its Third Amended Complaint, along with Plaintiff FWK Holdings LLC (“FWK”). ECF No. 117. Counsel for Castillo and counsel for KPH and FWK worked cooperatively to prepare and file, on September 17, 2021, an unopposed motion for leave to file a consolidated complaint, Plaintiffs’ Fourth Amended Complaint, which the Court granted. ECF Nos. 126, 127. Plaintiffs filed the current operative complaint, the Consolidated Fourth Amended Class Action Complaint (“Complaint”), on September 21, 2021, ECF No. 128, and as a result, Castillo’s motion to intervene was denied as moot, ECF No. 127. Plaintiffs’ counsel worked tirelessly to amend each complaint. By the time the Complaint was filed, Plaintiffs had streamlined their theories of liability, addressed any issues Defendants alleged made the complaint deficient (despite that Plaintiffs strongly disagreed), and now were three-strong in class representatives.

15. Defendants responded as expected, by filing motions to dismiss the Complaint on October 21, 2021, raising, among other things, issues of timeliness and causation, failure to allege a reverse payment, and that Plaintiffs lacked antitrust standing under *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977). ECF No. 134, 137. Plaintiffs filed an omnibus opposition on November 22, 2021, vigorously defending the Class’s claims in a carefully researched and thorough brief. ECF No. 145. Defendants filed their replies on December 13, 2021. ECF Nos. 147, 148.

16. On August 8, 2022, the Court granted Pfizer’s motion to dismiss, concluding that *Illinois Brick* barred plaintiffs’ Sherman Act claims against Pfizer. ECF No. 241-1. The Court

largely denied Mylan's motion to dismiss, granting it only as to claims based on purchases from Teva and based on the Sandoz litigation. *Id.* On September 12, 2022, Mylan answered the Complaint. ECF No. 267.

17. Plaintiffs moved swiftly and aggressively in response to Pfizer's dismissal, filing a motion for certification of interlocutory appeal pursuant to 28 U.S.C. § 1292(b) of the Court's dismissal of Pfizer on August 22, 2022. ECF No. 250. Pfizer filed its opposition on September 6, ECF No. 261, followed by Plaintiffs' reply on September 20, 2022, ECF No. 285. On October 31, 2022, the Court granted Plaintiffs' motion for interlocutory appeal, holding that the question presented was "both difficult and novel. Indeed, the court wrestled with the question and devoted more than 10 pages of analysis to the issue in its Order on the Motions to Dismiss." ECF No. 305 at 4.

18. On November 4, 2022, the Court appointed as Interim Co-Lead Counsel for the Putative DPP Class Michael L. Roberts of the Roberts Law Firm US, PC, and Linda P. Nussbaum of Nussbaum Law Group, P.C, and as Interim Liaison Counsel Bradley T. Wilders of Stueve Siegel Hanson LLP. ECF No. 306. Throughout the litigation, Co-Lead Counsel have met the obligations required of it under the Court's order. Plaintiffs' counsel also have prepared for and appeared before the Court for multiple status conferences on behalf of KPH and the Class. *See, e.g.*, ECF Nos. 95, 110, 140.

19. A week after the Court's appointment of Interim Co-Lead Counsel and Liaison Counsel, Plaintiffs petitioned the Tenth Circuit for permission to appeal from the order dismissing Pfizer, *see* ECF No. 313, which was accepted on January 23, 2023, ECF Nos. 346, 348. Mylan cross-petitioned the Tenth Circuit for permission to appeal, despite never receiving certification of an issue for appeal from the District Court, which Plaintiffs vigorously opposed. The Tenth Circuit

denied Mylan's cross-petition. ECF No. 345. Plaintiffs filed their thoroughly researched and drafted opening appellants' brief on March 28, 2023. *See* Appeal No. 23-3014, Doc. No. 010110834381. Following multiple extensions for Pfizer's appellee brief, on September 29, 2023, the parties filed a joint motion for limited remand and abatement of appeal because the parties had reached a settlement, as discussed in more detail below. *See* Appeal No. 23-3014, Doc. No. 010110929475.

B. Discovery

20. Plaintiffs were incredibly dedicated to ensuring that the Class received every opportunity to conduct and benefit from discovery beyond what was done in the MDL. Plaintiffs understood that this was especially important following the significant narrowing of theories of the case from the initial complaint to the Fourth Amended Complaint, in comparison to the theories pressed in the EpiPen MDL.

21. As such, Plaintiffs ensured that the groundwork for discovery—the protective order and ESI protocol—would benefit the Class. The parties met and conferred on countless occasions and exchanged multiple drafts of the protective order, ECF No. 99, and ESI protocol, ECF No. 100. Judge James ordered the parties to meet and confer regarding a deposition protocol that took into account the discovery that was available to the Plaintiffs from the EpiPen MDL. To accomplish this, Plaintiffs' counsel spent a significant amount of time reviewing the MDL deposition transcripts to craft an efficient and narrow deposition plan, submitting multiple briefs and proposals to the Court, and extensively meeting and conferring with Defendants, who refused to offer any compromise. *See* ECF Nos. 160 at 2, 162 at 2. The parties were able to agree on large portions of the protocol but disagreed as to the extent of Plaintiffs' right to take their own depositions in this litigation, rather than rely nearly exclusively on the depositions taken in the MDL, which, at this point in DPPs' case, was a much wider-ranging case than that alleged by the

DPP Class. *See* ECF Nos. 159-162. After months of reviewing transcripts, meeting and conferring, proposing drafts to the Defendants, submitting updates to the Court, and briefing the matter, the Court entered a deposition protocol on January 31, 2022, that largely agreed with Plaintiffs' proposal. ECF No. 158.

22. Plaintiffs served their first set of Requests for Production of Documents ("RFPs") on November 30, 2021, ECF No. 146, and Defendants responded on January 11, 2022, ECF No. 153, and served their privilege logs on or about February 23, 2022. Plaintiffs later served on Defendants Requests for Admission ("RFA"). ECF No. 213.

23. Plaintiffs filed their first motion to compel concerning Defendants' responses to Plaintiffs' RFPs on March 25, 2022, regarding improperly withheld documents, Defendants' refusal to conduct certain searches and add certain custodians beyond what was done in the EpiPen MDL, and their refusal to extend their searches to the present. ECF No. 175. Over Defendants' opposition, ECF Nos. 181, 182, and following Plaintiffs' replies in support, ECF No. 190, on August 23, 2022, Judge James granted in part and denied in part Plaintiffs' motion, concluding that Mylan must produce documents to the present, must add the four requested custodians, must conduct the requested additional searches, must produce communications with Pfizer dated or exchanged before 2013 withheld on grounds of attorney-client and common interest privileges. ECF No. 252. Mylan was ordered to substantially complete its production by November 18, 2022. ECF Nos. 252, 288.

24. Mylan requested the Court's review of the Judge James' ruling as to the documents withheld under the common interest doctrine, ECF No. 270, and Pfizer joined their motion, ECF No. 289. Mylan also requested a stay while the ruling was under review, ECF No. 280, which Plaintiffs opposed, ECF No. 293. Plaintiffs opposed Defendants' motion for review on September

30, 2022. ECF No. 292. Over Plaintiffs' objections, on October 28, 2022, the Court granted Mylan's motion for a stay of deadlines pending review of the August 23, 2022 order as to the common interest doctrine documents. ECF No. 304. However, Mylan's motion for review was denied on December 6, 2022. ECF No. 320. The following day, Plaintiffs directed a subpoena to Pfizer for the same documents Mylan was ordered to produce. *See* ECF No. 321. Pfizer responded with a motion to quash filed in the Southern District of New York, which Plaintiffs requested be transferred to the District of Kansas. ECF Nos. 329, 344.

25. On September 8, 2022, Plaintiffs filed a motion to determine the sufficiency of Mylan's objections to one of Plaintiffs' RFAs, arguing that Mylan's objections should be overruled. ECF No. 262. Mylan later withdrew their objections, and Plaintiffs withdrew the motion. *See* ECF No. 277.

26. Plaintiffs were also heavily engaged in defensive discovery. Mylan served its first set of RFPs and Interrogatories directed to the Plaintiffs on April 1, 2022, ECF No. 180, and Pfizer served its first set of RFPs and Interrogatories on Plaintiffs on or about April 22, 2022, ECF No. 187. Plaintiffs served their responses and objections to Defendants' requests in May and June. ECF Nos. 193-195, 212. Mylan followed with a second set of RFPs directed to KPH. ECF No. 220. As a result of Mylan's requests for assignor discovery, Plaintiffs served on McKesson a subpoena for certain documents requested by Mylan, *see* ECF No. 264, and Mylan served its own subpoena, *see* ECF No. 295. KPH also served its own subpoena on McKesson for transactional data.

27. KPH was diligent in its review of its own documents and, when necessary, served supplemental responses to Mylan's interrogatories. *See, e.g.*, ECF Nos. 223, 296, 309.

28. Mylan filed a motion to compel against Plaintiffs on July 18, 2022, asking the Court to resolve a kitchen sink of purported deficiencies in Plaintiffs' responses ranging from

downstream discovery objections to confidentiality and privilege objections. ECF No. 224. Plaintiffs responded to Mylan's motion with multiple compromises, including supplemental of the interrogatories at issue and the production of certain documents, but Plaintiffs stood on their downstream and privilege objections. ECF No. 235. Mylan filed a reply on August 15, 2022. ECF No. 245. On November 28, 2022, the Court granted in part and denied in part Mylan's motion and ordered Plaintiffs to produce responsive documents and a privilege log within 30 days. ECF No. 316.

29. While offensive discovery as to the Defendants was ongoing, Plaintiffs were also engaged in non-party discovery, including federal agencies and generic drug manufacturers such as Teva and Teva's device manufacturer Antares, Kaleo, Sanofi, and Amneal/Impax. As to one such non-party, Kaleo, Plaintiffs were forced to file a motion to compel regarding, among other things, Kaleo's transactional data, on June 3, 2022. ECF No. 203. Kaleo opposed the motion on August 11, 2022. ECF No. 243. Following Plaintiffs' reply in support of their motion on August 25, 2022, ECF No. 254, the Court denied Plaintiffs' motion on February 7, 2023, ECF No. 351.

30. Defendants moved unopposed to stay the case, except for third-party discovery, pending resolution of Plaintiffs' appeal to the Tenth Circuit shortly after the Tenth Circuit accepted the appeal in February 2023, ECF No. 359, which was granted, ECF No. 360, and later extended, ECF No. 368. That stay has since been lifted and Plaintiffs continue to zealously litigate their claims against Mylan.

31. As a result of Plaintiffs' counsel's efforts, Plaintiffs obtained and continue to review the approximately 1.5 million documents and data received from Defendants and third parties. Plaintiffs have prepared countless memoranda analyzing the discovery to date, legal theories, and strategy for the litigation, and specifically to prepare for depositions, class certification, and

ultimately, summary judgment. Plaintiffs continue to meet and confer with Mylan regarding document discovery, Mylan's privilege log, and to schedule depositions. Plaintiffs continue to supplement their responses to Mylan's discovery requests as necessary and meet and confer with Mylan regarding Plaintiffs' responses to date.

32. Further, Plaintiffs' counsel have communicated and continue to communicate with multiple experts in preparation for class certification and merits.

C. Settlement Negotiations with the Pfizer Defendants

33. The DPP-Pfizer Settlement was reached after multiple rounds of hard-fought negotiations assisted by Tenth Circuit Chief Mediator David W. Aemmer.

34. Plaintiffs and Pfizer first met to discuss the possibility of settlement as early as December 2021, after Defendants' motions to dismiss the Complaint were fully briefed, but before the Court had ruled. Nothing came of those discussions.

35. The settling parties next discussed settlement over a year later, in March 2023, under the guidance and supervision of Mediator Aemmer. At that time the Tenth Circuit had accepted Plaintiffs' appeal of Pfizer's dismissal and Plaintiffs were preparing to file their opening appellants' brief. In preparing for the settlement discussions, Co-Lead Counsel analyzed the posture of the case, relevant Tenth Circuit law, and various issues regarding damages and liability.

36. The arms'-length negotiations guided by Mediator Aemmer continued in the weeks and months that followed. During the mediation process, Plaintiffs and Pfizer delivered detailed presentations regarding their evaluations of liability and damages. After six months of emails and phone calls through Mediator Aemmer, the parties reached a tentative understanding, with the parties reaching a final agreement in September 2023.

37. The parties, having sufficient information and experience to fully assess the strengths and weaknesses of their positions in the case, executed the Settlement Agreement on September 28, 2023.

38. None of Plaintiffs' counsel or I discussed with Pfizer the request for attorneys' fees, costs, and expenses or representative plaintiff service awards until after all material elements of the Settlement were agreed upon.

39. Plaintiffs and Pfizer have no additional or side agreements.

II. The Direct Purchaser-Pfizer Settlement

A. Benefits of the Settlement

40. The Settlement provides for Pfizer's payment of \$50 million into an Escrow Account for the benefit of the previously certified Classes. After Administrative Expenses and any attorneys' fees, costs, and expenses, and any representative plaintiff service awards approved by the Court are deducted, all amounts remaining in the Escrow Account will be distributed to Class members that submit a valid claim form in accordance with the Allocation Plan approved by the Court. No amount shall under any circumstances revert to Pfizer.

41. In accordance with the terms of the Settlement, Pfizer transferred \$5,000,000 into the Settlement Fund Escrow Account on April 4, 2024. The Settlement requires Pfizer to transfer the remaining \$45,000,000 into the Escrow Account on or before June 10, 2024—fifteen calendar days before the Final Approval Hearing on June 25, 2024.

42. Under the Settlement, Pfizer agreed to authenticate and render admissible the documents produced by Pfizer in this litigation.

B. Preliminary Approval

43. While the parties were still negotiating the final terms of the Settlement, Plaintiffs' counsel were also drafting the motion for preliminary approval, supporting memorandum, and

exhibits in support, including the plan of allocation, the escrow agreement, and the notice documents. Plaintiffs' counsel also consulted with their expert economist and the settlement administrator to obtain their declarations to be filed with the preliminary approval motion.

44. Plaintiffs' counsel refined these documents until they were final and executed. The parties negotiated revisions to the documents until they were final.

45. Plaintiffs filed the Class's unopposed motion for preliminary approval of the settlement with Pfizer, certification of a settlement class, and related relief on October 10, 2023. ECF No. 371. The motion provided for a notice plan that included direct mail notice, digital and publication notice, and a settlement website.

46. The Court preliminarily approved the Settlement on March 28, 2024, ECF No. 393, and issued an amended preliminary approval order on April 3, 2024, ECF No. 394 (correcting a typographical error in the name of the Nussbaum Law Group, P.C. and moving the final approval hearing to June 25, 2024). In granting preliminary approval, the Court, among other things, certified a DPP Settlement Class; appointed Michael L. Roberts of Roberts Law Firm US, PC and Linda P. Nussbaum of Nussbaum Law Group, P.C. Co-Lead Settlement Class Counsel and Bradley T. Wilders Liaison Settlement Class Counsel; approved the form and manner of notice; appointed A.B. Data, Ltd. as settlement administrator and Huntington Bank as Escrow Agent; and set a schedule for notice and final approval.

C. Class Notice and Settlement Administration

47. In accordance with the Court's preliminary approval order, Plaintiffs immediately got to work implementing the notice program. Within 21 days of the Court's order, the settlement administrator mailed the detailed notice and claim form to each identified Class member and caused a case-specific settlement website to go live. Plaintiffs' counsel worked closely with the settlement administrator to ensure that the notices complied with the Court's order. Ahead of the

Court-ordered deadline, by May 2, 2024, the settlement administrator caused notice to be published on the Pink Sheet website and in *Wall Street Journal* and *Business Wire*. Reminder notice will be mailed by May 22, 2024.

48. The Class members are treated alike and equitably under the proposed allocation plan. *See* ECF No. 372-9. As discussed in Plaintiffs' motion for preliminary approval and accompanying proposed allocation plan, the Net Settlement Fund will be allocated on a *pro rata* basis based on data submitted by the Class members showing their purchases of brand, authorized generic, and generic EpiPen. Each Class member's share will be calculated, through the coordination of Plaintiffs' expert economist and settlement administrator, by dividing the total purchases of the Class member by the total purchases of the Class, with brand and generic purchases given different weights to account for their differing amounts of alleged damages. Co-Lead counsel will ensure that any issues that arise after final approval of the Settlement are properly addressed and will raise any such issues as necessary with the Court.

D. Response of the Class

49. As of this submission, Plaintiffs' counsel have received no objections to the Settlement, nor do Plaintiffs expect to receive any objections to the Settlement, especially in light of the excellent result obtained for the Class compared with the risks that faced their recovery from Pfizer.

50. Plaintiffs' counsel will provide the Court with an update on the response of the Class, including the number of claims filed and any objections received, ahead of the Final Approval Hearing.

III. Attorneys' Fees, Litigation Expenses, and Service Awards

A. The Requested Attorneys' Fee Award

51. Co-Lead Counsel seek an award of one-third of the \$50 million Settlement Fund, or \$16,666,667, in attorneys' fees, \$536,157.61 in litigation costs and expenses, and service awards in the amount of \$5,000 to each of the three class representatives.

52. The amount of attorneys' fees requested is consistent with what was provided in Plaintiffs' motion for preliminary approval of the Settlement, in the Settlement Agreement itself, and in the notice provided to the Class. *See* ECF Nos. 371, 372-2, 372-3.

53. As described above, for the past four years, Plaintiffs' counsel have zealously prosecuted this litigation on a completely contingent basis—in the face of sometimes unfavorable odds—to a successful resolution with Pfizer on behalf of the Class. Plaintiffs' counsel did so opposite some of the nation's largest and most profitable pharmaceutical companies. Since the filing of this litigation, as shown by the multiple rounds of dismissal motions, Pfizer has maintained (and Mylan continues to maintain, *see, e.g.*, Motion for Partial Judgment on the Pleadings, ECF No. 386), that it did nothing wrong, and that the Plaintiffs' claims lack merit and are legally unsupported. On the other hand, Plaintiffs have advanced many complex legal and factual issues under federal antitrust law. Given Pfizer's experienced representation and deep pockets, the complex nature of the claims at issue, and the well-accepted riskiness of antitrust class actions, Co-Lead Counsel knew when taking on this case that the outcome was uncertain, and that no recovery was guaranteed for the Class in exchange for counsel's efforts. The riskiness was especially apparent after Pfizer was dismissed and the issue was pending before the Tenth Circuit.

54. As is often the case, Plaintiffs' counsel invested a significant amount of time in this case between Plaintiffs' initial investigation and the Settlement—researching and drafting the initial and multiple amended complaints, responding to multiple motions to dismiss, and beginning

extensive discovery including written discovery and the review and analysis of approximately 1.5 million documents.

55. Co-Lead Counsel and other Plaintiffs' counsel have substantial experience prosecuting complex antitrust class actions. *See* Firm Declarations, Ex. 1-6 to the Motion, and Exhibits 1 thereto. Their skill is reflected in the excellent Settlement they obtained on behalf of the Class and the fact that, in the face of stiff opposition, they defeated multiple rounds of motions to dismiss and persuaded this Court to certify, and the Tenth Circuit to accept, their interlocutory appeal.

56. Ahead of Settlement negotiations, Co-Lead Counsel prepared for and attended multiple meetings by phone with Mediator Aemmer, exchanged memoranda regarding liability and damages, and exchanged communications (by email) with Mediator Aemmer and Pfizer. As a result of our efforts, Co-Lead Counsel successfully negotiated a Settlement on behalf of the Class. Co-Lead Counsel's continued diligence will ensure proper distribution of the Settlement proceeds and address any issues that arise after final approval of the Settlement.

57. The DPP Class is comprised of sophisticated Class Members, including large wholesalers. None of the Class members have thus far objected to Co-Lead Counsel's requested fee. The three largest Class members—national wholesalers—are known to object to counsel's fee requests with which they disagree. *See, e.g., In re Glumetza Antitrust Litig.*, No. C 19-05822 WHA, 2022 WL 327707, at *9-12 (N.D. Cal. Feb. 3, 2022). It is notable that they have lodged no such objection here. Co-Lead Counsel do not expect to receive any objections given the results obtained for the Class in the face of significant risk.

58. Plaintiffs' counsel's collective lodestar through April 30, 2024, based on the current usual and customary hourly billing rates of each firm, is \$18,743,955.50, based on more than

21,500 hours billed. These attorney hours were reported to Court-appointed Interim Liaison Counsel for the Class in detailed monthly time and expense reports throughout the litigation.

59. Plaintiffs' counsel are seeking an award of \$16,666,667 in attorneys' fees, which amounts to a multiplier of 0.88.

60. In addition to the work done by Co-Lead Counsel, the collective lodestar described in paragraph 58 above includes time for four other firms representing the Class that did have done and continue to do work in the litigation. All firms that have done work in the litigation under the supervision and at the request of Co-Lead Counsel agreed in advance to adhere to the required detailed monthly time and expense reporting throughout the litigation. Co-Lead Counsel have reviewed time and expense records covering services for all Plaintiffs' counsel to ensure the appropriateness and efficiency of time and expenses expended, and to avoid any duplication, on behalf of the Class. The following chart details the collective lodestar of each of the Plaintiffs' counsel's firms.

Firm	Hours	Lodestar
Roberts Law Firm US, PC	10,111.8	\$9,156,582.00
Nussbaum Law Group, P.C.	7,094.73	\$5,647,607.50
Stueve Siegel Hanson LLP	890.0	\$759,753.50
NastLaw LLC	2,276.7	\$2,170,253.50
Kessler Topaz Metzler & Check, LLP	521.40	\$364,321.50
Wagstaff & Cartmell LLP	774.60	\$645,437.50
Total	21,669.2	\$18,743,955.50

B. Unreimbursed Costs and Litigation Expenses Incurred by Plaintiffs' Counsel

61. Plaintiffs' counsel have expended hundreds of thousands of dollars in costs and expenses to effectively prosecute this case, and expect to expend millions more as expert discovery ramps up. From the inception of this case through April 30, 2024, Plaintiffs' counsel have incurred \$536,157.61 in costs and expenses. These costs and expenses are broken down in the declarations of Plaintiffs' counsel attached as Exhibits 1 through 6, and are summarized in the following chart:

Firm	Expenses Requested
Roberts Law Firm US, PC	\$274,896.28
Nussbaum Law Group, P.C.	\$67,743.38
Stueve Siegel Hanson LLP	\$57,216.16
NastLaw LLC	\$84,385.02
Kessler Topaz Metzler & Check, LLP	\$22,994.32
Wagstaff & Cartmell LLP	\$28,922.45
Total	\$536,157.61

62. These expenses include items typically borne by clients in non-contingent fee litigation, such as expert costs, document management, travel, electronic legal research, photocopying, and overnight delivery, among others, and are directly related and necessary to Plaintiffs' counsel's prosecution of this litigation and are typical of large, complex class actions such as this.

63. The costs and expenses summarized in paragraph 61 above and itemized in Plaintiffs' counsel's declarations were incurred on behalf of the Class by Plaintiffs' counsel on a contingent bases and have not been repaid. All these costs and expenses are reflected in the books and records of each firm, which are prepared from expense vouchers, check records, invoices, and other source materials, and represent and acute record of the costs and expenses incurred in connection with this litigation. Copies of all such records are available upon the Court's request.

C. Service Awards to Class Representatives

64. The three named class representatives (KPH Healthcare Services, Inc. a/k/a Kinney Drugs Inc., FWK Holdings, and César Castillo, LLC), have each made significant contributions to the litigation that inured to the benefit of the Class. They gathered information, produced responsive documents, and worked with Class Counsel to provide written responses to Defendants' discovery requests.

65. The class representatives stayed informed of case developments and procedural matters over the course of the case and reviewed and approved the settlement with Pfizer. They performed their class representative duties willingly and ably for the benefit of the Class, and they did so without any guarantee of reimbursement or compensation for the work they performed on behalf of the Class.

66. Based on the dedication to the case as set forth below for KPH and FWK, and in the Nussbaum Declaration for Castillo, together the requested three service awards amount to a total of \$15,000, or 0.03% of the \$50 million Settlement Fund. The class representatives are committed to this litigation, and their work and dedication warrants the requested service awards.

67. The approximate Net Settlement Fund to be distributed to the Class amounts to \$32,728,175.40 after the \$16,666,667 attorneys' fees award, the \$536,157.61 in Plaintiffs' counsel's costs and expenses, and the \$15,000 in service awards to the class representatives are subtracted from the \$50 million Settlement Fund.

i. KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc.'s Service to the Class Thus Far

68. Plaintiff KPH operates retail and online pharmacies in the Northeast under the name Kinney Drugs, Inc. KPH purchased EpiPen directly from McKesson, which purchased those EpiPen directly from Mylan. McKesson assigned to KPH its antitrust claims against Defendants.

69. KPH has been an excellent representative for the Class. KPH was the first plaintiff to bring this case, to be later joined by its co-class representatives, and has doggedly maintained its dedication to this case since its first complaint.

70. KPH is currently participating in ongoing, extensive defensive discovery and has responded to multiple sets of discovery requests served by Pfizer and Mylan. KPH has responded

to interrogatories served by the Defendants and has supplemented responses to some interrogatories.

71. In addition, KPH has expended significant effort in searching for, collecting, reviewing and producing documents responsive to Defendants' discovery requests. KPH has made three productions which include go-get documents, custodial documents, and transactional purchase and sales data.

72. Further, KPH worked diligently to produce downstream discovery as ordered by the Court. Thus far, KPH has produced 2,913 documents and 16,396 pages. Through counsel, KPH served its assignor with two Rule 45 subpoenas that sought additional transactional data and documents.

73. Fact discovery continues in this case, and KPH will make additional document productions. DPP counsel have met and conferred on multiple occasions and exchanged correspondence with defense counsel regarding responses to interrogatories, custodians, search term negotiations, and document productions.

ii. FWK Holdings LLC's Service to the Class Thus Far

74. FWK Holdings LLC is an assignee of pharmaceutical wholesaler Frank W. Kerr Co. ("Kerr") and is based in Illinois. Kerr purchased EpiPen directly from Mylan during the Class Period. FWK pursues relief in this action as Kerr's assignee.

75. Like KPH, FWK has satisfactorily represented the class in prosecuting its claims against Defendants. FWK is participating in ongoing, extensive defensive discovery. FWK has responded to written discovery requests and has supplemented responses to some interrogatories.

76. FWK's document productions also involved significant effort in searching for, collecting, reviewing, and producing documents responsive to Defendants' discovery requests. FWK has made four productions which include go-get documents, custodial documents, and

transactional purchase and sales data. FWK also worked diligently to comply with the Court's order to produce downstream documents. FWK has produced 2,452 documents and 14,425 pages to date.

77. As discussed above, fact discovery continues in this case, and FWK will make additional document productions. DPP counsel have met and conferred on multiple occasions and exchanged correspondence with defense counsel regarding responses to interrogatories, custodians, search term negotiations, and document productions.

IV. ROBERTS LAW FIRM US, PC TIME, COSTS, AND EXPENSES

78. As Co-Lead Counsel, I have co-led all aspects of the litigation from its inception through the Settlement with Pfizer. Attorneys with the Roberts Law Firm US, PC ("RLF") and I actively participated and continue to participate in all aspects of the litigation including, but not limited to, pre-filing research and investigation, drafting complaints, managing Plaintiffs' counsel, responding to Defendants' motion to compel pre-suit mediation and to dismiss, serving and responding to written discovery, reviewing and analyzing documents, preparing and filing motions to compel as well as oppositions thereto, preparing for depositions, retaining and coordinating with experts, and preparing for class certification and other pretrial submissions. There have been and are anticipated to continue to be periods of time where litigation was so intense that a number of highly experienced attorneys from RLF were working full-time or nearly full-time on this case alone. The resources required of this matter were and are anticipated to be so significant that RLF has been forced to turn down opportunities to work on other cases to devote the resources required to effectively advance this matter.

79. RLF prosecuted this case on a contingent-fee basis with no guarantee of recovery.

80. From inception to April 30, 2024, RLF spent 10,111.8 hours advancing the litigation. The total lodestar for RLF is \$9,156,582.00, based on contemporaneous, daily time

records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Counsel.

81. The work conducted by my firm has been approved by Co-Lead Counsel and was performed with the appropriate level of effort and efficiency and is not duplicative of other work performed by attorneys representing the putative class.

82. RLF seeks an award of \$274,896.28 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through April 30, 2024. These costs and expenses are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents that are an accurate record of the costs and expenses. The costs and expenses are of the type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

Category	Amount
Litigation Fund Contributions	\$60,000.00
Electronic Legal Research	\$40,462.01
ESI Document Hosting (Mainstream Technologies and Exterro) ¹	\$178,040.93
Miscellaneous	\$446.44
Meals	\$41.21
Witness and Expert Expenses	\$660.00
Court Fees	\$675.00
Ground Transportation	\$71.97
Litigation Fund Contribution Discount ²	(\$5,501.28)
Total	\$274,896.28

¹ These expenses were properly categorized as "Miscellaneous," but for clarity, given their size relative to RLF's total expenses, are listed separately here.

² As described in the Declaration of Dianne Nast, attached to the Motion as Exhibit 4, because the joint litigation fund still has \$11,002.55 in the account at the time of the submission of the Motion, Co-Lead Counsel Mike Roberts and Linda Nussbaum have reduced their requests for reimbursement of costs and expenses by that amount (split between them).

83. As the summary shows, RLF made \$60,000.00 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs. RLF has discounted this contribution by \$5,501.28, as discussed *supra* in note 2. An itemized summary of the costs and litigation expenses paid by the joint litigation fund is included in the Declaration of Dianne M. Nast attached to the Motion as Exhibit 4.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7th day of May 2024:

/s/ Michael L. Roberts

Michael L. Roberts

Dallas, Texas

EXHIBIT 1



ROBERTS LAW FIRM

ROBERTS GROUP

FIRM RESUME

Complex Litigation

1920 McKinney Ave., Suite 700
Dallas, TX 75201
Phone: (501) 821-5575
<http://robertsgroup.us/>



FIRM OVERVIEW

Founded in 1990, Roberts Law Firm US, PC is a full-service law firm with a worldwide client base, integrating business law with a world vision. We utilize our team of highly experienced and reputable attorneys to deliver cost-effective client-focused representation on a variety of legal issues including, but not limited to antitrust litigation, data breach litigation, intellectual property law, business based litigation, and general corporate law.

Our firm was founded on the principle that business and individual clients deserve powerful, sophisticated representation, where client priorities are paramount, and winning strategies flourish. This mission guides our firm in every client interaction, from domestic corporate clients to those in the Far East. Our full service law firm is headquartered in Dallas, Texas, with presence in Arkansas, Colorado, Illinois, Massachusetts, New Mexico, and New York.

Our firm boasts energetic, highly credentialed attorneys dedicated to exceeding client expectations. Efficiency is valued. Exhaustive analysis is the norm. Disciplined case management is the prevailing philosophy.

Our firm has provided legal services to a wide variety of clients, including institutions of higher education, such as the University of Arkansas for Medical Sciences (UAMS), and other large and sophisticated clients, such as Wal-Mart Stores, Inc., Tyson Foods Corporation, AT&T Corporation, Georgia Pacific Corporation, Uni-Arab Corporation, Home Depot Stores, Federal Express Corporation, Southwest Airlines, USA Drug Stores, Inc., Walgreens, Inc., RBX Industries, ASUSTek Computer, Inc. (Taiwan), Compal Electronics, Inc., (Taiwan), AMTRAN Technology Co., Ltd (Taiwan), Foxlink International, Inc., Arkansas Capital Corporation, and Little Rock Diagnostic Clinic.

Roberts Law Firm is a Certified Minority Business Enterprise. Our firm is a member of the NAMWOLF (National Association of Minority and Women Owned Law Firms, Inc.) and is also a member of the National Minority Supplier Development Council, Inc.



MIKE ROBERTS, MANAGING PARTNER



Practice Areas

Antitrust and Complex Litigation
Business Transactions
Insurance Coverage and Contract Law
Insurance Defense and General Liability
International Business Law and Litigation
Utility Law
Workers Compensation and Administrative Law

Education

University of Arkansas Bowen School of Law, J.D.

Admissions

1990, Arkansas
1993, U.S. District Court, Eastern District of Arkansas
2003, U.S. Court of Appeals, Eighth Circuit
2006, Tennessee
2006, Texas
2006, U.S. Supreme Court
2008, Florida
2010, New York
2011, Eastern District of Wisconsin
2019, Illinois

Publications

Co-Author, *Arkansas Workers' Compensation Law Manual Legislation and Commentary*, 1995, 1997, 1999, 2001 and 2003 editions.

Community Involvement

Arkansas Economic Development Commissioner
Juvenile Diabetes Research Foundation, President

Memberships

Arkansas Bar Association

- Secretary, Workers' Compensation Section, 1996 – 1997
- Chair-Elect, Workers' Compensation Section, 1997 – 1998

Mike Roberts is the Chairman & CEO of Roberts Law Firm US, PC. He primarily works in areas of international economic and business development, law, government relations, and consulting.

Roberts Law Firm is a Certified Minority Business Enterprise in Arkansas with three divisions: Corporate, Intellectual Property, and Complex Class Litigation. Mr. Roberts, owner and manager of the firm, is a certified minority. The firm is a member of NAMWOLF (The National Association of Minority and Women Owned Law Firms, Inc.) and is also a member of the National Minority Supplier Development Council, Inc.



Practice areas predominately involve complex class action litigation representing corporate clients against wrongful or illegal conduct. Roberts Law Firm provides legal services to a number of top Fortune 500 companies and represents OEM companies in Vietnam, Taiwan and China as well as companies in Europe, Central Asia, and the Middle East.

Mr. Roberts is licensed in Arkansas, Florida, Illinois, Tennessee, Texas, and New York. He is also admitted before the United States Supreme Court and several U.S. Federal District Courts. His firm handles litigation for clients across the United States and around the globe. Clients include corporations from Abu Dhabi, Dubai, Greece, England, Taiwan, China, and the United States. The firm has served as counsel for Plaintiff-Corporations in individual and class action cases, and has successfully assisted recovery of hundreds of millions of dollars for its clients.

Michael L. Roberts has served as lead and co-lead counsel and on executive committees in multiple complex class actions, including the following: *First Impressions Salon, Inc., et al. v. National Milk Producers Federation*, (case settled); *In re Direct Purchaser Insulin Pricing Litig.*, (appointed Interim Co-Lead Counsel for Direct Purchaser Plaintiff Class); *In re Microsoft Antitrust Indirect Purchaser Litigation* in Arkansas (case settled early); *In re Pilot Flying J Rebate Litigation* (a nationwide class action which settled within two months from initially filed complaint); *In re Aftermarket Automotive Sheet Metal Antitrust Litigation* (third party payor action); and *In re Parking Heaters Antitrust Litigation* (direct purchaser action). Mr. Roberts served as Co-Lead Settlement Class Counsel in *Ori vs. Fifth Third Bank* case and also served on the Plaintiffs' Steering Committee in the *Heartland Bank* data breach case. Additional information regarding Mr. Roberts' leadership experience is provided below.

In 2006, Arkansas Governor Mike Beebe appointed Mr. Roberts to serve on the Arkansas Economic Development Commission. In 2010, Governor Beebe appointed him to a second term, and in 2015, Governor Asa Hutchinson appointed him to a third term. Under the leadership of Mr. Roberts as Chairman of the Commission, the State added thousands of jobs and many companies located their businesses in Arkansas. Mr. Roberts has organized and led a number of trade missions to China, Taiwan, UAE, Vietnam, Bulgaria, Kazakhstan, and Panama. In addition, he has worked frequently with the Governor to guide foreign companies in establishing strategic relationships that will facilitate access to the American supply chain hub. As an Economic Development Commissioner, Mr. Roberts understands the importance of maintaining the integrity and reputation of local companies who drive and draw economic development and job creation.

Mr. Roberts has long-standing relationships throughout Asia and has traveled there extensively. Mr. Roberts previously represented the government of Pakistan and has worked with corporate clients in Cuba, China, Taiwan, Libya, Europe, Pakistan, Vietnam, United Arab Emirates, Bulgaria, and Greece. He has three decades of experience practicing law where he has represented Fortune 500 companies in the United States, Asia, Europe, and the Middle East. He has an extensive background and experience in assisting companies expand into global markets, and has facilitated a bilateral trade MOU between Vietnam and the U.S.

Mr. Roberts is domiciled and works in Dallas, Texas.



MICHAEL L. ROBERTS, MANAGING PARTNER, ROBERTS LAW FIRM US, PC

Michael L. Roberts has served as lead and co-lead counsel and on executive committees in multiple complex class actions, as described below. He has significant experience in antitrust law, class action practice, electronic discovery, case investigation, and settlement negotiation. Mr. Roberts has worked and continues to work tenaciously and efficiently towards the best outcome for his clients. As the owner and manager of the Roberts Law Firm US, PC, Mr. Roberts is licensed to practice law in Arkansas, Florida, Tennessee, Texas, New York, and Illinois.

Appointments as Co-Lead Counsel

First Impressions Salon, Inc., et al. v. National Milk Producers Federation, United States District Court for the Southern District of Illinois Case No. 3:13-cv-00454- NJR-SCW (antitrust class action in which Michael Roberts served as Co-Lead Counsel for Direct Purchaser Plaintiff Class; case settled). Judge Nancy J. Rosenstengel.

Staley et al. v. Gilead Sciences, Inc. et al. (HIV Drugs Antitrust Litigation), United States District Court for the Northern District of California, Case No. 3:19-cv-02573 (Michael Roberts was appointed Co-Lead Counsel for Direct Purchaser Plaintiff Class; Court granted final approval of settlement with BMS and preliminary approval of settlement with Gilead). Judge Edward Chen.

In re Direct Purchaser Insulin Pricing Litig., United States District Court for the District of New Jersey, Case No. 3:20-cv-03426 (Michael Roberts was appointed Interim Co-Lead Counsel for Direct Purchaser Plaintiff Class). Judge Brian R. Martinotti.

KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., et al. v. Mylan N.V., et al. (EpiPen Antitrust Litigation), United States District Court for the District of Kansas, Case No. 2:20-cv-02065-DDC-TJJ (Michael Roberts appointed Interim Co-Lead Counsel for the Direct Purchaser Class). Judge Daniel Crabtree.

In re: Vascepa Antitrust Litig., United States District Court for the District of New Jersey, Case No. 3:21-cv-12747 (Michael Roberts was appointed Co-Lead Counsel for Direct Purchaser Plaintiff Class). Judge Robert Kirsch.

In re Parking Heaters Antitrust Litigation United States District Court for the Eastern District of New York, Case No. 15-mc-940-JG-JO (Michael Roberts was appointed Co-Lead Interim Counsel for Direct Purchaser Plaintiff Class; case settled). Chief Judge Dora Lizette Irizarry.

Fond Du Lac Bumper Exchange v. Jui Li Enterprise Co. Ltd. ("AM Sheet Metal Antitrust Litigation"), United States District Court for the Eastern District of Wisconsin, Case No. 2:11 CV 00162 - LA (Michael Roberts was appointed Co-Lead Counsel for Third Party Payor Plaintiff Class; case settled). Judge Lynn Adelman.

National Trucking Financial Reclamation Services, LLC vs. Pilot Corporation, Pilot Travel Centers d/b/a Pilot Flying J, et al., United States District Court for the Eastern District of Arkansas, Case No. 4:13-cv-00250-JMM. (Michael Roberts was appointed Co-Lead Counsel and Co-Lead Settlement Class Counsel; case settled in eight months for \$84 million plus injunctive relief). Judge James M. Moody.

In re Microsoft Antitrust Litigation: Paul Peek, D.D.S., et al. v. Microsoft Corporation, Circuit Court of Pulaski County, Arkansas, Twelfth Division, No. CV06-2612 (Michael Roberts was appointed Co-Lead Settlement Class Counsel; case settled for \$37 million). Judge Alice Gray.

In re Ori vs. Fifth Third Bank and Fiserv, Inc., United States District Court for the Eastern District of Wisconsin, Case No. 08-CV-00432-LA. (Michael Roberts was appointed Co-Lead Settlement Class Counsel; case settled). Judge Lynn Adelman.

In re Generic Pharmaceuticals Antitrust Litigation, United States District Court for the Eastern District of Pennsylvania, Case No. 2:16-md-02724-CMR, MDL No. 2724 (ongoing class action in which Michael Roberts serves on the Court-Appointed Direct Purchaser Plaintiffs' Steering Committee). Judge Cynthia M. Rufe.

Other Leadership Roles

In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation, United States District Court for the Eastern District of New York, Case No. 1:18-cv-02819-NG-LB (Michael Roberts was appointed to the Plaintiffs' Executive Committee for Direct Purchaser Plaintiff Class). Judge Nina Gershon.

In re Effexor XR Antitrust Litigation, United States District Court for the District of New Jersey, Case No. 3:11-cv-05479-PGS-LHG (Michael Roberts was appointed Co- Chair Discovery Committee for Direct Purchaser Plaintiff Class). Judge Peter G. Sheridan.

In re Heartland Payment Systems Inc. Customer Data Security Breach Litigation, United States District Court for the Southern District of Texas, Case No. H-09-MD-2046 (Michael Roberts was appointed as a member of the Steering Committee; case settled). Judge Lee H. Rosenthal.

In re U.S. DRAM Antitrust Litigation, United States District Court for the Northern District of California, Case No. 4:02-md-01486-PJH (settled for approximately \$300 million). Judge Phyllis J. Hamilton. Michael Roberts represented indirect purchasers in the Arkansas class action, *Bruce K. Burton, M.D., P.A. Malvern Diagnostic Clinic, et al. v. Micron Technology, Inc., et al.* Circuit Court of Hot Spring County, Arkansas, First Division, Case No. CV-2004-226-1. Circuit Judge Lynn Williams.

CHRISTOPHER SANCHEZ, PARTNER



Practice Areas

Antitrust and Complex Litigation

Education

DePaul University College of Law, J.D.

University of New Mexico, B.A., *cum laude*, Political Science

Admissions

Illinois, 2000

New Mexico, 2019

U.S. District Court for the Northern District of Illinois

U.S. District Court for the District of New Mexico

U.S. Court of Appeals for the Seventh Circuit

U.S. Court of Appeals for the Tenth Circuit

Memberships

State Bar of New Mexico

Chicago Bar Association

Community Involvement

Constitutional Rights Foundation Chicago, *Edward J. Lewis II Lawyer in the Classroom Program*, Chicago, IL

National Lawyers Guild, *Legal Observer Program*, Chicago, IL

DePaul University College of Law, *Professional Practice Program*, Chicago, IL

Christopher B. Sanchez is a Partner at Roberts Law Firm and is based in Albuquerque, New Mexico. Mr. Sanchez has more than twenty years of experience in both the private practice and non-profit contexts, representing consumers, investors, whistleblowers, and civil rights plaintiffs in class action and impact litigation. His experience includes several antitrust actions successfully representing both direct and indirect purchasers in federal courts throughout the country.

Prior to joining the Roberts Law Firm, Mr. Sanchez spent several years at boutique national class action law firms in Chicago and New York.

He has also successfully represented New Mexico's public school districts and children at trial in a landmark education civil rights case.

Additionally, Mr. Sanchez has represented whistleblowers under the False Claims Act and successfully represented a woman from Guinea in her request for political asylum, prevailing in an immigration court trial.



KAREN HALBERT, PARTNER



Practice Areas

Antitrust and Complex Litigation
Business Transactions
Electronic Discovery
International Business Law and Litigation

Education

University of Arkansas at Little Rock School of Law, J.D., high honors, first in class
Henderson State University, B. S., Computer Science and Math, *magna cum laude*

Admissions

2001, Arkansas
2001, U.S. District Courts, Eastern & Western Districts of Arkansas
2007, U.S. Court of Appeals, Eighth Circuit

Community Involvement

Juvenile Diabetes Research Foundation Greater Arkansas Chapter, Board of Directors

- Government Relations Legislative Chair (2004 -2009)
- President Elect (2009 – 2010), President (2010 – 2011)
- Strategic Planning Chair (2011 – 2012)

Little Rock First Baptist Church, Finance Committee (2003 – 2005)

Memberships

Arkansas Bar Association
Pulaski County Bar Association
William R. Overton Inn of Court

Ms. Halbert's practice consists of corporate law, real estate transactions, cyber law, business transactions, a wide variety of complex business litigation including antitrust and data breach class actions. Her practice focuses on eDiscovery and technology. She is proficient with a variety of technologies associated with modern complex litigation including database management of documents and depositions, digital video testimony, and other electronic courtroom media.

Ms. Halbert successfully and very recently helped our client from China close a real estate transaction involving property, buildings and equipment for industrial use in the client's garment manufacturing business. She has also handled cross border acquisitions for clients from China.

Ms. Halbert's real estate experience includes land acquisitions and sales with multi-million dollars values. Some real estates have involved financing. Karen has experience representing borrowers (developers) in securing financing land projects.

Ms. Halbert has significant experience architecting and implementing complex e-discovery solutions. She developed an e-discovery management solution for an industry that was sued by the City of New York.



The productions included databases and documents produced by the Federal Government, State of New York, and the City of New York, as well as data and documents available from the various members of the industry and other third parties. The system designed by Ms. Halbert managed millions of electronic records from the various sources as well as millions of paper documents. The solution provided access to all relevant information contained in any of the various productions based on criteria such as product serial number or product manufacturer.

Her expertise includes managing e-discovery vendors, coordinating collection of electronic data with Information Technology Departments, determining how to best process electronic data, as well as production of clients' electronic evidence and emails.

Before entering law school, Ms. Halbert was Vice President of Development for an international software company where she was extensively involved in software development methodologies, database architecture, technology contract negotiations, and corporate management.

In April of 2008, Ms. Halbert was inducted into the Arkansas Academy of Computing. The Academy operates within the University of Arkansas' College of Engineering's Computer Science and Computer Engineering Department and recognizes people who have made significant and sustained contributions to the field of computing. Members are graduates of Arkansas' educational institutions and/or performed a significant part of their work in the state of Arkansas.

Ms. Halbert is the recipient of the following honors:

- Arkansas Bar Association Presidential Award of Excellence, 2003
- Selected by her peers for inclusion in *The Best Lawyers in America* 2016 in the fields of Electronic Discovery and Information Management Law.
- National Association of Women Business Owners Women Pioneer Award, 2006
- Juvenile Diabetes Research Foundation International Golden Advocate Award *At Home on the Hill*, 2007
- Juvenile Diabetes Research Foundation International Golden Advocate Award *Messenger Award*, 2009



STEPHANIE EGNER SMITH, PARTNER



Practice Areas

Antitrust and Complex Litigation
Intellectual Property
International Business Law and Litigation

Education

University of Arkansas Bowen School of Law, J.D.
Tulane University, B.S.E, Biomedical Engineering

Admissions

2004, Arkansas
2005, U.S. Patent and Trademark Office

Publications

Victor/Victoria?: The United States Supreme Court Requires Trademark Dilution Plaintiffs to Show Actual Harm. Moseley v. Victoria's Secret Catalogue, Inc., 537 U.S. 418 (2003). 26 U. Ark. Little Rock L. Rev. 303 (2004).

Stephanie Egner Smith is a registered patent attorney, and focuses her practice in antitrust matters, complex commercial litigation, and intellectual property at Roberts Law Firm.

Ms. Smith advises corporate and academic clients in business growth and development in intellectual property portfolios, including patentability, freedom to operate, infringement analysis, trademark registration, and the commercialization of intellectual property. Ms. Smith also litigates antitrust and unfair and deceptive trade practices cases, under federal and state law.

Prior to attending law school, Ms. Smith worked as a research assistant in the Department of Pharmacology, Biomedical Research Center, University of Arkansas for Medical Sciences. During law school, Ms. Smith clerked for the Arkansas Department of Environmental Quality and for a large public utility corporation. Ms. Smith joined the firm following a clerkship with the Pulaski County Circuit Court, Ninth Division.

Ms. Smith is licensed to practice law in Arkansas and is registered to appear before the U.S. Patent and Trademark Office.



ERICH P. SCHORK, PARTNER

Practice Areas

Antitrust and Complex Litigation
International Business Law and Litigation

Education

University of Illinois College of Law, J.D., *magna cum laude*
Purdue University, B.S., Management

Admissions

Illinois, 2006
U.S. District Court for the District of Colorado
U.S. District Court for the Central District of Illinois
U.S. District Court for the Northern District of Illinois
U.S. District Court for the Eastern District of Wisconsin
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Eighth Circuit
U.S. Court of Appeals for the Ninth Circuit

Memberships

American Bar Association
Chicago Bar Association

Erich P. Schork is a Partner at Roberts Law Firm based in Chicago, Illinois. Mr. Schork has significant experience prosecuting complex antitrust, automotive, ERISA, consumer protection, and data privacy class actions. He has been appointed to leadership positions in a multitude of class actions, briefed and argued motions in state and federal courts throughout the country, and successfully argued appeals before the United States Courts of Appeals for the Third, Sixth, and Seventh Circuits.

Prior to joining the Roberts Law Firm, Mr. Schork was the Vice President of a boutique class action law firm in Chicago, Illinois. While attending the University of Illinois College of Law, Mr. Schork served as a Notes and Comments Editor on the *University of Illinois Law Review* and was a member of the University of Illinois' National Moot Court Team.



SARAH DELOACH, PARTNER



Practice Areas

Antitrust and Complex Litigation
International Business Law and Litigation
Business Transactions

Education

University of Mississippi School of Law, J.D., *magna cum laude*,
Concentration in Business Law with Honors
Davidson College, B. A.

Admissions

2015, Arkansas
2016, U.S. Court of Appeals for the Fifth Circuit
2016, U.S. District Courts, Eastern & Western Districts of Arkansas
2016, U.S. Court of Appeals, Eighth Circuit
2017, U.S. District Court, Western District of Tennessee

Memberships

Arkansas Bar Association
Pulaski County Bar Association

Publication

Comment, *Keeping the Faith With The Independent Source Foundations of Inevitable Discovery: Why Courts Should Follow Justice Breyer's Active and Independent Pursuit Approach from Hudson v. Michigan*, 83. Miss. L.J. 1179 (2014).

Community Involvement

Member & Volunteer Instructor, Arkansas Canoe Club

Sarah DeLoach is a Partner at Roberts Law Firm based in Denver, Colorado, where her practice focuses on antitrust and complex litigation, international business law and litigation, and business transactions. Sarah has broad experience in civil litigation. She has authored and argued dispositive motions, provided guidance to clients involving employment and contract issues, advised construction clients on materialmen's and contractor's liens, and handled large-scale discovery in class actions. In addition to her experience in complex commercial pre-trial work, Sarah has authored successful appeals in state and federal court and in protest of administrative contract awards at the state level. She enjoys building relationships and crafting creative strategy with an eye towards both success and value.

Beyond her litigation experience, Sarah has assisted businesses in entity formation and general business strategy. She is also experienced in advising non-profit organizations and in applying for 501(c)(3) status.

Sarah has significant federal court experience, having clerked for the Honorable Rhessa H. Barksdale on the United States Court of Appeals for the Fifth Circuit and the Honorable Chief Judge Brian S. Miller on the United States District Court for the Eastern District of Arkansas. Before joining the firm, Sarah litigated complex commercial and business cases as an associate with an outstanding Arkansas firm. In law



school, Sarah served as Executive Notes & Comments Editor on the *Mississippi Law Journal* and as an elected member of the Honor Council.



DEBRA G. JOSEPHSON, OF COUNSEL



Practice Areas

Antitrust and Complex Litigation
 Intellectual Property
 International Business Law and Litigation

Education

University of New Hampshire School of Law (formerly Franklin Pierce Law Center), J.D.
 St. Anselm College, B.A., natural science

Admissions

2002, Commonwealth of Massachusetts
 2002, District of Massachusetts
 2002, Court of Appeals for the Federal Circuit
 2011, Supreme Court of the United States
 1994, United States Patent & Trademark Office, patent agent
 2002, United States Patent & Trademark Office, patent attorney

Publications

- *“Lawyers Behaving Badly: Curbing Abusive Tactics in Deposition and Motion Practice,” ABA Roundtable, Pretrial Practice & Discovery Committee, 2015*
- *“Patent Validity Issues Post-Actavis,” HarrisMartin’s Antitrust Pay-For-Delay Antitrust Litigation Conference, Philadelphia, Pa., 2014*
- *“Winning Strategies in U.S. Patent Litigation for Universities and Research Institutes of Taiwan,” Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2014*
- *“U.S. Patent Portfolio Considerations – 2013” Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2013*
- *Advanced Course on Patents (DL-301), WIPO Patent Academy, World Intellectual Patent Organization, 2013*
- *Patent Drafting (DL-320) WIPO Patent Academy, World Intellectual Patent Organization, 2013*
- *“Intellectual Property: Accelerator or Barrier to Innovation?” Comstech, Islamabad, Pakistan, 2012*
- *“U.S. Patent Portfolio Strategies Under the America Invents Act” Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2012*
- *Annual Review of Intellectual Property Law Developments 2011, Patent Editor, ABA Section on Intellectual Property Law, American Bar Association, 2012*

Community Involvement

Woburn Elks #908, Woburn, MA – Lecturing Knight, 2016
 On The Rise, Cambridge, MA – Board of Directors, 2009-2016
 Healthcare Businesswoman’s Association, Boston Chapter, 2002-2008 – Vice President, Director of Membership, Mentor

Memberships

American Bar Association
 Boston Patent Law Association



Debra Josephson is a Boston-based partner at Roberts Law Firm and leads the firm's Plaintiff Antitrust & Intellectual Property practice groups. Ms. Josephson joined the firm in 2012. She is an experienced corporate and IP lawyer.

Ms. Josephson has represented start-up and development-stage companies, mid-sized corporations, and world-class investigators at major academic institutions in domestic and international intellectual property portfolio development, licensing, protection, and enforcement. She has strong experience in transactional services as well as assisting corporate clients in nearly all aspects of corporate, intellectual property, employment, government regulations, and other areas.

Deb regularly advises clients on the formation, operation and regulation of private companies. Her focus has been in venture capital backed pharmaceutical and medical device companies. Specifically, she represents small companies in accessing and closing on venture capital and other equity deals.

Deb also advises issuers from the early stages of a company's formation through financings, acquisitions and exit strategies. Debra handled series B and later venture funding for startup companies, and major licensing and technology transfer deals. Those deals involved funding in the \$20 million to \$60 million range.

Prior to her litigation career, Ms. Josephson worked as in house counsel and vice president at pharmaceutical, medical device, and biotechnology companies, and developed and enforced their intellectual property portfolios. As a Patent Agent, and then Patent Attorney, Ms. Josephson represented inventors before the U.S. Patent and Trademark Office and international patent offices in chemistry, mechanical engineering, and biology-based technologies.

Prior to her law career, Ms. Josephson was a polymer chemist, and later, worked in the regulatory affairs and clinical affairs groups of pharmaceutical and medical device companies. Additionally, Ms. Josephson is named as a co-inventor on several patent applications, the technologies of which are currently marketed or under development by various companies.

Ms. Josephson maintains strong ties with her community. She has served on several local charity boards, and boards of organizations that mentor young women scientists and businesswomen in the Boston area. She is a frequent lecturer at international law schools on the topics of complex litigation, patent law and practice, and antitrust matters.

LITIGATION HIGHLIGHTS:

- Represents a class of direct purchasers of raw milk, cheese, and butter in antitrust litigation involving a conspiracy to limit the production of raw milk and artificially inflate the price of dairy products. *First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.* (S.D. Ill.)
- Represents a class of direct purchasers in an antitrust case under Sherman Act against several manufacturers of after market parking heaters. *In re Parking Heaters Antitrust Litigation* (E.D.N.Y.)
- Represents a small manufacturer in a challenge to patent inventorship and unauthorized trade secret disclosures in state and federal court
- Represented a class of Direct Purchaser Plaintiffs in an antitrust case under Sherman Act against King Pharmaceuticals for unlawful delay of generic SKELAXIN by filing sham patent litigation, fraud in obtaining the patents, and unlawful reverse payment settlements to generics. The case settled for \$73 million. *In re Skelaxin (metaxalone) Antitrust Litigation* (D. Miss.)

- Represented a class of Direct Purchaser Plaintiffs in an antitrust case under Sherman Act against Astellas Pharma for unlawful delay of generic PROGRAF (tarolimus) by filing of objectively baseless Citizen Petitions to FDA. The case settled for \$98 million. *In re Prograf Antitrust Litigation* (D. Mass.)
- Represented a class of Direct Purchaser Plaintiffs in antitrust case under Sherman Act against GlaxoSmithKline for unlawful delay of generic FLONASE by filing objectively baseless Citizen Petitions to FDA. The case settled for \$150 million. *In re Flonase Antitrust Litigation* (E.D. Pa.)
- Represented a university suing a pharmaceutical company and several universities in an inventorship challenge over pioneering patents for RNAi technology. *University of Utah v. Max-Planck-Gesellschaft Zur Foerderung Der Wissenschaften e.V. et. al.* (D. Mass.)
- Represents several foreign universities in licensing of intellectual property and patent infringement litigation



RITA Y. WANG, OF COUNSEL

Practice Areas

Antitrust Litigation
Securities Litigation
International Business Law
Capital Market
Equity and Debt Financing Transactions

Education

St. John's University School of Law, J.D.
University of Utah, B.A., History and Political Science

Admissions

New York, 2009
New Jersey, 2008

Memberships

American Bar Association

Publication

Note on Decision, *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 20 N.Y. INT'L L. REV., No. 2, 183–94 (2007).

Community Involvement

Co-Chair, Central/East Asia & China Committee, American Bar Association International Law Section.
Editor, China Law Reporter, an ABA publication.

Rita Y. Wang is based in New York City. Ms. Wang has many years of experience prosecuting and defending complex antitrust, securities, ERISA, and consumer protection class actions. Prior to joining the Roberts Law Firm, she had served as an attorney in an international law firm's antitrust litigation group and an attorney in a national law firm's securities and business litigation practice groups. Ms. Wang also has significant experience advising investment funds, startups, and emerging growth companies in entity formation, corporate governance, equity and debt financing transactions, as well as liability insurance coverage.



DR. KELLY RINEHART, ASSOCIATE

Practice Areas

Antitrust and Complex Litigation; Oil and Gas; Family Law; Trusts and Estates; Guardianship; Probate

Education

Texas A&M School of Law, J.D., *Properly Law Journal Leadership Award Recipient*
New Orleans Baptist Theological Seminary, PHD Psychology and Counseling
New Orleans Baptist Theological Seminary, M.A. Marriage & Family Therapy
New Orleans Baptist Theological Seminary, Master of Theology
Blue Mountain College, B.S. Psychology; M.A

Admissions

Texas State Bar; November 2017

Community Involvement

Innocence Project Clinic (Fall 2015); U.S. Army Reserves Military Service (2001 to 2021)

Memberships

Phi Delta Phi International Legal Honor Society, Dallas County Bar Association

Dr. Kelly Rinehart is an associate attorney in the Dallas, Texas office. Her practice focuses on complex litigation involving antitrust, multi-district litigation, class actions, and oil and gas litigation. Dr. Rinehart also has experience in estate management in Tarrant County, Texas.

Prior to joining Roberts Law Firm, Dr. Rinehart provided legal work for a firm in Fort Worth, Texas where she primarily assisted in multi-district oil and gas litigation and concussion litigation. She also provided critical research on a broad range of topics from terroristic speech and constitutional protection, ERISA preemption and exceptions, to constitutionality of attorney's fees relief in Texas LLC litigation. Dr. Rinehart also gained critical litigation skills at a second firm. Benefitting from her previous career as a professional licensed counselor, Dr. Rinehart used her communication and mediation skills litigating family law issues in courts throughout Tarrant, Dallas, Collin, and Johnson Counties, Texas.

While attending law school, Dr. Rinehart continued to teach graduate level counseling and spirituality courses as an adjunct teacher with Liberty University and Tennessee Temple University. During that time, Dr. Rinehart was hand-selected to be the first army personnel to serve as a special staff officer providing resiliency support services to U.S. military organizations operating with and throughout Saudi Arabia, ultimately negotiating with select diplomatic representatives, international state servants, and coalition military leadership in order to perform sensitive operations with integrity and necessary discretion in cooperation with restrictive partner nations. Despite these obligations, Dr. Rinehart still served a term in a leadership role with the Texas A&M International Law Society, placed second in the Texas A&M School of Law 1L Negotiation Trial competition, competed on the Law School Mediation Team, performed as an edits leader on the Property Law Journal, and still graduated within three years in the top 14% of her class.



Dr. Rinehart's current legal professional experience is supplemented by her military experience. During multiple active duty tours throughout four separate campaigns during her 20-year military career as an Army Reservist, Dr. Rinehart gained invaluable experience as a special staff officer to include overseeing special staff directorate security cooperation operations across 20 nations, researching and arranging key leader engagements with US military and foreign military and civilian leaders to promote interoperability and overall theater stability throughout Central Asia. She was also the first military special staff officer to develop standards of performance and execution of religious area assessment and religious area impact analysis for Humanitarian Assistance and Disaster Relief Operations across a combined, joint, interagency, multinational operational environment.



MORGAN HUNT, ASSOCIATE



Practice Areas

Antitrust and Complex Litigation
Business Transactions
International Business Law and Litigation

Education

The University of Texas School of Law, J.D.
University of Texas at Arlington, B.A., *cum laude*

Admissions

2019, Texas

Community Involvement

Member & Mentor, NCAA Student Athlete Advisory Committee
Richard and Ginni Mithoff Pro Bono Program

Memberships

State Bar of Texas
Texas Young Lawyers Association

Morgan Hunt is an associate attorney in the Dallas, Texas office. Her practice primarily focuses on antitrust, multi-district litigation, and class actions. Ms. Hunt also has experience in Plaintiff's personal injury work in both the pre-litigation and litigation phases.

Prior to joining Roberts Law Firm, P.A., Ms. Hunt was an associate at a Plaintiff's firm in Dallas, Texas where she represented clients in personal injury matters involving car wrecks, trucking matters, and first-party claims.

During law school, Ms. Hunt was a member of the Interscholastic Mock Trial Team and was inducted into The Order of Barristers. She also served as a Staff Editor for the Texas Journal on Civil Liberties & Civil Rights and was a student member of the Barbara Jordan Inn of Court. Ms. Hunt gained valuable legal experience as a judicial intern for the Honorable Judge Staci Williams in the 101st Dallas County District Court as well as experience as a summer associate for both a labor and employment firm and a boutique litigation firm involving commercial litigation.

Prior to law school, Ms. Hunt played NCAA Division I Women's Basketball for the University of Texas at Arlington where she served as a team captain for the 2014-2015 season.

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF LINDA P. NUSSBAUM IN SUPPORT OF
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT WITH THE PFIZER DEFENDANTS,
APPROVAL OF PLAN OF ALLOCATION,
AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Linda P. Nussbaum, pursuant to 28 U.S.C § 1746, hereby declares as follows:

1. I am the Managing Director of Nussbaum Law Group, P.C. (“NLG”). I am an active member of the Bar of the State of New York and have been admitted *pro hac vice* to this Court. *See* ECF No. 119. I am Court-appointed as one of Co-Lead Settlement Class Counsel for the Settlement Class (“Class”) of Direct Purchaser Plaintiffs (“DPP” or “Plaintiffs”). NLG’s firm resume is attached as Exhibit 1. I submit this declaration in support of Co-Lead Counsel’s¹ motion for an award of attorneys’ fees, reimbursement of expenses in connection with services rendered in this action, and reimbursement of expenses incurred by this firm related to the prosecution and settlement of claims in the course of this litigation. I have personal knowledge of the facts set forth herein and, if called as a witness, could competently testify to the matters set forth herein. This firm’s compensation for services rendered was wholly contingent on the success of the litigation.

Work Performed by Nussbaum Law Group, P.C.

2. Over the course of the last four years, NLG has been involved in all aspects of this litigation. These efforts included, but are not limited to:

A. Motion to intervene and the Consolidated Fourth Amended Complaint

3. On July 26, 2021, the Court entered a Memorandum and Order granting Defendants’ motion to dismiss the Second Amended Class Action Complaint holding that, under the terms of its Assignment from McKesson, Plaintiff KPH Healthcare Services, Inc. (“KPH”) lacked standing. The Court dismissed KPH’s claims without prejudice and granted KPH leave to file a Third Amended Complaint. ECF No. 113.

¹ “Co-Lead Counsel” refers to Lead/Liaison Counsel Nussbaum Law Group, P.C., Roberts Law Firm, P.A.; and Stueve Siegel Hanson LLP.

4. To ensure that the claims of the Direct Purchaser Class were not dismissed with prejudice, NLG, as counsel for César Castillo, LLC (“Castillo”), a putative Class member that purchased EpiPen directly from Defendants during the alleged class period, filed a timely motion to intervene on August 13, 2021. ECF No. 116. On August 16, 2021, a Third Amended Complaint was filed separately by Plaintiffs KPH and FWK Holdings, LLC (“FWK”). ECF No. 117.

5. After negotiating with Defendants in an effort to streamline the litigation and so that there would be one operative class complaint, Plaintiffs sought leave to file a Fourth Amended Complaint with KPH Healthcare Services, Inc., FWK Holdings, LLC, and Castillo as named plaintiffs. ECF No. 126. The Court found this proposal to be reasonable, and the three Plaintiffs filed their Fourth Amended Complaint on September 21, 2021. ECF No. 128.

6. Henceforward, NLG, along with counsel for KPH and FWK, collaborated on every aspect of the litigation, including litigation strategy, responding to dispositive motions, petitioning for and defending against interlocutory appeals, as well as offensive, defensive, and non-party discovery. *See* Roberts Decl. at ¶¶ 14-48.

B. Class Representative Discovery

7. As counsel for Castillo, NLG responded on Castillo’s behalf to Defendants’ many discovery requests, beginning with Castillo’s Rule 26 Disclosures and supporting documents that were served on November 12, 2021. *See* ECF No. 144.

8. After Mylan and Pfizer each served Castillo with document requests and interrogatories, NLG consulted with Castillo’s managing director on the issues raised in the requests, analyzed Castillo’s documents and transactional data, and prepared and served Castillo’s responses to Mylan’s first set of document requests and first set of interrogatories on

May 17, 2022. *See* ECF Nos. 193, 194. NLG served supplemental and amended responses to Mylan's interrogatories on June 10, 2022. *See* ECF No. 206. On June 20, 2022, NLG responded to Pfizer's first set of interrogatories, *see* ECF No. 212, and on September 15, 2022 Castillo served a supplemental response to Mylan's Interrogatory No. 15. *See* ECF 275.

9. Despite months of negotiations related to the aforementioned requests, on July 18, 2022, Mylan moved to compel discovery from Plaintiffs. ECF No. 224. On November 28, 2022, the Court granted in part and denied in part Mylan's motion. ECF No. 316. NLG immediately moved forward with the negotiation of search terms and custodians on behalf of Castillo, provided Mylan with hit counts, collected and reviewed thousands of pages of custodial and non-custodial documents from Castillo's files including transactional data, produced documents, and prepared and served a privilege log in response to Mylan's requests.

C. Summary of Work Performed by Nussbaum Law Group, P.C.

10. From inception to April 30, 2024, Nussbaum Law Group, P.C. spent 7,094.73 hours advancing the litigation. The total lodestar for Nussbaum Law Group, P.C. is \$5,647,607.50, based on contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Counsel.

11. The work conducted by Nussbaum Law Group, P.C. has been approved by Co-Lead Counsel and was performed with the appropriate level of effort and efficiency and is not duplicative of other work performed by attorneys representing the putative class.

12. Nussbaum Law Group, P.C. seeks an award of \$67,743.38 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through April 30, 2024. These expenses and charges are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and

approved by Co-Lead Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The costs and expenses are of a type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

CATEGORY	AMOUNT
Electronic Research	\$11,159.10
In-House Photocopying	\$2,085.55
Litigation Fund Contribution	\$60,000.00
Litigation Fund Contribution Discount ²	(\$5,501.27)
TOTAL	\$67,743.38

13. As the summary above shows, Nussbaum Law Group, P.C. made \$60,000.00 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs. Nussbaum Law Group, P.C. has discounted this contribution by \$5,501.27, as discussed *supra* in note 2.

Class Representative Service Award

14. Plaintiff César Castillo, LLC is a family owned and operated wholesaler of pharmaceuticals and health and beauty products headquartered in Guaynabo, Puerto Rico that purchased EpiPen and generic EpiPen directly from Defendant Mylan during the relevant period. Throughout this Litigation, Castillo's service as a Class Representative has been exemplary and Castillo has expended significant time and resources participating and helping to oversee this litigation on behalf of the Class.

² As described in the Declaration of Dianne Nast, attached to the Motion as Exhibit 4, because the joint litigation fund still has \$11,002.55 in the account at the time of the submission of the Motion, Co-Lead Counsel Mike Roberts and Linda Nussbaum have reduced their requests for reimbursement of costs and expenses by that amount (split between them).

15. Even before Castillo stepped forward to file its motion to intervene and class action complaint to ensure that the Class claims—against two of Castillo’s most important trading partners—would not be dismissed with prejudice for lack of standing, the managing director of Castillo’s pharmaceutical division spoke frequently with NLG counsel concerning the merits of the Litigation and the importance of affordable generic pharmaceuticals, such as EpiPen, to the people of Puerto Rico and the U.S. Virgin Islands, locations that Castillo has served for over half a century.

16. To date, Castillo has satisfied all of Defendants’ demands and its discovery obligations and there are no outstanding discovery requests with respect to Castillo.

17. In addition to providing documents and consulting with counsel to assist with the drafting of Castillo’s motion to intervene and class action complaint, which Castillo’s managing director reviewed closely before it was filed, Castillo also provided information and assisted in drafting Plaintiffs’ Fed. R. Civ. P. 26 disclosures and provided information to assist in drafting Castillo’s responses and supplemental responses to Defendants’ interrogatories which Castillo verified for accuracy.

18. Members of Castillo’s purchasing and sales department assisted by members of Castillo’s IT department and along with Co-Lead Counsel, collected thousands of documents from Castillo’s email folders and individual computers for review by counsel prior to being produced to Defendants, including transaction-level purchase and sales data for EpiPen and generic EpiPen from Castillo’s central SAP system.

19. Castillo also consulted with Co-Lead Counsel throughout the litigation and settlement negotiations with Pfizer and approved the Settlement on behalf of the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7h day of May 2024:

/s/ Linda P. Nussbaum

Linda P. Nussbaum
New York, New York



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New York, New York 10036-6710
Telephone: (917) 438-9189
www.nussbaumlawgroup.com

FIRM BIOGRAPHY

Nussbaum Law Group, PC (“NLG”) is a litigation firm specializing in the prosecution of precedent-setting class litigation with the singular focus of providing the highest level of service and best results. Linda Nussbaum, the firm’s founder, has been at the forefront of landmark fair competition and other complex class cases for over 40 years. The firm’s experienced litigators have played leading roles in recovering billions of dollars for their clients from the world’s largest corporations. The firm has repeatedly successfully represented individuals, public companies and classes in significant and high-stakes, multifaceted litigation in courts throughout the country. Our main practice areas include antitrust, pharmaceutical, consumer, data breach, employee “no poach” and commodities manipulation class actions, as well as complex business disputes.

MANAGING DIRECTOR: LINDA P. NUSSBAUM

Linda Nussbaum is the founder and managing director of the Nussbaum Law Group, P.C. She is nationally recognized for her representation of class and individual plaintiffs in antitrust, RICO, CEA, and pharmaceutical litigation. She has served as sole or co-lead counsel in many significant class actions which have resulted in substantial recoveries, many in the realm of hundreds of millions of dollars.¹

¹ Ms. Nussbaum has served as Lead or Co-Lead counsel in 28 antitrust class actions. *In re Sorbates Direct Purchaser Antitrust Litig.*, 3:98-cv-04886-MMC (N.D.Ca.) (USDJ Maxine M. Chesney) (settled for \$96 million, Nov. 2002); *In re Lorazepam & Clorazepate Antitrust Litig.*, MDL No. 1290, 99-ms-00276-TFH (D.D.C.) (Chief Judge Thomas F. Hogan) (settled for \$37 million, Jun. 2003); *In re Methionine Antitrust Litig.*, MDL No. 1311, 3:00-md-01311-CRB (N.D. Ca.) (USDJ Charles R. Breyer) (settled for \$107 million, Jun. 2003); *Oncology & Radiation Associates, P.A. v. Bristol-Myers Squibb Company & American Bioscience*, 1:01-cv-02313-EGS (D.D.C.) (USDJ Emmet G. Sullivan) (settled for \$65.8 million, Oct. 2003); *In re Relafen Antitrust Litig.*, 01-cv-12239 (D. Mass.)-*Meijer, Inc. v. SmithKline Beecham*, 01-cv-12239-WGY (D. Mass.) (Chief Judge William G. Young) (settled for \$175 million, Apr. 2004); *In re Microcrystalline Cellulose Antitrust Litig.*, MDL No. 1402, 01-cv-00111-TNO (E.D. Pa.) (USDJ Thomas N. O’Neill Jr.) (settled for \$50 million, Nov. 2006); *In re Plastics Additives Antitrust Litig.*, MDL No. 1684, 03-cv-02038-LDD (E.D. Pa.) (USDJ Legrome D. Davis) (settled for \$46.8 million, Jun. 2008); *In re Remeron Direct Purchaser Antitrust Litig.*, Master Docket 02-2007-FSH (D.N.J.) (settled for \$75 million, Nov. 2005)-*Meijer, Inc. v. Organon, Inc.*, 2:03-cv-0085-FSH (D.N.J.) (USDJ Faith S. Hochberg); *In re Foundry Resins Antitrust Litig.*, MDL No. 1638, 04-md-01638-GLF (S.D. Ohio) (USDJ Gregory L. Frost) (settled for \$14.1 million,



Ms. Nussbaum was selected “Litigator of the Week” by the AMLAW LITIGATION DAILY for her lead counsel role in *Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals v. Pfizer, Inc.* (D. Mass) where, after a six-week trial, a jury returned a RICO verdict for her clients. She was also co-lead and trial counsel for a class of antitrust plaintiffs in *Meijer, Inc. v. Abbott Laboratories* (N.D. Cal.). She was named as a finalist for Public Justice Foundation’s 2011 Trial Lawyer of the Year award. She has repeatedly been selected by Global Competition Review as being among the world’s leading competition lawyers.

Ms. Nussbaum has lectured extensively about various aspects of antitrust and class action law at the American Antitrust Institute Private Enforcement Conference, and the American Bar Association, Section of Antitrust Law Spring Meetings. She has been a member of the American Law Institute (ALI) for over 15 years, and is a long-time advisory board member of the American Antitrust Institute. She is also on the Board of Savvy Ladies, a not-for-profit women’s legal and financial resource organization.

Ms. Nussbaum successful prosecution of complex litigation has been recognized and commended by judges in matters in which she has served as lead and trial counsel. Following the trial in *In re Neurontin Marketing and Sales Practices Litigation*, No. 04cv10981-PBS (D. Mass.), in which Linda served as a lead trial counsel, Judge Patti B. Saris commented that:

[This was] a fabulous trial[.] [I]t’s the kind of thing that you become a judge to sit on.

Mar. 2008); *North Shore Hematology-Oncology Associates, P.C. v. Bristol-Myers Squibb Co.*, 1:04-cv-00248-EGS (D.D.C.) (USDJ Emmet G. Sullivan) (settled for \$50 million, Nov. 2004); *In re Children’s Ibuprofen Oral Suspension Antitrust Litig.*, 1:04-mc-00535-ESH (D.D.C.)-*Meijer, Inc. v. Perrigo Company and Alpharma Inc.* (D.D.C.) (USDJ Ellen S. Huvelle) (settled for \$9.7 million, Apr. 2006); *In re Rubber Chemicals Antitrust Litig.*, 04-md-01648 (N.D. Ca.) (USDJ Maxine M. Chesney) (settled for \$319.5 million, Nov. 2006); *Meijer, Inc. v. Warner Chilcott Holdings Co. III, Ltd.*, 05-cv-02195-CKK (D.D.C.) (USDJ Colleen Kollar-Kotelly) (settled for \$22 million, Apr. 2009); *In re DDAVP Direct Purchaser Antitrust Litig.*, 05-cv-02237-CS (S.D.N.Y.) (USDJ Cathy Seibel) (settled for \$30.25 million, Nov. 2011); *Meijer, Inc. v. Abbott Laboratories*, 07-cv-05985-CW (N.D. Ca.) (USDJ Claudia Wilkin) (settled for \$52 million, Aug. 2011); *Meijer, Inc. v. Braintree Laboratories, Inc.*, 07-cv-00143 (D. Del.) (Special Master B. Wilson Redfearn); *Castro v. Sanofi Pasteur, Inc.*, 2:11-cv-07178-JMV-JBC (D.N.J.) (USDJ Jose L. Linares) (settled for \$61.5 million); *Meijer, Inc. v. Warner Chilcott Public Limited Company*, 12-cv-03824-PSD (E.D. Pa.) (USDJ Paul S. Diamond); *In re Aluminum Warehousing Antitrust Litig.*, 1:13-md-02481-PAE (S.D.N.Y.) (USDJ Paul A. Engelmayer); *In re Zinc Antitrust Litig.*, 2:14-cv-03728-PAE (S.D.N.Y.) (USDJ Paul A. Engelmayer); *IV Saline Solutions Antitrust Litig., Washington County Health Care Authority, Inc. v. Baxter International Inc.*, 1:16-cv-10324-JJT (N.D.Ill.) (USDJ John J. Tharp Jr.); *In re Outpatient Medical Center Employee Antitrust Litig.*, 1:21-cv-00305-ARW-SRH (N.D. Ill.); *In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litig.*, 1:19-md-2895-CFC (D. Del); *In re Actos Direct Purchaser Antitrust Litig.*, 1:13-cv-09244-RA-SDA (S.D.N.Y.); and *In re Vascepa Antitrust Litig. Direct Purchaser Plaintiffs*, 3:21-cv-12747-ZNQ-LHG (D.N.J.).



Recently, Judge Paul A. Engelmayer in approving the settlement and fee in *In re Zinc Antitrust Litigation*, 14 Civ. 3728 complimented Ms. Nussbaum and her co-lead counsel stating:

I have been truly impressed by counsel's work in the case. I wish the caliber of lawyering in this case was the model for all cases before me.

Ms. Nussbaum is presently serving in the following leadership positions:

- *In re Morgan Stanley Data Security Litigation* (S.D.N.Y.) (Lead)
- *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation, MDL 2904* (D.N.J.) (Lead)
- *In re Wawa, Inc. Data Security Litigation* (E.D.Pa.) (Lead)
- *Nanette Katz, et al. v. Einstein Healthcare Network* (Class Action Case ID No. 21040204, Philadelphia Court of Common Pleas, First Judicial District of Pennsylvania) (Lead)
- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (E.D.N.Y.) (Lead)
- *In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litigation* (D. Del) (Lead)
- *In re Actos Direct Purchaser Antitrust Litigation* (S.D.N.Y.) (Lead)
- *In re Generic Drugs Pricing Antitrust Litigation* (E.D. Pa.) (Plaintiff Steering Committee)
- *In re Bank of Nova Scotia Spoofing Litigation* (D.N.J.) (Lead)
- *In re Outpatient Medical Center Employee Antitrust Litigation* (N.D. Ill.) (Lead)
- *In re Vascepa Antitrust Litigation Direct Purchaser Plaintiffs* (D.N.J.) (Lead)

Ms. Nussbaum received her B.A. *magna cum laude* from Brooklyn College, her Juris Doctor with honors from the National Law Center, George Washington University Law School, and her LLM in Taxation from New York University Law School.

OF COUNSEL: SUSAN R. SCHWAIGER

Susan Schwaiger practices in the areas of antitrust, commodities manipulation, data breach, and employee “no poach” litigation, with experience in cases involving a wide variety of industries including banking and financial services, pharmaceuticals, healthcare and chemicals. Ms. Schwaiger has worked closely with Linda Nussbaum for over 24 years and played a significant role in many of the cases in which Ms. Nussbaum served as lead counsel including:

- *In re Morgan Stanley Data Security Litigation* (S.D.N.Y.)
- *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation, MDL 2904* (D.N.J.)
- *In re Outpatient Medical Center Employee Antitrust Litigation* (N.D. Ill.)
- *In re Lorazepam & Clorazepate Antitrust Litigation* (D.D.C.)
- *In re Microcrystalline Cellulose Antitrust Litigation* (E.D. Pa.)



- *In re Plastics Additives Antitrust Litigation* (E.D. Pa.)
- *In re Foundry Resins Antitrust Litigation* (S.D. Ohio)
- *In re Rubber Chemicals Antitrust Litigation* (N.D. Cal.)

In addition, Susan has, with Linda, represented large companies in *In re Payment Card Interchange Fee and Merchant Antitrust Litigation* (E.D.N.Y.) and *In re Packaged Seafood Products Antitrust Litigation* (S.D. Cal.).

Ms. Schwaiger graduated from the University of Tennessee (Knoxville) with a Bachelor of Science degree from the College of Arts and Sciences in 1971. She received a M.A. degree from the University of Kentucky (Lexington) in 1973. She received her Juris Doctor, *cum laude*, from Brooklyn Law School in 1992, where she was a member of the BROOKLYN LAW REVIEW.

OF COUNSEL: ROBERT J. AXELROD

Robert J. Axelrod is Of Counsel to Nussbaum Law Group. He practices in the area of antitrust litigation. Previously he was a partner at a major class action firm practicing in the area of antitrust, securities and ERISA litigation. While there, he was co-lead counsel for *AMA v. United Healthcare*, and had responsibility for *In re Sorbates Antitrust Litigation* and *In re Flat Glass Antitrust Litigation*. With co-counsel, he tried two cases to successful verdict, against American Medical Security and Blue Cross Blue Shield of Rhode Island. He also was responsible for discovery and briefing in *In re Blue Cross Blue Shield Antitrust Litigation*. In his career, Mr. Axelrod has taken and defended hundreds of depositions.

Mr. Axelrod graduated with a B.A. degree from Temple University *magna cum laude* in 1983 and a M.A. degree in 1985. He graduated from Brooklyn Law School in 1995 and was a member of the BROOKLYN LAW REVIEW.

OF COUNSEL: PETER E. MORAN

Peter Moran is a senior associate at Nussbaum Law Group. Prior to joining the firm, Peter was an associate with an international law firm in New York City in its Global Competition and Commercial Litigation groups where he represented commercial clients on a variety of antitrust and complex commercial litigation issues, including violations of the federal and state antitrust and consumer protection laws, antitrust compliance, internal investigations, individual civil and criminal liability and responding to federal and foreign regulators.

Mr. Moran focuses his practice on antitrust cases in the financial marketplace and pharmaceutical industry, where he handles all stages of litigation from investigation and inception through trial.

Mr. Moran received a B.A. degree in English from the State University of New York at Albany. He graduated *cum laude* from Brooklyn Law School in 2009, where he was a member of the BROOKLYN LAW SCHOOL JOURNAL OF INTERNATIONAL LAW and Moot Court Honor Society and recipient of several academic awards.



OF COUNSEL: JONATHAN J. ROSS

Jonathan Ross is a senior associate at Nussbaum Law Group. Prior to joining the firm, Mr. Ross litigated intellectual property matters in class and non-class actions. Mr. Ross has also litigated numerous copyright and trademark disputes. Earlier in his career, Mr. Ross also served as an attorney in the Special Federal Litigation Division of the New York City Law Department where he litigated class actions arising from civil rights demonstrations.

Mr. Ross received a B.A. degree in Social and Behavioral Sciences from The Johns Hopkins University. He received his Juris Doctor from Brooklyn Law School in 1993.

ASSOCIATE: BRETT LEOPOLD

Brett Leopold is an associate at Nussbaum Law Group. Before joining the firm, Brett worked with other prominent plaintiffs' class action firms in New York on antitrust and data breach class litigation. Brett's background, spanning twenty years in legal practice, includes complex commercial/securities fraud, commodities manipulation, privacy and data breach actions and pharmaceutical antitrust matters.

Mr. Leopold obtained a B.A. degree in Political Science from Emory University in 1992 and graduated from St. John's University School of Law in 1995.

ASSOCIATE: JAMES T. PERELMAN

James Perelman is an associate at Nussbaum Law Group. Prior to joining the firm, James worked with several prominent plaintiffs' class action firms, working specifically on pharmaceutical antitrust matters. Previously, he served as a Judicial Fellow in the Court of Common Pleas of Philadelphia County, Civil Trial Division.

Mr. Perelman received his B.A. degree in Politics from Brandeis University in 2010 and received his Juris Doctor in 2014 from Tulane University Law School, where he was the Business Editor of the TULANE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW.

CHIEF OPERATING OFFICER: ZACH SHUTRAN

Zach Shutran leads all administrative and operational functions of the firm. He also plays a significant role in the firm's e-discovery efforts.

Mr. Shutran received his B.A. degree from Colgate University in 2012, and his Juris Doctor from Brooklyn Law School in 2018.

EXHIBIT 3

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF BRADLEY T. WILDERS IN SUPPORT OF
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION,
AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Bradley T. Wilders, hereby declare as follows:

1. I am an attorney duly licensed to practice in the bars of Missouri and Illinois, along with several federal courts, including the United States District Court for the District of Kansas. I am a partner at Stueve Siegel Hanson LLP (“SSH”), and am Court-appointed as Liaison Counsel for the Direct Purchaser Plaintiff (“DPP”) Settlement Class (“Class”). SSH’s resume was attached to ECF No. 274-3. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

2. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards.

3. SSH has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

4. SSH has performed work necessary to discharge its duties as Liaison Counsel for the Class, including, but not limited to, the duties enumerated in paragraph 2 of the Court’s order appointing me as Interim Liaison Counsel (ECF No. 306). This has included, but was not limited to, reviewing and revising all filings, conducting legal research, participating in strategy calls, providing advice regarding local rules and standards of practice, participating in meet and confer conferences with defense counsel, arguing motions to the Magistrate Judge, drafting briefs, performing as counsel of record in the Tenth Circuit, and participating in settlement conferences. SSH also has collected, maintained, and reviewed time and expense records covering services for all Class counsel to ensure the appropriateness and efficiency of time and expenses expended, and to avoid any duplication, on behalf of the Class.

5. From inception to April 30, 2024, SSH spent 890.00 hours advancing the litigation. The total lodestar for SSH is \$759,75.50. The information in this declaration regarding the time SSH attorneys and other professionals have spent advancing the litigation was prepared from contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Class Counsel. The work conducted by my firm has been approved by co-lead counsel and was performed with the appropriate level of effort and efficiency and is not duplicative of other work performed by other attorneys representing the putative class.

6. SSH seeks an award of \$57,216.16 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through April 30, 2024. These expenses and charges are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Class Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The costs and expenses are of a type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

Category	Amount
Postage	\$ 9.90
In-House Photocopying	\$ 353.14
Westlaw	\$ 30,577.08
Court Fees	\$ 266.25
Miscellaneous	\$ 127.80
Litigation Fund Contribution	\$ 25,007.70
Federal Express	\$ 325.28
Outside Photocopying	\$ 549.01
TOTAL	\$ 57,216.16

7. As the summary shows, SSH made \$25,007.70 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7th day of May 2024:

/s/ Bradley T. Wilders
Bradley T. Wilders
Kansas City, Missouri

EXHIBIT 4

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF DIANNE M. NAST IN SUPPORT
OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF THE SETTLEMENT WITH THE
PFIZER DEFENDANTS, APPROVAL OF THE PLAN OF ALLOCATION,
AND AN AWARD OF ATTORNEYS' FEES, COSTS, AND EXPENSE
REIMBURSEMENT, AND CLASS REPRESENTATIVE SERVICE AWARDS**

I, Dianne M. Nast, hereby declare as follows:

1. I am admitted to practice before Courts in the Commonwealth of Pennsylvania and the State of New Jersey; the Eastern District of Pennsylvania; the Courts of Appeals for the Third, Fifth, Sixth, Seventh, Eighth, and Eleventh Circuits; the Supreme Court of the United States; and other various federal district courts. I was actively involved in and oversaw my firm's participation in this litigation.

2. I am the founder and firm manager of NastLaw LLC ("NastLaw"). I respectfully submit this declaration in support of Direct Purchaser Class Plaintiffs' Motion for Final Approval of the Settlement with Pfizer, Approval of the Plan of Allocation, an Award of Attorneys' Fees, Costs and Expense Reimbursement, and Class Representative Service Awards. NastLaw's firm biography is attached as Exhibit 1.

3. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

4. NastLaw has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

5. NastLaw's involvement in this case was extensive. As Co-Counsel, I participated in multiple meetings and planning sessions, including discussions related to case planning, the engagement of experts and mediators, research projects, pleadings, and responses to pleadings. Also, I or another NastLaw attorney attended status conferences with the Honorable Daniel D. Crabtree telephonically.

6. In addition to myself, NastLaw attorneys Daniel N. Gallucci, Michele S. Burkholder, Michael S. Tarringer, Joanne E. Matusko, and Matthew A. Reid have been directly involved with this litigation. By way of further example, I and the NastLaw attorneys conducted

research regarding the appropriate jurisdiction for filing the initial class complaint, drafted or assisted with drafting the initial class complaint and several amended class complaints.

7. Additionally, NastLaw attorneys undertook legal research and assisted with drafting a Motion for Consolidation, the response to Mylan's Motion to Compel Mandatory Mediation, the mediation memorandum, the Protective Order and ESI Order, discovery requests, Response to Defendants' Motions to Dismiss, and third-party subpoenas. Also, NastLaw attorneys reviewed discovery documents, participated in meet-and-confer conferences with defense counsel regarding discovery issues, and analyzed deposition transcript testimony to determine whether to re-depose MDL deponents. These are just some examples of the work undertaken by NastLaw. A full description of the work performed by NastLaw professionals is listed in detail in the monthly fee and expense reports submitted by the firm.

8. From inception to April 30, 2024, NastLaw spent 2,276.7 hours advancing the litigation. The total lodestar at current rates for NastLaw is \$2,170,253.50. The information in this declaration regarding the time NastLaw attorneys and other professionals have spent advancing the litigation was prepared from contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Class Counsel.

9. NastLaw seeks an award of \$84,385.02 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through April 30, 2024. These costs and expenses are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Class Counsel. The costs and expense records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The costs and

expenses are of a type that would normally be charged to a fee-paying client in the private legal marketplace.

Description	Amount
Court Filing and Service Fees	\$1,098.20
Legal Research	\$20,604.59
Professional Services – Mediation	\$660.00
Litigation Support - Reproduction Costs	\$738.75
Litigation Postage	\$163.50
Computer License Fees	\$1,119.98
Assessment Payments	\$60,000
TOTAL	\$84,385.02

10. As the summary shows, NastLaw made \$60,000 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

11. Additionally, NastLaw was responsible for maintaining and overseeing the DPP Litigation Fund to cover certain common costs and litigation expenses incurred by DPPs in connection with the litigation. DPP firms collectively contributed \$250,000 to the DPP Litigation Fund. The summary below includes an itemized description of the costs and litigation expenses paid by the DPP Litigation Fund.

Description	Amount
Experts / Consultant Fees	\$230,109.50
Litigation Support – Reproduction	\$8,382.95
Court Filing Fees	\$505.00
Total	\$238,997.45

12. These costs and litigation expenses paid by the DPP Litigation Fund were necessary for the efficient and effective prosecution of the litigation. The above summary of the DPP Litigation Fund's expenditures was prepared from receipts, expense vouchers, check records, and other documents and accurately reflects the costs and expenses paid by the DPP Litigation Fund.

I declare that the foregoing is true and correct. Executed this 2nd day of May 2024:

/s/ Dianne M. Nast
Dianne M. Nast

EXHIBIT 1

NastLaw LLC
1101 Market Street
Suite 2801
Philadelphia, Pennsylvania 19107
(215) 923-9300
(215) 923-9302 (facsimile)
www.nastlaw.com

FIRM BIOGRAPHY

Led by Dianne M. Nast, NastLaw LLC attorneys combine over 100 years of complex civil litigation experience. We provide our clients with experienced, confident representation to guide them in the most difficult cases.

Our Firm's focus is on complex civil litigation, including pharmaceutical litigation and antitrust litigation. Firm founder, Dianne Nast, brings decades of complex litigation experience to the firm. Ms. Nast is one of the most accomplished attorneys in the country and has been recognized by Courts across the country for her skill and leadership in complex litigation.

ATTORNEYS

Dianne M. Nast is a *magna cum laude* graduate of Rutgers University School of Law. From 1976 to 1995, she was a shareholder with the Philadelphia law firm of Kohn, Nast & Graf, P.C. (now Kohn, Swift & Graf, P.C.) and then a senior shareholder at RodaNast, P.C. from 1995 to 2012.

Ms. Nast holds an AV Martindale-Hubbell rating and has been selected to be listed in *The Best Lawyers in America* (Antitrust Law, Mass Tort Litigation/Class Actions, Personal Injury Lawyer), included in each edition since 2003. The *National Law Journal* has selected Ms. Nast as one of the nation's top fifty women litigators. Ms. Nast was also selected by *Philadelphia Magazine* as one of Philadelphia's Best Complex Litigation Lawyers. She has been named as one of Pennsylvania's Top Fifty Women Lawyers. She appears in numerous *Who's Who* publications.

Ms. Nast was appointed in 1998 by then Chief Justice William H. Rehnquist to a five-year term as Chair of the Board of Directors of the Federal Judicial Center Foundation. She served as a Director of the Federal Judicial Center Foundation for eleven years, from 1991 until 2002.

Judge Edward Becker, then Chief Judge of the United States Court of Appeals for the Third Circuit, appointed Ms. Nast to serve as a member of the fifteen-member Third Circuit Task Force on Selection of Class Counsel. The Task Force issued a report, *Selection of Class Counsel*, 208 F.R.D. 340 (2002), cited over 100 times in court opinions. She was selected by The American Law Institute to serve on the ALI's Principles of the Law of Aggregate Litigation.

Ms. Nast chaired the Lawyers Advisory Committee for the United States Court of Appeals for the Third Circuit and served on that Committee. She served for eight years on the Third Circuit's Committee on Revision of Judicial Conduct Rules of the Judicial Council and on the Judicial Conference Long Range Planning Committee.

Ms. Nast has served as Lawyer Chair of the Judicial Conference of the United States Court of Appeals for the Third Circuit. She is a member of the Historical Society of the Third Circuit and chaired the Circuit's Centennial Celebration.

She was appointed by the late Chief Judge Alfred L. Luongo to Chair the Eastern District of Pennsylvania's Lawyers Advisory Committee and served for four years in that position. She served for three years as President of The Historical Society for the United States District Court for the Eastern District of Pennsylvania and as Editor of the Society's Annual Historical Calendar.

She is a member of the American Bar Association Litigation Section, where she has served on the Task Force on State Justice Initiatives, the Task Force on the State of the Justice System and the Task Force on Strategic Planning. She served a three-year term on the Section's Council, served as a Section Division Director, and co-chaired the Section's Antitrust Committee. On May 12, 2015, Ms. Nast received the Pursuit of Justice Award from the American Bar Association Tort, Trial and Insurance Practice section. She served as a Delegate to the American Bar Association House of Delegates and the Pennsylvania Bar Association House of Delegates. She served as a member of the Philadelphia Bar Association Board of Governors. She is a member of the Public Justice Foundation.

She served six years as a Director on the Board of the Public Defender's Office of Philadelphia. Ms. Nast was selected as one of a small group of Philadelphia attorneys to

be appointed Judge Pro Tempore, serving as presiding Judge in major civil jury cases in the Court of Common Pleas.

Ms. Nast is a Fellow of the American Bar Foundation. She is a member of the American Law Institute, has served as a member of the Board of Directors of the Sedona Conference, a member of the American Antitrust Institute, and the Public Justice Foundation.

Ms. Nast was appointed as Lead and Liaison Counsel by the Honorable Cynthia M. Rufe for the Direct Purchaser Plaintiffs in the *Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724 (E.D. Pa.).

Michele S. Burkholder has represented plaintiffs in class actions and multidistrict litigation throughout the country for more than two decades. She has worked with NastLaw since its inception in 2012, and prior to that, she practiced for fourteen years with a predecessor firm.

Ms. Burkholder currently focuses on antitrust and complex class action litigation. She served as the court-appointed Plaintiffs' Liaison Counsel in *Darvocet, Darvon and Propoxyphene Products Liability Litigation*, MDL No. 2226 (E.D. Ky.). She has briefed and argued motions in state and federal courts, developed and negotiated pretrial procedures for multidistrict litigation, coordinated large-scale discovery in complex class actions, taken and defended depositions, and led administration planning and implementation for statewide, regional, and nationwide class action settlements. Her expertise lies in getting to the bottom of problems and finding workable solutions.

Ms. Burkholder is licensed to practice in Pennsylvania and New Jersey. She also is admitted to practice in the United States District Courts for the Eastern, Middle, and Western Districts of Pennsylvania; the United States District Court for the District of New Jersey, and the Third Circuit Court of Appeals. She has been recognized in Who's Who in American Law and Who's Who in Emerging Leaders

Ms. Burkholder graduated with Distinction from the Pennsylvania State University with dual degrees in Journalism and Sociology. She received her Juris Doctorate, *cum laude*, from the Dickinson School of Law, where she graduated seventh in her class and was a member of the Woolsack Honor Society. During law school, she

served as an intern with the Pennsylvania Human Relations Commission, provided free tax services to members of the community through the Volunteer Income Tax Assistance program, served as Vice-President of the International Law Society, and was a member of Amnesty International. She received CALI Awards for Excellence in the studies of Corporate Taxation and Remedies and the James S. Bowman Memorial Award. Following law school, she served for two years as a law clerk to the Honorable Ronald E. Vican, President Judge of Monroe County, Pennsylvania.

Daniel N. Gallucci received his Bachelor of Arts in History from Gettysburg College and his Juris Doctorate from the Dickinson School of Law of the Pennsylvania State University, where he was a member of the Woolsack Honor Society and the National Trial Moot Court Team. He was Articles Editor of *The Dickinson Law Review* and received the Best Case Note Award in the 1996-97 Law Review Competition. He also received the Conrad A. and Rocco C. Falvello Memorial Award for Diligence and Progress and was named to the Order of Barristers for Excellence in Courtroom Advocacy.

He was a law clerk to the Honorable Michael A. Georgelis, President Judge of the Court of Common Pleas of Lancaster County.

Currently, Mr. Gallucci serves as a member of the consulting faculty for Rabiej Litigation Law Center. He is a frequent speaker for the Rabiej Litigation Law Center.

Mr. Gallucci has tried jury cases involving medical malpractice and wrongful death and won the third largest jury verdict in the history of Lancaster County, Pennsylvania.

Most recently, Mr. Gallucci was appointed to the Plaintiffs Steering Committee by the Honorable Claire C. Cecchi in *In re Proton Pump Inhibitor Products Liability Litigation*, MDL No. 2789 (D. N.J.). Additionally, Mr. Gallucci served as Co-Lead Counsel in the *Heparin Products Liability Litigation*, MDL No. 1953 (N.D. Ohio) and was appointed as Co-Liaison Counsel for the Pennsylvania Plaintiffs in the *YAZ Products Liability Litigation* (Phila. C.C.P.). He was appointed as Co-Liaison Counsel by The Honorable Arnold L. New in the *Xarelto Products Liability Litigation*, January Term, 2015, No. 2349 (Phila. C.C.P.), and a member of the State Liaison Committee by the

Honorable Eldon E. Fallon in the *Xarelto (Rivaroxaban) Products Liability Litigation* (MDL No. 2592 (E.D. La.)). Additionally, he served on the Science and Case-Specific Committees in *Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL No. 2342 (E.D. Pa.).

Joanne E. Matusko received her Bachelor of Science from Beaver College and her Juris Doctorate from the Widener University School of Law. While at Widener, Ms. Matusko was a member of the Moot Court team and received a Certificate of Achievement Award for Insurance Law. She also holds a Master of Business Administration degree from Lebanon Valley College and an Associate of Science degree in medical technology from Hahnemann University College of Allied Health Professions.

Additionally, Ms. Matusko is a member of the Clinical Laboratory Management Association and of the American Society of Clinical Pathologists.

She worked as Director of Laboratory Services at a local hospital and was an Adjunct Instructor of Laboratory Sciences at Thomas Jefferson University College of Allied Health Professions and Harrisburg Area Community College. She is currently an Adjunct Professor at Central Penn College teaching business and legal classes.

Ms. Matusko is licensed to practice law in Pennsylvania. Additionally, she is admitted to practice in the United States District Courts for the Eastern and Middle Districts of Pennsylvania.

Ms. Matusko received a Prominent listing on Martindale-Hubbell in June 2011. She was selected by *Super Lawyers* as a Rising Star lawyer in 2010 and 2013 and as a Super Lawyer each year from 2014 to present. Additionally, she was honored by *Super Lawyers* as one of the Top 50 Women Lawyers in Pennsylvania in 2018.

Ms. Matusko currently serves as a member of the Discovery Committee in the *Direct Purchaser Insulin Pricing Litigation*, 20-cv-03426 (D. N.J., 2020). Previously, she was a member of the Economics Committee in the *HIV Antitrust Litigation*, 19-cv-02573 (N.D. Ca., 2019) and the Trial Committee in *Yaz, Yasmin, Ocella Gianvi Product Liability Litigation*, September Term 2009, No. 1307 (Phila. C.C.P.). Additionally, she served on the Case-Specific Committees in *Zoloft (Sertraline Hydrochloride) Products Liability*

Litigation, MDL No. 2342 (E.D. Pa.), and *Xarelto Products Liability Litigation*, January Term, 2015, No. 2349 (Phila. C.C.P.).

Matthew A. Reid graduated from Widener University - Delaware Law School with the dual degree of Juris Doctorate and Master of Business Administration. He is also a graduate of Ursinus College (Bachelor of Arts in International Business) and holds an Honors Certificate in Business Organizations Law.

Mr. Reid is a member of the Pennsylvania Bar Association and the Philadelphia Trial Lawyers Association. His practice includes both antitrust and mass tort complex litigation. He has served as a discovery committee member in *Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545 (N.D. Ill.) (Auxilium Defendant), and *Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL No. 2342 (E.D. Pa.)

Joseph N. Roda received his Juris Doctorate from the University of Pennsylvania, and his undergraduate degree from Brown University.

Prior to joining NastLaw, Mr. Roda worked for several years at Robinson Calcagnie Robinson Shapiro Davis, Inc. in California. He practices in the field of Antitrust law and most recently has been heavily involved with the *Generic Pharmaceuticals Pricing Antitrust Litigation* pending in the Eastern District of Pennsylvania.

Michael S. Tarringer received his Juris Doctorate from Villanova University School of Law, where he was one of the student-founders of the Family Law Society. Mr. Tarringer also holds a Bachelor of Science in Marketing from Philadelphia University, where he graduated summa cum laude and received the American Marketing award, the Sara Tyler Wister Prize and membership in the Delta Mu Delta Business Honor Society.

Mr. Tarringer has over 25 years of class action experience, and he has concentrated his law practice in the fields of Antitrust, Consumer Protection, Products Liability, and Pharmaceutical litigation.

Mr. Tarringer is admitted to practice before the Supreme Court of Pennsylvania, the United States District Court for the Eastern District of Pennsylvania, and the United States Court of Appeals for the Third Circuit.

Prior to joining NastLaw, Mr. Tarringer served as a Federal Judicial Law Clerk to the Honorable Robert F. Kelly, in the United States District Court for the Eastern District of Pennsylvania. In addition, Mr. Tarringer served in key litigation roles in *In re Kaiser Group Int'l*, Case No. 00-2263 (Bankr. D. Del.). *See* 326 B.R. 265 (D. Del. 2005) and 278 B.R. 58 (Bankr. D. Del. 2002); and *Walter Cwietniewicz, d/b/a Ellis Pharmacy, et al v. Aetna U.S. Healthcare*, June Term, 1998, No. 423 (Pa. Comm. Pl., Phila. Cty.). Mr. Tarringer also served on the Plaintiffs' Legal Committee in the Orthopedic Bone Screw Products Liability Litigation.

Mr. Tarringer has chaired the Discovery Committee in *In re Direct Purchaser Insulin Pricing Litigation*, 20-cv-03426 (D.N.J.). Mr. Tarringer also has served in key litigation roles in *First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.* Case No. 3:13-cv-00454 (S.D. Ill.) and authored and argued dispositive motions in *In re: HIV Antitrust Litigation (KPH Healthcare Servs. v. Gilead Sciences et al., 20-cv-06961)* (N.D. Cal.).

Michael D. Ford received his Juris Doctor, *cum laude*, from Villanova University School of Law and his Bachelor of Arts, *magna cum laude*, from Rutgers University. At Villanova, Mr. Ford served as Managing Editor of Student Works for the Moorad Sports Law Journal, publishing an article about class action certification. He also interned with the Clinic for Asylum, Refugee & Emigrant Services (CARES), helping multiple clients successfully secure asylum in the United States.

Mr. Ford is admitted to practice before the Pennsylvania Supreme Court, the Eastern District of Pennsylvania and is a member of the Philadelphia Bar Association. His practice focuses on antitrust litigation.

CASES

NastLaw LLC has an extensive product liability and personal injury practice focusing on pharmaceutical matters, in addition to its class action practice focusing on

antitrust matters. An exemplar listing of some of the class actions in which Ms. Nast has served as Lead Counsel or Executive Committee Member includes the following:

Actos (Pioglitzaone) Products Liability Litigation, MDL No. 2299 (W.D. La.), before The Honorable Rebecca F. Doherty.

Augmentin Antitrust Litigation (SAJ Distributors, Inc. and Stephen L. LaFrance Holdings, Inc. v. SmithKline Beecham Corp., d/b/a GlaxoSmithKline, Civil Action No. 04-CV-23 (E.D. Va.)), before The Honorable Henry C. Morgan, Jr.

Avandia Marketing, Sales Practices and Products Liability Litigation, MDL No. 1871 (E.D. Pa.), before The Honorable Cynthia M. Rufe.

Castano Tobacco Litigation, Civil Action No. 94-1044 (E.D. La.), before The Honorable Okla Jones II.

Chocolate Confectionery Antitrust Litigation, MDL No. 1935 (M.D. Pa.), before The Honorable Christopher C. Conner.

Children's' Ibuprofen Oral Suspension Antitrust Litigation, Misc. No. 04mc0535 (D.D.C.), before The Honorable Ellen S. Huvelle.

Darvocet, Darvon and Propoxyphene Products Liability Litigation, MDL No. 2226 (E.D. Ky.), before The Honorable Danny C. Reeves.

Diet Drug Product Liability Litigation, MDL No. 1203 (E.D. Pa.), before The Honorable Harvey Bartle III.

Direct Purchaser Insulin Pricing Litigation, No. 20-cv-03426 (D. N.J.), before the Honorable Brian R. Martinotti.

Effexor XR Antitrust Litigation, Civil Action No. 11-5479 (D. N.J.), before The Honorable Peter J. Sheridan.

Generic Pharmaceuticals Pricing Antitrust Litigation, MDL No. 2724 (E.D. Pa.), before The Honorable Cynthia M. Rufe.

Heparin Products Liability Litigation, MDL No. 1953 (N.D. Ohio), before The Honorable James G. Carr.

HIV Antitrust Litigation, 19-cv-02573 (N.D. Ca.) before the Honorable Edward M. Chen.

Hypodermics Products Antitrust Litigation, MDL No. 1730 (D.N.J.), before The Honorable Jose L. Linares.

Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation, MDL No. 2502 (D. S.C.), before The Honorable Richard Mark Gergel.

Medtronic, Inc. Implantable Defibrillators Products Liability Litigation, MDL No. 1726 (D. Minn.), before The Honorable James M. Rosenbaum.

Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation, MDL No. 1905 (D. Minn.), before The Honorable Richard H. Kyle.

Mirena IUD Products Liability Litigation, MDL No. 2434 (S.D. N.Y.), before The Honorable Cathy Seibel.

Modafinil Antitrust Litigation, Civil Action No. 06-CV-1797, (E.D. Pa.), before The Honorable R. Barclay Surrick and, subsequently, The Honorable Mitchell S. Goldberg.

National Football League Players' Concussion Injury Litigation, MDL No. 2323 (E.D. Pa.), before The Honorable Anita B. Brody.

Nifedipine Antitrust Litigation, MDL No. 1515 (D.D.C.), before The Honorable Richard J. Leon.

Ovcon Antitrust Litigation (SAJ Distributors, Inc., et al. v. Warner Chilcott Holdings Company III, Ltd., et al., Civil Action No. 1:05cv02459 (D. D.C.)), before The Honorable Colleen Kollar-Kotelly.

Paxil Antitrust Litigation (Nichols, et al. v. SmithKline Beecham Corp., Civil Action No. 00-6222 (E.D. Pa.)), before The Honorable John R. Padova.

Pelvic Repair Systems (S.D. W.V.), before The Honorable Joseph R. Goodwin, including *Ethicon, Inc.* MDL No. 2327, *Boston Scientific Corp.*, MDL No. 2326 and *American Medical Systems, Inc.* MDL No. 2325.

Serzone Products Liability Litigation, MDL No. 1477 (S.D. W.Va.), before The Honorable Joseph R. Goodwin.

Testosterone Replacement Therapy Products Liability Litigation, MDL No. 2545 (N.D. Ill.), before The Honorable Matthew F. Kennelly.

Tylenol (Acetaminophen) Marketing, Sales Practices and Products Liability Litigation, MDL No. 2436 (E.D. Pa.), before The Honorable Lawrence F. Stengel.

Wellbutrin SR Antitrust Litigation (SAJ Distributors, Inc., et al. v. Smithkline Beecham Corp., Civil Action No. 04-5525 (E.D. Pa.)), before The Honorable Bruce W. Kauffman and, subsequently, The Honorable Lawrence F. Stengel.

Wellbutrin XL Antitrust Litigation, Civil Action No. 08-2431 (E.D. Pa.), before The Honorable Mary A. McLaughlin.

Xarelto (Rivaroxaban) Products Liability Litigation, MDL No. 2592 (E.D. La.) before The Honorable Eldon E. Fallon.

Xarelto Products Liability Litigation, January Term, 2015, No. 2349 (Phila. C.C.P.) before The Honorable Arnold L. New.

Yasmin and Yaz (Drospirenone) Marketing Sales Practices and Products Liability Litigation MDL No. 2100 (S.D. Ill.), before The Honorable David R. Herndon.

Yaz, Yasmin, Ocella Gianvi Product Liability Litigation, September Term 2009, No. 1307 (Phila. C.C.P.), before The Honorable Sandra Mazer Moss.

Zoloft (Sertraline Hydrochloride) Products Liability Litigation, MDL No. 2342 (E.D. Pa.), before The Honorable Cynthia M. Rufe.

EXHIBIT 5

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF ERIC D. BARTON IN SUPPORT OF
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION,
AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Eric D. Barton, hereby declare as follows:

1. I am an attorney duly licensed to practice in the bars of Kansas, Missouri, and Utah. I am a partner at Wagstaff & Cartmell, LLP in Kansas City, Missouri, which represents the Direct Purchaser Plaintiff (“DPP”) Settlement Class (“Class”). Wagstaff & Cartmell’s resume is attached as Exhibit 1. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

2. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards.

3. Wagstaff & Cartmell LLP has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

4. Wagstaff & Cartmell LLP was one of the first law firms that initiated this action in 2020. The Firm’s attorneys and staff were directly involved in the final preparations, filing, and service of the initial complaint and several, subsequent amended complaints, as well as in early case management proceedings. The Firm assisted in drafting and preparing responses to motions to dismiss, drafting responses to a motion to stay and compel ADR, meet and confers with opposing counsel on discovery and scheduling, and participated in an early mediation. The Firm continued to assist in discovery, including help with drafting, filing, serving, and meet and confers for third-party subpoenas served to numerous third parties. The Firm assisted in various other issues as needed and requested by Co-Lead Counsel.

5. From inception to April 30, 2024, Wagstaff & Cartmell LLP spent 774.6 hours advancing the litigation. The total lodestar for Wagstaff & Cartmell LLP is \$645,437.50. The information in this declaration regarding the time Wagstaff & Cartmell LLP attorneys and other

professionals have spent advancing the litigation was prepared from contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Class Counsel.

6. Wagstaff & Cartmell LLP seeks an award of \$28,792.45 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through March 31, 2024. These expenses and charges are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Class Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The costs and expenses are of a type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

CATEGORY	AMOUNT
EpiPen -- Litigation Fund Contributions	\$25,000.00
Process Server Fees (Complaint + Subpoenas)	\$1,713.10
Mediator Fees and Mediation Expenses	\$1080.30
Filing Fees (Complaint, Pro Hac Vice Apps.)	\$600.00
Legal Research – Westlaw	\$363.95
Transcript Expense (Zoom Motion Hearing)	\$35.10
TOTAL	\$28,792.45

7. As the summary shows, Wagstaff & Cartmell made \$25,000.00 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

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

Executed this 7th day of May 2024:

/s/ Eric D. Barton

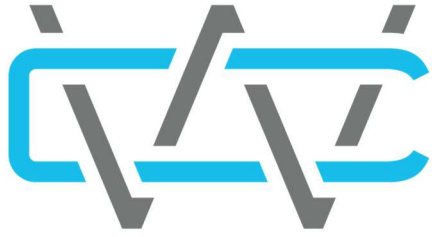
WAGSTAFF & CARTMELL

4740 Grand Ave. Ste. 300

Kansas City, MO 64112

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ebarton@wcllp.com



Wagstaff & Cartmell

Firm Resume

OVERVIEW

Wagstaff & Cartmell enjoys a strong reputation throughout the country in high-stakes litigation and trial practice.

Wagstaff & Cartmell is a litigation boutique focused on handling high-stakes and complex litigation matters nationwide. Our practice spans professional liability to business litigation, product liability, mass actions, class actions, and catastrophic personal injury.

In all areas, we thrive in the courtroom and trial preparation. Our resources, capabilities, and experience allow us to handle major litigation cases against the largest national law firms. Our successes in courtrooms across the country have earned us a reputation as one of the top boutique trial firms in the United States.

Our lawyers know how to lead and to work as a team. We have been appointed by judges more than 30 times to leadership positions in national multi-district litigation, state court consolidations, and class actions. We have been lead counsel in bellwether and other jury trials in prominent cases, nationally and locally. We also have been hired by and entrusted to represent state governments and Attorneys General of several states, county governments in multiple states, hundreds of school districts across the country, and other public entities in important litigation matters affecting public interests.

We value efficiency, creativity, and most of all, credibility. Our team consists of lawyers trained in large law firms, former federal law clerks, and attorneys consistently recognized by peers as among the best in the profession.



LEADERSHIP

Wagstaff & Cartmell attorneys have been appointed by courts to leadership positions in national multi-district litigation, mass tort consolidations, and class actions, including in the following:

[In re Juul Labs, Inc., Marketing Sales Practices and Products Liability Litigation](#)

[MDL No. 2913 \(N.D. Cal.\)](#)

Leadership Role: **Plaintiffs' Steering Committee (Government Entity Liaison Counsel)**

[In re 3M Combat Arms Earplug Products Liability Litigation](#)

[MDL No. 2885 \(N.D. Fl.\)](#)

Leadership Role: **Plaintiffs' Executive Committee**

[Social Media Cases](#)

[JCCP No. 5255 \(Cal Super. Ct., Los Angeles County\)](#)

Leadership Role: **Plaintiffs' Steering Committee**

[In re Bard Implanted Port Catheter Products Liability Litigation](#)

[MDL No. 3081 \(D. Ariz.\)](#)

Leadership Role: **Plaintiffs' Executive Committee**

[In re Abbott Laboratories, et al., Preterm Infant Nutrition Product Liability Litigation](#)

[MDL No. 3072 \(N.D. Ill.\)](#)

Leadership Role: **Plaintiffs' Executive Committee**

[In re Acetaminophen – ASD-ADHD Products Liability Litigation](#)

[MDL No. 3043 \(S.D.N.Y.\)](#)

Leadership Role: **Plaintiffs' Steering Committee**

[In re Exactech Polyethylene Orthopedic Products Liability Litigation](#)

[MDL No. 3044 \(E.D.N.Y.\)](#)

Leadership Role: **Plaintiffs' Steering Committee**

[In re Hair Relaxer Marketing Sales Practices and Products Liability Litigation](#)

[MDL No. 3060 \(N.D. Ill.\)](#)

Leadership Role: **Plaintiffs' Steering Committee**

[In re Bard IVC Filters Products Liability Litigation](#)

[MDL No. 2641 \(D. Az.\)](#)

Leadership Role: **Plaintiffs' Steering Committee**



LEADERSHIP, continued

In re Surescripts Antitrust Litigation

Case No. 1:19-cv-06627 (N.D. Ill.)

Leadership Role: Co-Lead Interim Class Counsel

Skip's Precision Welding, et al. v. Central Payment Co.

Case No. 8:17-cv-00310 (D. Neb.)

Leadership Role: Lead Class Counsel

In re Ethicon Pelvic Repair System Products Liability Litigation

MDL No. 2327 (S.D.W.V.)

Leadership Role: National Co-Lead Plaintiffs' Counsel

In re Boston Scientific Corp. Pelvic Repair System Products Liability Litigation

MDL No. 2326 (S.D.W.V.)

Leadership Role: Plaintiffs' Executive Committee

In re American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation

MDL No. 2325 (S.D.W.V.)

Leadership Role: Plaintiffs' Executive Committee

In re Coloplast Corp., Pelvic Repair System Products Liability Litigation

MDL No. 2387 (S.D.W.V.)

Leadership Role: Plaintiffs' Executive Committee

In re C.R. Bard, Pelvic Repair System Products Liability Litigation

MDL No. 2187 (S.D.W.V.)

Leadership Role: Plaintiffs' Executive Committee

In re Avandia Marketing, Sales Practices and Products Liability Litigation

MDL No. 1871 (E.D. Pa.)

Leadership Role: Co-Lead Trial Counsel

In re Syngenta MIR 162 Corn Litigation

Case No. 27-cv-15-3785 (4th Judicial Dist., Hennepin County, MN)

Leadership Role: Plaintiffs' Steering Committee

In re Benicar Products Liability Litigation

MDL No. 2606 (D.N.J.)

Leadership Role: Plaintiffs' Steering Committee



LEADERSHIP, continued

In re Effexor Products Liability Litigation

MDL No. 2458 (E.D. Pa.)

Leadership Role: Plaintiffs' Steering Committee

In re Incretin Mimetics Products Liability Litigation

MDL No. 2452 (S.D. Cal.)

Leadership Role: Plaintiffs' Steering Committee

In re Zolof Product Liability Litigation

MDL No. 2342 (E.D. Pa.)

Leadership Role: Plaintiffs' Steering Committee, Chair, Discovery Committee

Jaynes, et al. v. American Express Co.

Case No. 15-cv-1598 (E.D.N.Y.)

Leadership Role: Plaintiffs' Executive Committee

Whitton v. Deffenbaugh Disposal, Inc. et al.

Case No. 12-cv-2247 (D. Kan.)

Leadership Role: Co-Lead Class Counsel

In re Depuy Pinnacle Hip Implant Products Liability Litigation

MDL No. 2244 (N.D. Tex.)

Leadership Role: Plaintiffs' Steering Committee

In re Polyurethane Foam Antitrust Litigation

MDL No. 2196 (N.D. Ohio)

Leadership Role: Plaintiffs' Executive Committee

Dahl et al. v. Bain Capital Partners, LLC et al.

Case No. 07- cv-12388 (D. Mass.)

Leadership Role: Plaintiffs' Executive Committee

In re Ephedra Products Liability Litigation

MDL No. 2071 (S.D.N.Y.)

Leadership Role: Plaintiffs' Steering Committee

In re Trasylol Products Liability Litigation

MDL No. 1928 (S.D. Fl.)

Leadership Role: Deposition Committee



LEADERSHIP, continued

In re Kugel Mesh Hernia Patch Products Liability Litigation

MDL No. 1842 (D.R.I.)

Leadership Role: Plaintiffs' Steering Committee

In re Bextra and Celebrex Product Liability Litigation

MDL No. 1699 (N.D. Cal.)

Leadership Role: Co-Lead Trial Counsel and Plaintiffs' Steering Committee



RESULTS

Wagstaff & Cartmell attorneys and their clients have achieved impressive results in a wide variety of cases, including the following:

In re Juul Labs, Inc., Marketing Sales Practices and Products Liability Litigation

MDL No. 2913 (N.D. Cal.)

Outcome: Total MDL settlements reported as more than \$1.9 billion, over \$720 million to government entities (school districts, cities and counties)

In re Combat Arms Earplug Products Liability Litigation

MDL No. 2855 (N.D. Fl.)

Outcome: Total MDL settlements reported as \$6 billion

In re National Prescription Opiate Litigation

Case No. 1:17-MDL-2804 (N.D. Oh.)

Outcome: Total MDL settlements as to defendant Teva Pharmaceutical Industries reported as over \$4.3 billion to state and local governments

In re Pelvic Mesh Repair Sys. Prods. Liab. Litig.

(6 MDLs) (S.D.W.V.)

Outcome: Total MDL settlements reported as over \$8 billion from 6 different manufacturers

In re Avandia Marketing, Sales Practices and Products Liability Litigation

MDL No. 1871 (E.D. Pa.)

Outcome: Total MDL settlements reported as more than \$2 billion

In re Depuy Pinnacle Hip Implant Products Liability Litigation

MDL No. 2244 (N.D. Tex.)

Outcome: Total MDL settlements reported as more than \$1.7 billion

In re Bextra and Celebrex Product Liability Litigation

MDL No. 1699 (N.D. Cal.)

Outcome: \$745 Million settlement of thousands of injury claims

Dahl et al. v. Bain Capital Partners, LLC et al.

Case No. 07- cv-12388 (D. Mass.)

Outcome: \$590.5 Million settlement in Antitrust Class Action

In re Polyurethane Foam Antitrust Litigation

MDL No. 2196 (N.D. Ohio)

Outcome: \$151 Million settlement for indirect purchasers in Antitrust Class Action



In re Ephedra Products Liability Litigation

MDL No. 2071 (S.D.N.Y.)

Outcome: \$50 Million settlement of hundreds of injury claims

Johnson et al. v. Prime Tanning Corp. et al.

Case No. 09BU-CV06421 (5th Judicial Dist., Buchanan County, MO)

Outcome: \$10 Million settlement for class of property owners in contamination case

Perry v. Luu, et al.

Case No. 1500-cv-279123 (Cal. Super. Ct., Kern County)

Outcome: \$5.7 Million verdict in bellwether TV mesh trial



AREAS OF PRACTICE

CLASS ACTION

Wagstaff & Cartmell attorneys have successfully certified classes and recovered hundreds of millions of dollars for class members in class action litigation. The Firm's class action attorneys have handled cases under the Racketeer Influenced and Corrupt Organizations Act (RICO) alleging fraudulent schemes to overcharge small businesses or consumers, cases arising from automobile defects, cases claiming antitrust violations under federal and state laws involving illegal price-fixing, bid-rigging, illegal monopolization and other forms of unlawfully suppressing competition, and cases arising from data breaches exposing sensitive customer information to criminals, among others.

COMPLEX COMMERCIAL & ANTITRUST

Wagstaff & Cartmell attorneys are experienced in a wide variety of complex commercial disputes, including successful representation of developers, franchisees, investors, small businesses, large companies, and entrepreneurs in a wide range of litigation and arbitration. Wagstaff & Cartmell is frequently asked to prosecute or defend clients in cases with claims involving contract disputes, unfair or illegal competition, business torts, intellectual property, ownership disputes, securities fraud, business-to-business litigation and FINRA arbitration. Wagstaff & Cartmell has the resources and experience necessary to navigate the complex and sometimes-turbulent waters of e-discovery, to handle large-scale motions, and to aggressively litigate commercial disputes all the way through trial and appeal, if necessary.

MASS TORT/DRUGS & DEVICES

Wagstaff & Cartmell's team has built a national reputation handling some of the country's largest and most challenging mass actions and achieving exceptional results along the way. The Firm's mass actions often arise from drug and device products liability litigation and may involve hundreds or thousands of cases consolidated before one judge into multi-district litigations (MDLs). Because of our extensive experience and track record of success, our attorneys are regularly appointed by judges to leadership positions in MDLs and state-court consolidations. Our team has recovered more than a billion dollars on behalf of clients in these cases, involving a wide range of subject matters, including dangerous drugs, defective medical devices or wrongful actions that harm a large group of people. Wagstaff & Cartmell is a sought after firm by public entities such as states, school districts, cities, and counties pursuing mass actions of national public importance, as well as the choice for referring attorneys around the country.

PERSONAL INJURY

Wagstaff & Cartmell represents individuals and families who have suffered catastrophic personal injuries or loss of life due to the negligence or fault of another. The Firm has secured major verdicts and settlements arising from commercial vehicle accidents, automobile accidents, trailer decoupling accidents, nursing home neglect, toxic environmental exposures, and product failures, and has litigated complex personal injury suits in federal and state courts across the United States.

EXHIBIT 6

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**DECLARATION OF JOSEPH H. MELTZER IN SUPPORT OF
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION,
AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Joseph H. Meltzer, hereby declare as follows:

1. I am an attorney duly licensed to practice in the Commonwealth of Pennsylvania, State of New Jersey and State of New York. I am a Partner with Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz”). Kessler Topaz’s resume is attached as Exhibit 1. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

2. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards.

3. Kessler Topaz has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

4. In this litigation, Kessler Topaz assisted in the research and drafting of Cesar Castillo, LLC’s Motion to Intervene and Class Action Complaint, the Consolidated Fourth Amended Class Action Complaint, and the oppositions to Defendants’ motions to dismiss. Kessler Topaz further assisted in the drafting of written discovery, the review and analysis of non-party discovery and expert discovery.

5. From inception to April 30, 2024, Kessler Topaz spent 521.40 hours advancing the litigation. The total lodestar for Kessler Topaz is \$364,321.50. The information in this declaration regarding the time Kessler Topaz attorneys and other professionals have spent advancing the litigation was prepared from time records maintained by the firm’s timekeeping software and submitted to, reviewed by, and approved by Co-Lead Class Counsel.

6. Kessler Topaz seeks an award of \$22,994.32 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through April 30, 2024. These

expenses and charges are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Class Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses.

CATEGORY	AMOUNT
Litigation Fund Contributions	\$20,000.00
Overnight Mail	\$16.21
Legal Research	\$2,777.71
Copies	\$200.40
TOTAL	\$22,994.32

7. As the summary shows, Kessler Topaz made \$20,000 in joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7th day of May 2024:

Joseph H. Meltzer
Radnor, PA

EXHIBIT 1



KESSLERTOPAZ
MELTZERCHECK LLP
ATTORNEYS AT LAW

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 350 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 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.

OFFICES:

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Fax: 610-667-7056
info@ktmc.com

CALIFORNIA

One Sansome Street,
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San Francisco, CA 94104
Direct: 415-400-3000
Fax: 415-400-3001

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: (S.D.N.Y. 2009)

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. 2009):

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) (S.D.N.Y. 2001):

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. 2011):

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. 2008):

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. 2008):

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-CRB (N.D. Cal. 2005):

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, Grp., Ltd. Sec. Litig., 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., 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 non-performing assets worth hundreds of millions of dollars 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. 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 Techs. 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. 2011): 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 (N.Y. Sup. Ct. 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 & 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 (D.N.J.):

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 determining 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 approved on September 24, 2015. In approving the settlement, Judge Lewis Kaplan praised counsel

for a “wonderful job,” stating that counsel “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 automatic-

ally 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 matters 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) Litigation*, No. 09MDL2058 (S.D.N.Y.) (settled -- \$2.425 billion); *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).

ETHAN J. BARLIEB, a Partner 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.

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. Mr. Berman also serves as General Counsel to Kessler Topaz.

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*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion). 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 Securities Litigation*, No. C-02-5017 (MJJ) (N.D. Cal. 2005) (settled — \$13.8 million); *In re Sodexo Marriott Shareholders Litigation*, Consol. C.A. No. 18640-NC (Del. Ch. 1999) (settled — \$166 million benefit); *In re Motive, Inc. Securities Litigation*, 05-CV-923 (W.D. Tex. 2005) (settled — \$7 million cash, 2.5 million shares); and *In re Wireless Facilities, Inc., Securities Litigation*, 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, manages Kessler Topaz's portfolio monitoring & claims filing service, *SecuritiesTracker*[™], and works closely with the Firm's litigators and new matter development department. He consults with institutional investors from around the world with regard to implementing systems to best identify, analyze, and monetize claims they have in shareholder litigation.

In addition, Mr. Check assists Firm clients in evaluating 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 actions in an increasing number of jurisdictions around the globe. With an increasingly complex investment and legal landscape, Mr. Check has experience advising on traditional class actions, direct actions (opt-outs), non-U.S. opt-in actions, fiduciary actions, appraisal actions and arbitrations to name a few. Over the last twenty years Mr. Check has become a trusted advisor to hedge funds, mutual fund managers, asset managers, insurance companies, sovereign wealth funds, central banks, and pension funds throughout North America, Europe, Asia, Australia, and the Middle East.

Mr. Check regularly speaks on the subjects of shareholder litigation, corporate governance, investor activism, and recovery of investment losses at conferences around the world. He 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 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, France, Japan, and Australia.

Mr. Check received his law degree from Temple University School of Law and is a graduate of Franklin & Marshall College. He is admitted to practice in numerous state and federal courts across the United States.

EMILY N. CHRISTIANSEN, a Partner 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 litigation in Japan against Olympus Corporation (settled - ¥11 billion) and in the Netherlands against Fortis Bank N.V. (settled - €1.2 billion).

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.

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 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 Securities Litigation*, No. 12-cv-5090, 2013 WL 792642 (N.D. Cal. Mar. 4, 2013); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852- GBD ("London Whale Litigation") (\$150 million recovery); *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. 81057 (WPD), 2014 WL 7236985 (S.D. Fla. Nov. 7, 2014); *Louisiana Municipal Police Employees' Retirement System 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 Financial Technologies Ltd. Securities Litigation*, 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 Litigation*, 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).

TYLER S. GRADEN, a Partner of the Firm, concentrates his practice in the area of consumer protection and unlawful business practice litigation, representing individuals, retirement plan beneficiaries, businesses and government entities as plaintiffs in class actions and arbitrations. Prior to joining the Firm, Mr. Graden worked at a boutique defense litigation firm in Philadelphia and as an investigator with the Chicago District Office of the Equal Employment Opportunity Commission.

GRANT D. GOODHART III, a Partner of the Firm, concentrates his practice in the areas of merger and acquisition litigation and shareholder derivative actions. Through his practice, Mr. Goodhart helps institutional and individual shareholders obtain significant financial recoveries and corporate governance reforms. Mr. Goodhart graduated from Temple University Beasley School of Law in 2015. While in law school, Mr. Goodhart interned as a law clerk to the Hon. Thomas C. Branca of the Montgomery County Court of Common Pleas, the Hon. Anne E. Lazarus of the Pennsylvania Superior Court, and U.S. Magistrate Judge Lynne A. Sitarski of the U.S. District Court for the Eastern District of Pennsylvania. Grant also served as the Executive Articles Editor for the Temple International and Comparative Law Journal.

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.

NATHAN A. HASIUK, a Partner 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.

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, Daimler Chrysler 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.

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 Bond Litigation*, No. 08-cv-09522-SHS (S.D.N.Y.) (\$730 million recovery); *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D.Cal. 2012) (settled -- \$500 million); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery); *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$85 million); *In re MGM Mirage Securities Litigation*, Case No. 2:09-cv-01558-GMN-VCF (D. Nev.) (\$75 million settlement); and *In re Weatherford Int'l Securities Litigation*, No. 11-cv-01646-LAK-JCF (S.D.N.Y.) (settled -- \$52.5 million).

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, is a worldwide leader in securities litigation. His reputation and track record earn instant credibility with judges and bring opponents to the bargaining table in complex, high-stakes class actions. Mr. Kessler has been recognized for excellence by publications including *Benchmark Plaintiff* and *Law Dragon*.

As co-head of the firm's securities litigation practice, Mr. Kessler has led several of the largest class actions ever brought under the federal securities laws and the Private Securities Litigation Reform Act of 1995. Since the financial crisis began in 2008, he has helped recover well over \$5 billion for clients and class members who invested in financial companies such as Wachovia, Bank of America, Citigroup and Lehman Brothers. Prior to 2008, Mr. Kessler guided some of the largest cases both in size—including allegations of a massive scandal regarding the unfair allocation of IPO shares by more than 300 public companies—and in notoriety—including the Tyco fraud and mismanagement litigation that resolved for over \$3 billion.

Mr. Kessler brings his background as a certified public accountant to bear in actions involving complex loss causation issues and damages arising from losses in public offerings, open market purchases, and mergers and acquisitions. As head of the firm's settlement department, Mr. Kessler also has extensive experience in mediation, settlements, claims administration and distributions.

A sought-after lecturer on securities litigation issues, Mr. Kessler has been invited to speak by plaintiffs' firms, defense firms, mediators and insurance carriers on a variety of topics related to securities class actions. He recently assisted in authoring a chapter on mediations in a publication soon to be released by a federal mediator.

JOSHUA A. MATERESE, a Partner of the Firm, is an experienced and trusted securities litigator. He devotes his practice almost entirely to advising and representing institutional and individual investors in class or direct actions arising from fraud, market manipulation, or other corporate misconduct. Mr. Materese currently serves as one of the lead trial attorneys in pending securities class actions involving General Electric, Kraft-Heinz, Goldman Sachs, and Boeing, and in direct actions involving Teva Pharmaceutical and Perrigo Co. During his career, Mr. Materese has helped clients recover substantial monetary losses, including most recently *In re Allergan, Inc. Proxy Violation Securities Litigation*, No. 14-cv-02004 (C.D. Cal.) (\$290 million recovery), *In re JPMorgan Chase & Co. Sec. Litig.*, No. 12-cv-03852 (S.D.N.Y.) (\$150 million recovery); *Lou Baker v. SeaWorld Entertainment, Inc., et al.*, No. 14-cv-02129 (S.D. Cal.) (\$65 million recovery); *Quinn v. Knight*, No. 16-cv-00610 (E.D. Va.) (\$32 million recovery). Josh also successfully litigated claims on behalf of over 100 U.S. and international institutional investors in direct actions against Brazil's state-run oil company, Petrobras, arising out of a decade-long bid-rigging scheme—the largest corruption scandal in Brazil's history.

In addition to his direct litigation responsibilities, Mr. Materese advises the Firm's institutional clients on potential claims they may have in shareholder litigation. He is one of the partners at the Firm responsible for client relations and outreach in the U.S., and assists with overseeing Kessler Topaz's proprietary portfolio monitoring and claims filing service, *SecuritiesTracker*TM.

Mr. Materese also maintains an active pro bono practice. He serves as Co-Chair of the Firm's Pro Bono Committee and frequently represents clients referred to the Firm on matters concerning federal disability benefits, felony pardons, and wrongful convictions.

MARGARET E. MAZZEO, a Partner of the Firm, concentrates her practice in the area of securities fraud litigation. Since joining the firm, Ms. Mazzeo has represented shareholders in several securities fraud class actions and direct actions, 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. Mazzeo was a member of the trial team that recently 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.

JAMIE E. MCCALL, a Partner of the Firm, concentrates on securities fraud litigation. Prior to joining the Firm, Mr. McCall spent twelve years with the Department of Justice in the U.S. Attorney's Offices for Miami, Florida and Wilmington, Delaware, where he oversaw complex criminal investigations ranging from securities, tax, bank and wire frauds, to the theft of trade secrets and cybercrime.

Mr. McCall has successfully tried numerous jury trials, including a seven-week securities fraud trial, which arose from financial conduct during the Great Recession, and resulted in trial verdicts against four bank executives and a \$60 million civil settlement to victim-shareholders; and a five-week multi-defendant stalking-murder case, which stemmed from the 2013-shootout at the New Castle County Courthouse in Delaware, and resulted in first-in-the-nation convictions for "cyberstalking resulting in death" under the Violence Against Women Act. For his work on both of these cases, Mr. McCall was twice awarded the Director's Award for Superior Performance by the Department of Justice. Most recently, Mr. McCall served as the section chief for the National Security and Cybercrime Division for the Delaware U.S. Attorney's office.

Mr. McCall also spent several years practicing civil law at Morgan, Lewis & Bockius in Philadelphia, where he worked on major, high-stakes litigation matters involving Fortune 250 companies. Mr. McCall began his legal career as a Judge Advocate in the Marine Corps, working primarily as a prosecutor and achieving the rank of Captain. In 2004, Mr. McCall served for nearly five months as the principal legal advisor to 1st Battalion, 5th Marine Regiment in and around Fallujah, Iraq, including during the First Battle of Fallujah.

Mr. McCall maintains an active membership in the Federal Bar Association, District of Delaware chapter. He has presented on numerous issues involving corporate and securities fraud. He was also a featured interview on CBS's "60 Minutes" in a segment about theft of original correspondence by Christopher Columbus, most recently aired in August 2020.

Mr. McCall has received numerous awards for his work in securities fraud and cybercrime, along with respective military service awards, including the Navy & Marine Corps Commendation Medal, Navy & Marine Corps Achievement Medal, Combat Action Ribbon, and Global War Against Terrorism Expeditionary Medal.

JOSEPH H. MELTZER, a Partner of the Firm, leads the firm's Fiduciary, Consumer Protection and Antitrust groups.

A pioneer in prosecuting breach of fiduciary duty cases, Mr. Meltzer has been lead or co-lead counsel in numerous nationwide class actions brought under fiduciary laws including ERISA. Joe represents institutional investor clients in a variety of breach of fiduciary duty cases and has some of the largest settlements in fiduciary breach actions including several recoveries in the hundreds of millions of dollars.

The firm also has a robust Consumer Protection department which represents individuals, businesses, and governmental entities that have sustained losses as a result of defective products or improper business practices. Kessler Topaz is highly selective in these matters – the firm litigates only complex cases that it deems suitable for judicial resolution.

In his antitrust work, Mr. Meltzer represents clients injured by anticompetitive and unlawful business practices, including overcharges related to prescription drugs, health care expenditures and commodities. Mr. Meltzer has also represented various states in pharmaceutical pricing litigation as a Special Assistant Attorney General.

MATTHEW L. MUSTOKOFF is a Partner of the Firm and is a nationally recognized securities litigator. He has argued and tried numerous high-profile cases in federal courts throughout the country in fields as diverse as securities fraud, corporate takeovers, antitrust, unfair trade practices, and patent infringement.

Mr. Mustokoff is currently litigating several nationwide securities cases on behalf of U.S. and overseas investors. He serves as lead counsel for shareholders in *In re Celgene Securities Litigation* (D.N.J.), involving allegations that Celgene fraudulently concealed clinical problems with a developmental multiple sclerosis drug. Mr. Mustokoff is also class counsel in *Sjunde AP-Fonden v. The Goldman Sachs Group* (S.D.N.Y.), a securities fraud case implicating Goldman Sachs' pivotal role in the 1Malaysia Development Berhad (1MDB) money laundering scandal, one of the largest financial frauds involving a Wall Street firm in recent memory. Mr. Mustokoff recently led the team that secured a \$130 million recovery for plaintiffs in *In re Allergan Generic Drug Pricing Securities Litigation* (D.N.J.), arising out of the industrywide price-fixing scheme in the generic drug market. This marks the first settlement of a federal securities case stemming from the long-running price-fixing conspiracy which is believed to be the largest domestic pharmaceutical cartel in U.S. history.

Mr. Mustokoff 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 ever in a Securities Act class action brought on behalf of corporate bondholders. Mr. Mustokoff represented the class in *In re Pfizer Securities Litigation* (S.D.N.Y.), a twelve-year fraud case alleging that Pfizer concealed adverse clinical results for its pain drugs Celebrex and Bextra. The case settled for \$486 million following a victory at the Second Circuit Court of Appeals reversing the district court's dismissal of the action on the eve of trial. Mr. Mustokoff also served as class counsel in *In re JPMorgan Chase Securities Litigation* (S.D.N.Y.), arising out of the 2012 "London Whale" derivatives trading scandal. The case resulted in a \$150 million recovery.

Mr. Mustokoff served as lead counsel to several prominent mutual funds in securities fraud actions in Manhattan federal court against Brazil's state-run oil company, Petrobras, involving a decade-long bid-rigging scheme, the largest corruption scandal in Brazil's history. In *Connecticut Retirement Plans & Trust Funds v. BP plc* (S.D. Tex.), a multi-district litigation stemming from the 2010 Deepwater Horizon oil-rig explosion in the Gulf of Mexico, Mr. Mustokoff successfully argued the opposition to BP's motion to dismiss and obtained a landmark decision sustaining fraud claims under English law on behalf of investors on the London Stock Exchange—the first in a U.S. court. 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 2008 financial crisis to be tried to jury verdict.

Prior to joining the Firm, Mr. Mustokoff practiced at Weil, Gotshal & Manges LLP in New York where he represented clients in SEC enforcement actions, white collar criminal matters, and shareholder litigation.

A frequent speaker and writer on securities law and litigation, Mr. Mustokoff's publications have been cited in more than 75 law review articles and treatises. He has published in the *Rutgers University Law Review*, *Maine Law Review*, *Temple Political & Civil Rights Law Review*, *Hastings Business Law Journal*, *Securities Regulation Law Journal*, *Review of Securities & Commodities Regulation*, and *The Federal Lawyer*, among others. He has been a featured panelist at the American Bar Association's Section of Litigation Annual Conference and NERA Economic Consulting's Securities and Finance Seminar. Since 2010, Mr. Mustokoff has served as the Co-Chair of the ABA Subcommittee on Securities Class Actions.

Mr. Mustokoff is a Phi Beta Kappa honors graduate of Wesleyan University. He received his law degree from the Temple University School of Law.

SHARAN NIRMUL, a Partner of the Firm, concentrates his practice in the area of securities, consumer and fiduciary class action and complex commercial litigation, exclusively representing the interests of plaintiffs and particularly, institutional investors.

Mr. Nirmul represents a number of the world's largest institutional investors in cutting edge, high stakes complex litigation. In addition to his securities litigation practice, he has been at the forefront of developing the Firm's fiduciary litigation practice and has litigated ground-breaking cases in areas of securities lending, foreign exchange, and MBS trustee litigation. Mr. Nirmul was instrumental in developing the underlying theories that propelled the successful recoveries for customers of custodial banks in *Compsource Oklahoma v. BNY Mellon*, a \$280 million recovery for investors in BNY Mellon's securities lending program, and *AFTRA v. JP Morgan*, a \$150 million recovery for investors in JP Morgan's securities lending program. In *Transatlantic Re v. A.I.G.*, Mr. Nirmul recovered \$70 million for Transatlantic Re in a binding arbitration against its former parent, American International Group, arising out of AIG's management of a securities lending program.

Focused on issues of transparency by fiduciary banks to their custodial clients, Mr. Nirmul served as lead counsel in a multi-district litigation against BNY Mellon for the excess spreads it charged to its custodial customers for automated FX services. Litigated over four years, involving 128 depositions and millions of pages of document discovery, and with unprecedented collaboration with the U.S.

Department of Justice and the New York Attorney General, the litigation resulted in a settlement for the Bank's custodial customers of \$504 million. Mr. Nirmul also spearheaded litigation against the nation's largest ADR programs, Citibank, BNY Mellon and JP Morgan, which alleged they charged hidden FX fees for conversion of ADR dividends. The litigation resulted in \$100 million in recoveries for ADR holders and significant reforms in the FX practices for ADRs.

Mr. Nirmul has served as lead counsel in several high-profile securities fraud cases, including a \$2.4 billion recovery for Bank of America shareholders arising from BoA's shotgun merger with Merrill Lynch in 2009. More recently, Mr. Nirmul was lead trial counsel in litigation arising from the IPO of social media company Snap, Inc., which has resulted in a \$187.5 million settlement for Snap's investors, claims against Endo Pharmaceuticals, arising from its disclosures concerning the efficacy of its opioid drug, Opana ER, which resulted in a recovery of \$80.5 million for Endo's shareholders, and claims against Ocwen Financial, arising from its mortgage servicing practices and disclosures to investors, which settled on the eve of trial for \$56 million. Mr. Nirmul currently serves as lead trial counsel in pending securities class actions involving General Electric, Kraft-Heinz, and the stunning collapse of Luckin Coffee Inc., following disclosure of a massive accounting fraud just ten months after its IPO. He also served on the Executive Committee for the multi-district litigation involving the Chicago Board Options Exchange and the manipulation of its key product, the Cboe Volatility Index.

Mr. Nirmul received his law degree from The George Washington University National Law Center and undergraduate degree from Cornell University. He was born and grew up in Durban, South Africa.

LEE D. RUDY, a partner of the Firm, practices in the area of corporate governance litigation, with a focus on transactional and derivative cases. 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.

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.* (2011), a \$2 billion trial verdict against Southern Peru's majority shareholder, and *In re Facebook, Inc. Class C Reclassification Litigation* (2017), which forced Facebook and its founder Mark Zuckerberg to abandon plans to issue a new class of nonvoting stock to entrench Zuckerberg as the company's majority stockholder. Mr. Rudy also recently served as lead counsel in *In re Allergan, Inc. Proxy Violation Securities Litigation* (C.D. Cal. 2017), which was brought by a class of Allergan stockholders who sold shares while Pershing Square and its founder Bill Ackman were buying Allergan stock in advance of a secret takeover attempt by Valeant Pharmaceuticals, and which settled for \$250 million just weeks before trial. Mr. Rudy 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 (D.N.J.), where he tried dozens of jury cases to verdict. 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.

RICHARD A. RUSSO, JR., a partner of the Firm, concentrates his practice in the area of securities litigation, and principally represents the interests of plaintiffs in class actions and complex commercial litigation.

Mr. Russo specializes in prosecuting complex securities fraud actions arising under the Securities Exchange Act of 1934 and the Securities Act of 1933, and has significant experience in all stages of pre-trial litigation, including drafting pleadings, litigating motions to dismiss and motions for summary judgment, conducting extensive document and deposition discovery, and appeals.

Mr. Russo has represented both institutional and individual investors in a number of notable securities class actions. These matters include *In re Bank of America Securities Litigation*, where shareholders' \$2.43 billion recovery represents one of the largest recoveries ever achieved in a securities class action and the largest recovery arising out of the 2008 subprime crisis; *In re Citigroup Inc. Bond Litigation*, where the class's \$730 million recovery was the second largest recovery ever for claims brought under Section 11 of the Securities Act of 1933; and *In re Lehman Brothers*, where shareholders recovered \$616 million from Lehman's officers, directors, underwriters and auditors following the company's bankruptcy filing.

Mr. Russo is currently representing shareholders in high-profile securities fraud actions against General Electric, Precision Castparts Corp., Kraft Heinz Corp. and Luckin Coffee Co. Mr. Russo has also assisted in prosecuting whistleblower actions and patent infringement matters.

In 2016, Mr. Russo was selected as an inaugural member of Benchmark Litigation's Under 40 Hot List, an award meant to honor the achievements of the nation's most accomplished attorneys under the age of 40. Mr. Russo was again selected as a member of the 40 & Under Hot List in 2018, 2019, and 2020. Rick has also been selected by his peers as a Pennsylvania Super Lawyers Rising Star on five occasions.

MARC A. TOPAZ, a partner of the Firm, has a keen eye for what makes a successful case. As one of the firm's most experienced litigators, he helps clients focus their efforts on cases with a favorable mix of facts, law and potential recovery. Mr. Topaz oversees case initiation and development in complex securities fraud, ERISA, fiduciary, antitrust, shareholder derivative, and mergers and acquisitions actions.

Mr. Topaz has counselled clients in high-profile class action litigation stemming from the subprime mortgage crisis, including cases seeking recovery for shareholders in companies affected by the crisis, and cases seeking recovery for 401K plan participants who suffered losses in their retirement plans.

Mr. Topaz's commitment to making things right for clients shows in the cases he pursues. Recognizing the importance of effective corporate governance policies in safeguarding investments, Mr. Topaz has used fiduciary duty litigation to fight for meaningful policy changes. He also played an active role in using option-backdating litigation as a vehicle to re-price erroneously issued options and improve corporate governance.

JOHNSTON DE F. WHITMAN, JR. is a Partner of the Firm, and his primary practice area is securities litigation.

Mr. Whitman represents individual and institutional investors pursuing claims for securities fraud. In this capacity, Mr. Whitman has helped clients obtain substantial recoveries in numerous class actions alleging claims under the federal securities laws, and has also assisted in obtaining favorable recoveries for institutional investors pursuing direct securities fraud claims.

ROBIN WINCHESTER, a Partner of the Firm, represents private investors and public institutional investors in derivative, class and individual actions and has helped recover hundreds of millions of dollars for corporations and stockholders injured by purported corporate fiduciaries.

Ms. Winchester has extensive experience in federal and state stockholder litigation seeking to hold wayward fiduciaries accountable for corporate abuses.

Ms. Winchester seeks not only to recover losses for the corporations and stockholders who have been harmed but also to ensure corporate accountability by those who have been entrusted by stockholders to act as faithful fiduciaries. She litigates cases involving all areas of corporate misconduct including excessive executive compensation, misuse and waste of corporate assets, unfair related-party transactions, failure to ensure compliance with state and federal laws, insider selling and other breaches of fiduciary duty which impinge on stockholder rights. Ms. Winchester has successfully resolved dozens of cases which have required financial givebacks as well as the implementation of extensive corporate governance reforms that will hopefully prevent similar misconduct from recurring, strengthen the company, and make the members of the board of directors more effective and responsive representatives of stockholder interests.

MELISSA L. YEATES, is a Partner in the Firm's Fiduciary, Consumer Protection, and Antitrust Group. A seasoned litigator with nearly two decades of experience litigating in federal courts nationwide, Ms. Yeates manages and litigates complex class action litigation, with a focus on consumer fraud, unfair trade practices, breach of contract and implied duties, warranty, and antitrust actions.

Ms. Yeates has played a leading role in the Firm's successful litigation of claims against numerous large corporations accused of defrauding consumers and engaging in anticompetitive conduct. Her practice has also focused on new matter development, including the investigation and analysis of consumer fraud, antitrust, and securities matters. Prior to joining the Firm, Ms. Yeates clerked for the Honorable Stanley S. Brotman in the District of New Jersey and defended corporations in complex commercial, antitrust, product liability, and patent matters. Ms. Yeates's 12 years of experience as a litigator at large defense firms makes her uniquely suited to evaluate potential claims, develop litigation strategy, and negotiate cooperatively and effectively with defense counsel. Ms. Yeates currently represents consumers and entities in class action litigation against, among others, General Motors Company, FCA US LLC, Toyota Motor Corporation, Bank of Nova Scotia, Netflix, Hulu, State Farm Mutual Automobile Insurance Company, and the federal government.

ERIC L. ZAGAR, a Partner of the Firm, co-manages the Firm's Mergers and Acquisitions and Shareholder Derivative Litigation Group, which has excelled in the highly specialized area of prosecuting cases involving claims against corporate officers and directors.

Since 2001, Mr. Zagar has served as lead or co-lead counsel in numerous shareholder derivative actions nationwide and has helped recover billions of dollars in monetary value and substantial corporate governance relief for the benefit of shareholders.

TERENCE S. ZIEGLER is a Partner of the Firm and has worked since 2005. Since joining the Firm, he has focused his practice on antitrust and complex consumer litigation. Mr. Ziegler is currently involved in a number of class action lawsuits against large pharmaceutical manufacturers in antitrust cases alleging improper reverse payment and generic suppression schemes.

Mr. Ziegler also served as a special assistant attorney general to several states in litigation involving the sales and marketing practices of major pharmaceutical companies. These cases led to important injunctive relief and significant monetary recovery for those states.

Mr. Ziegler's extensive experience in complex cases also includes consumer class actions alleging improper insurer and lender practices in violation of RICO and RESPA.

Examples of Mr. Ziegler's recent notable cases include *In re Flonase Antitrust Litigation* (\$150 million settlement on behalf of direct purchasers); *In re Wellbutrin SR Antitrust Litigation* (\$21.5 million settlement on behalf of end-payers); *Alston v. Countrywide, et al.* (\$34 million settlement on behalf of borrowers); and *Ligouri v. Wells Fargo & Co., et al.* (\$12.5 million settlement on behalf of borrowers).

Mr. Ziegler received his bachelor's degree from Loyola University in 1989. He earned his juris doctor from Tulane University in 1992. He is a member of the Pennsylvania and Louisiana bars and is admitted to practice in several federal district and appellate courts across the country.

ANDREW L. ZIVITZ, a Partner of the Firm, has achieved extraordinary results in securities fraud cases. His work has led to the recovery of more than \$1 billion for damaged clients and class members.

Mr. Zivitz has represented dozens of major institutional investors in securities class actions and private litigation. He is skilled in all aspects of complex litigation, from developing and implementing strategies, to conducting merits and expert discovery, to negotiating resolutions. Mr. Zivitz has served as lead or co-lead counsel in many of the largest securities class actions in the U.S., including cases against Bank of America, Celgene, Goldman Sachs, Hewlett-Packard, JPMorgan, Pfizer, Tenet Healthcare, and Walgreens.

Mr. Zivitz'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 dispositive motions before federal district and appeals courts throughout the country.

COUNSEL

ASHER S. ALAVI, Counsel to the Firm, concentrates his practice exclusively on whistleblower litigation, particularly cases brought under the qui tam provisions of the federal False Claims Act. Mr. Alavi has worked on a variety of whistleblower cases involving fraud against government programs, including cases involving healthcare fraud, kickback violations, and government contract fraud. Asher has devoted his entire post-college career to working on behalf of whistleblowers, both as a lawyer and as an advocate for whistleblower rights. During law school, Mr. Alavi served as a Note Editor for Boston College Law School's Journal of Law and Social Justice, and interned with the Department of Justice's Office of Professional Responsibility.

JENNIFER L. ENCK, Counsel to the Firm, concentrates her practice in the area of securities litigation and settlement matters. Ms. Enck's practice includes negotiating and documenting complex class action settlements, obtaining the required court approval for settlements and developing and assisting with the administration of class notice programs.

LISA LAMB PORT, Counsel to the Firm, concentrates her practice on consumer, antitrust, and securities fraud class actions. Ms. Lamb Port received her law degree, Order of the Coif, summa cum laude, from the Villanova University School of Law in 2003 and her Bachelor of Arts, cum laude, from Princeton University in 2000. Ms. Lamb Port is licensed to practice law in the Commonwealth Pennsylvania.

Prior to joining Kessler Topaz, Ms. Lamb Port was a partner at another class action firm, where she represented institutional and individual investors in securities fraud, breach of fiduciary duty, and shareholder derivative cases, as well as in litigation resulting from mergers and acquisitions.

DONNA SIEGEL MOFFA serves as Counsel to the Firm. Throughout her career, both in private practice and in her early years as an attorney in the Bureau of Consumer Protection at the Federal Trade Commission in Washington, D.C., she has concentrated her work in the area of consumer protection litigation. Ms. Moffa has substantial experience handling and supervising all aspects of the prosecution and resolution of national class action litigation asserting claims challenging predatory lending, lending discrimination, violations of RESPA, consumer fraud and unfair, deceptive and anticompetitive practices in federal courts throughout the country. Currently, Ms. Moffa is involved in a number of antitrust class action lawsuits alleging that large pharmaceutical manufacturers have engaged in improper reverse payment and generic suppression schemes.

Ms. Moffa also has been involved in significant appellate work, in both state and federal appeals courts representing individuals, classes, and non-profit organizations participating as amici curiae in appeals.

JONATHAN NEUMANN, Counsel to the Firm, concentrates his practice on securities fraud and fiduciary matters. Mr. Neumann represents sophisticated investors in complex litigation brought under federal and state laws. In this role, Mr. Neumann has litigated many high stakes cases from the pleading stage to the eve of trial, resulting in substantial recoveries for aggrieved investors.

Prior to joining the Firm, Mr. Neumann served as a law clerk to the Hon. Douglas E. Arpert of the United States District Court for the District of New Jersey. While in law school, Mr. Neumann was an editor for the Temple International and Comparative Law Journal and a member of the Moot Court Honor Society.

MICHELLE M. NEWCOMER, Counsel to the Firm, concentrates her practice in the area of securities litigation. Ms. Newcomer has been involved in dozens of 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, for class certification and for summary judgment, conducting document, deposition and expert discovery, and appeals. Ms. Newcomer was also part of the trial team in the Firm's most recent securities fraud class action trial, which resulted in a jury verdict on liability and damages in favor of investors.

Ms. Newcomer has represented many types of individual and institutional investors, including public pension funds, asset managers and Sovereign Wealth Funds. Ms. Newcomer's experience includes traditional class actions, direct actions, and non-U.S. collective actions.

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.

ASSOCIATES

MATTHEW C. BENEDICT, an Associate of the Firm, concentrates his practice in the area of mergers and acquisition litigation and stockholder derivative litigation. Mr. Benedict has represented both plaintiffs and defendants in numerous high-profile securities fraud class actions concerning Wall Street institutions' conduct before, during, and in the wake of the 2008 financial crisis.

CAMERON N. CAMPBELL, an Associate of the Firm, concentrates her practice in the areas of Corporate Governance and merger and acquisition litigation. Cameron graduated from the Villanova University Charles Widger School of Law in 2020. While in law school, Cameron interned as a law clerk to the Hon. George A. Pagano of the Delaware County Court of Common Pleas and as a summer associate at Grant & Eisenhofer, P.A. Cameron was also a member of the Villanova Trial Team and the Student Bar Association. Prior to joining the Firm, Cameron practiced corporate governance and mergers and acquisition litigation at a prominent plaintiff's firm in Wilmington, Delaware.

VARUN ELANGO VAN, an Associate of the Firm, concentrates his practice in the area of consumer protection. Varun received his JD from Georgetown University Law Center in 2022 and his undergraduate degree from DePaul University in 2015. While at Georgetown, Varun served as an Executive Online Editor for The Georgetown Law Journal from 2021 to 2022. He is licensed to practice in Pennsylvania.

CONNOR T. FOLEY, an Associate of the Firm, focuses his practice in the areas of securities litigation and qui tam actions. Mr. Foley received his law degree from the Temple University Beasley School of Law in 2023 and his undergraduate degree from Georgetown University in 2019. While in law school, Mr. Foley interned at the Department of Justice's Civil Division: Aviation, Space and Admiralty Section.

ALEX B. HELLER, an Associate of the Firm, concentrates his practice in the areas of securities litigation and corporate governance. Mr. Heller received his law degree from the George Mason University Antonin Scalia Law School in 2015 and his undergraduate degree from American University in 2008. While in law school, Mr. Heller served as an associate editor for the George Mason Law Review. Prior to joining the Firm, Mr. Heller was a partner at a plaintiffs' litigation firm, where he served as chair of the shareholder derivative litigation practice group. Mr. Heller is a Certified Public Accountant (CPA). Prior to his legal career, Mr. Heller practiced as a CPA for several years, advising businesses and auditing large corporations.

EVAN R. HOEY, an Associate of the Firm, focuses his practice in 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.

DYLAN J. ISENBERG, an Associate of the Firm, focuses his practice in securities litigation. Mr. Isenberg graduated cum laude from Temple University's James E. Beasley School of Law and received his undergraduate degree in Government from Hamilton College. While in Law School, Mr. Isenberg served as a judicial intern to the Hon. Noel L. Hillman of the U.S. District Court for the District of New Jersey and to the Hon. Ashley M. Chan of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania. Prior to law school, Mr. Isenberg lobbied on behalf of national trade associations and worked for a member of the U.S. Senate.

JORDAN E. JACOBSON, an Associate of the Firm, concentrates her practice in consumer protection and antitrust litigation. Ms. Jacobson received her law degree from Georgetown University in 2014 and her undergraduate degrees in history and political science from Arizona State University in 2011. Prior to joining the Firm, Ms. Jacobson clerked for the honorable Deborah J. Saltzman, United States Bankruptcy Judge, in the Central District of California. Ms. Jacobson was also previously an associate at a large defense firm, and an attorney in the General Counsel's office of the Pension Benefit Guaranty Corporation in Washington, D.C. Ms. Jacobson is licensed to practice law in Pennsylvania, California, and Virginia.

MAX S.S. JOHNSON, an Associate of the Firm, focuses his practice in securities litigation. Mr. Johnson graduated magna cum laude from the Pepperdine Caruso School of Law in 2022. While at Pepperdine, Mr. Johnson served as a Literary Citation Editor for the Pepperdine Law Review. Prior to attending law school, Mr. Johnson earned his undergraduate degree from the University of Puget Sound in the Business Leadership Program

KEVIN M. KENNEDY, an Associate of the Firm, concentrates his practice on the areas of corporate governance and merger and acquisition litigation. Kevin received his law degree from Temple University's Beasley School of Law in 2022 and his undergraduate degree from La Salle University in 2010. While in law school, Kevin interned as a law clerk to the Hon. Anthony J. Scirica of the Third Circuit Court of Appeals. Kevin also served as a Note/Comment Editor and the Symposium Editor for the Temple Law Review.

JOSHUA S. KESZCZYK, an Associate of the Firm, concentrates his practice in new matter development with a focus on analyzing securities class action lawsuits and direct (or opt-out) actions. Prior to joining the firm, Joshua was an associate at Dechert LLP, where he focused his practice on secured financial transactions involving various asset classes.

LAUREN C. LUMMUS, an Associate of the Firm, concentrates her practice in the areas of corporate governance and merger and acquisition litigation. Mr. Lummus received her law degree from the Temple University Beasley School of Law in 2022 and her undergraduate degree from Haverford College in 2017. While in law school, Lauren interned as a law clerk for the Honorable Carolyn H. Nichols of the Pennsylvania Superior Court and U.S. Magistrate Judge Timothy R. Rice of the U.S. District Court for the Eastern District of Pennsylvania. Mr. Lummus also served as Co-President of the Women's Law Caucus, Research Editor for the Temple International & Comparative Law Journal, and Teaching Assistant for two legal research and writing courses.

MATTHEW T. MACKEN, an Associate of the Firm, concentrates his practice in consumer protection. Mr. Macken graduated from Temple University's Beasley School of Law in 2022. During law school, Mr. Macken served as Managing Editor of the Temple Law Review. As a student, Mr. Macken interned for a judge in the U.S. District Court for the Eastern District of Pennsylvania, as well as in Philadelphia Legal Assistance's Unemployment Compensation Unit and Community Legal Services' Homeownership and Consumer Rights Unit.

AUSTIN W. MANNING, an Associate of the Firm, graduated magna cum laude from Temple University's James E. Beasley School of Law and received her Bachelor of Science in Economics from Penn State University. During law school, Ms. Manning served as a Staff Editor for the Temple Law Review. In her final year, she studied at the University of Lucerne in Lucerne, Switzerland where she received her Global Legal Studies Certificate with a focus on international economic law, human rights, and sustainability. While in Law School, Ms. Manning served as a judicial intern to the Hon. Michael M. Baylson of the U.S. District Court for the Eastern District of Pennsylvania and to the Hon. Arnold L. New of the Pennsylvania Court of Common Pleas. Prior to joining the firm, Ms. Manning was a regulatory and litigation associate for a boutique environmental law firm in the Philadelphia area.

MICHAEL W. MCCUTCHEON, an Associate of the Firm, concentrates his practice in the areas of corporate governance and mergers & acquisitions litigation. Mr. McCutcheon graduated cum laude from Rutgers Law School in 2021, earning a certificate in corporate and business law for completing a specialized curriculum in those subjects. He earned his bachelor of science degree from the University of Delaware in 2017, majoring in economics and finance. While in law school, Mr. McCutcheon served as an Executive Board member for the moot court program, and was a Staff Editor for the Rutgers Journal of Law and Public Policy. He also interned for the Honorable Donald J. Stein in New Jersey Superior Court, General Civil Division. Prior to joining KTMC, Mr. McCutcheon clerked for a corporate litigation firm in Wilmington, Delaware.

VANESSA M. MILAN, an Associate of the Firm, concentrates her practice in the area of securities fraud litigation. Ms. Milan is an associate in the Firm's Philadelphia office and received her law degree from Temple University Beasley School of Law in 2019 and her undergraduate degrees in Government & Law and English from Lafayette College in 2016. While in law school, Ms. Milan served as an Articles Editor for the Temple Law Review. Prior to joining the firm, Ms. Milan served as a judicial law clerk to the Honorable Robert D. Mariani, United States District Court Judge for the Middle District of Pennsylvania. Ms. Milan is licensed to practice law in New York and Pennsylvania.

JONATHAN NAJI, an Associate of the Firm, develops and initiates cases involving shareholder derivative and securities fraud, class and individual actions. Mr. Naji seeks to help individuals recover losses caused by unlawful conduct. Mr. Naji received his law degree from Temple University Beasley School of Law and graduated from Franklin & Marshall College. In law school, Mr. Naji interned as a law clerk to the Honorable C. Darnell Jones II of the United States District Court for the Eastern District of Pennsylvania and worked as a summer associate at Berger Harris, LLP.

KYE KYUNG (ALEX) PARK, an Associate of the Firm, concentrates his practice in consumer protection. Mr. Park received his law degree from Temple University James E. Beasley School of Law in 2022 and his undergraduate degree from University of North Carolina at Chapel Hill in 2016. During law school, Mr. Park served as Staff Editor of the Temple Law Review. He is licensed to practice in Pennsylvania.

ANDREW M. ROCCO, an Associate of the Firm, focuses his practice in securities litigation. Andrew received his JD from the University of Pennsylvania Carey Law School in 2021 and his undergraduate degree from Rowan University in 2016. He is licensed to practice in Pennsylvania. Prior to joining the Firm, Andrew was an associate at Dechert LLP, where he focused his practice on secured financial transactions involving various asset classes.

BARBARA SCHWARTZ, an Associate of the Firm, concentrates her practice on new matter development with a focus on analyzing consumer and antitrust class action lawsuits. Ms. Schwartz received her law degree from Yale Law School in 2013 and her undergraduate degree from Temple University in 2010. Prior to joining the firm, Ms. Schwartz was an associate with Duane Morris, where she handled various complex commercial and antitrust matters.

FARAI VYAMUCHARO-SHAWA, an Associate of the Firm, concentrates his practice in the areas of securities litigation and corporate governance. Mr. Shawa graduated from the Temple University Beasley School of Law in 2021. While in law school, Mr. Shawa worked as a legal intern with the Philadelphia Eagles and as a summer associate at Skadden Arps Slate Meagher and Flom LLP. Mr. Shawa was also a member of the Temple Trial Team, ICC Moot Court Team and President of the International Law Society. Prior to joining the Firm, Mr. Shawa practiced corporate litigation at a prominent defense firm in Wilmington, Delaware.

NATHANIEL SIMON, an Associate of the Firm, concentrates his practice in securities litigation. Before joining the firm, Mr. Simon served as a judicial law clerk to the Honorable Mark A. Kearney, United States District Judge for the Eastern District of Pennsylvania. Mr. Simon received his law degree from Villanova University, Charles Widger School of Law in 2018 and his undergraduate degree from Gettysburg College in 2014. While in law school, Mr. Simon served as an Articles Editor for the Villanova Law Review.

ZACHARY M. WINKLER, an Associate of the Firm, concentrates his practice in securities litigation. Mr. Winkler earned his law degree from Georgetown University Law Center, where he was selected to the Barristers' Council honors society, competed with the trial advocacy team, and was a Teaching Fellow. He was also named a Special Pro Bono Honoree in recognition of his 100+ hours of pro bono service. During law school, he served as a legal fellow for Congressman Brendan F. Boyle and as a law clerk for the Honorable J.P. Howard, District of Columbia Office of Administrative Hearings. Mr. Winkler earned his undergraduate degree from Vanderbilt University. He is licensed to practice in Pennsylvania.

STAFF ATTORNEYS

[SARA ALSALEH](#), a Staff Attorney of the Firm, received her law degree from Widener University School of Law in Wilmington, Delaware and her undergraduate degree in Marketing, with a minor in International Business, from Pennsylvania State University in State College, Pennsylvania. Ms. Alsaleh currently concentrates her practice at the Firm in the area of securities fraud litigation.

Prior to joining the Firm, Ms. Alsaleh practiced in the areas of pharmaceutical & health law litigation. Ms. Alsaleh clerked at the U.S. Food and Drug Administration, as well as the Delaware Department of Justice (Consumer Protection & Fraud Division), where she was heavily involved in protecting consumers within a wide variety of subject areas.

[LAMARLON R. BARKSDALE](#), a Staff Attorney of the Firm, was a former Assistant District Attorney in the Philadelphia DA's Office and veteran of the US Navy.

Mr. Barksdale has experience with securities fraud litigation, complex pharmaceutical litigation, criminal litigation and bankruptcy litigation. Mr. Barksdale has also lectured criminal law courses at Delaware Technical and Community College, Newark, Delaware. At KTMC, Mr. Barksdale practices in the area of securities fraud litigation.

[ELIZABETH W. CALHOUN](#), a Staff Attorney of the Firm, concentrates her practice in securities litigation. Ms. Calhoun has represented investors in major securities fraud and has also represented shareholders in derivative and direct shareholder litigation.

Ms. Calhoun has over ten years of experience in pharmaceutical-related litigation including both securities and products liability matters. Prior to joining Kessler, Topaz, Meltzer & Check, Ms. Calhoun was employed with the Wilmington, Delaware law firm of Grant & Eisenhofer, P.A. and before that was an associate in the Philadelphia offices of Dechert, LLP and Ballard Spahr, LLP.

[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 K. 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.

DEEMS A. FISHMAN, a Staff Attorney of the Firm, concentrates his practice in the area of Securities Fraud.

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.

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.

CANDICE L.H. HEGEDUS, a Staff Attorney of the Firm, concentrates her practice in securities fraud class actions. She received her law degree from Villanova University Charles Widger School of Law and her Bachelor of Arts from Muhlenberg College, cum laude. Ms. Hegedus is licensed to practice in Pennsylvania.

Prior to joining the firm, Ms. Hegedus spent several years at another class action litigation firm where she practiced in the areas of securities fraud, antitrust and consumer matters.

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.

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 mergers 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.

TIMOTHY A. NOLL, a Staff Attorney of the Firm, concentrates his practice in the area of securities fraud litigation. Mr. Noll received his law degree from the Southwestern University School of Law and his undergraduate degree in Communications from Temple University. Prior to joining the Firm, Mr. Noll was a staff attorney at Grant & Eisenhofer, P.A. and also worked in pharmaceutical litigation.

ANDREW M. PEOPLES, a Staff Attorney of the Firm, concentrates his practice in the area of Consumer Protection.

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. SECHRIST, a Staff Attorney of 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.

ROBERTA A. SHANER, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. She received her JD degree from the New York University School of Law. She graduated from Dartmouth College with a BA in Asian Area Studies. Ms. Shaner is licensed in Pennsylvania.

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. Prior to joining Kessler Topaz, Mr. Steinbrecher worked in pharmaceutical litigation.

ERIN E. STEVENS, a Staff Attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Stevens was a former associate attorney at a general practice firm where she litigated for a variety of civil and bankruptcy cases.

BRIAN W. THOMER, a Staff Attorney of the Firm, concentrates his practice in the area of securities fraud litigation. Prior to joining Kessler Topaz, Mr. Thomer worked in pharmaceutical litigation.

KURT W. WEILER, a Staff Attorney of the Firm, concentrates his practice in the area of securities litigation. Prior to joining the Firm, Mr. Weiler was associate corporate counsel for a publicly-traded, Philadelphia-based mortgage company, where he specialized in the areas of loss mitigation and bankruptcy.

[ANNE M. ZANESKI](#), is a Staff attorney in the Firm's Securities Practice Group. Ms. Zaneski focuses her practice in the areas of securities and consumer litigation on behalf of institutional and individual investors. Selected matters that Ms. Zaneski has been involved with include the Valeant Pharmaceuticals-Pershing Square Capital insider trading certified class action team (\$250 million settlement) and Lehman Brothers securities fraud litigation co-counsel team (\$616 million settlement).

Prior to joining the Firm, Ms. Zaneski was an associate with a New York securities litigation boutique law firm where she was part of the team on the *Engel, et al. v. Refco* commodities case at the National Futures Association still one of the largest collected arbitration awards (\$43 million) on behalf of public customers against a brokerage firm. Ms. Zaneski also previously served as a legal counsel for the New York City Economic Development Corporation and New York City Industrial Development Agency in the areas of project finance, bond financing and complex litigation, involving infrastructure projects in a variety of industries including healthcare, education and sports and entertainment, and facilitating tax-exempt and taxable financings. While in law school, Ms. Zaneski was a recipient of the CALI Excellence Award and Kosciuszko Foundation Scholarship and a member of the Securities Arbitration Clinic.

PROFESSIONALS

JUSTIN CHANEY, Client Services Representative at the Firm, concentrates his practice in the Business Development Department where he is responsible for onboarding new clients and liaising between the firm, its clients, and their custodian banks.

Mr. Chaney also provides quality control oversight for ongoing client data collection and online reporting access. He has over two decades of experience in litigation support, and holds an M.B.A. and a B.S. in Organizational Management. Mr. Chaney joined the Firm in 2019.

JEAN F. CHUBA, serves as the Director of Operations for Portfolio Monitoring & Claims Administration, overseeing the Operations Team responsible for supporting the Firm's comprehensive *SecuritiesTracker*[™] service available to institutional investors. In this role, Ms. Chuba provides vision, direction and oversight to several teams, including client services, client implementation, data intake, claims administration and payments, and client reporting.

Ms. Chuba has over 18 years of experience at Kessler Topaz working with institutional investors and securities class actions, having previously worked as a paralegal in the Firm's Lead Plaintiff department and as a manager of claims administration and client reporting. From her experience and vast knowledge of all of these areas, Ms. Chuba is well equipped to continuously optimize workflow and productivity across the department to best serve the Firm's institutional clients participating in the *SecuritiesTracker*[™] program.

BRAM HENDRIKS, European Client Relations Manager at 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, Mr. Hendriks' advises on corporate governance issues and strategies for active investment.

Mr. Hendriks' 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, Mr. Hendriks' 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, Mr. Hendriks' is available to meet with clients personally and provide hands-on-assistance when needed.

WILLIAM MONKS, CPA, CFF, CVA, Director of Investigative Services at 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.

Mr. Monks’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, Mr. Monks worked on 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, Mr. Monks 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.

Mr. Monks 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.

Mr. Monks 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 Mr. Monks 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.

Mr. Monks 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 Mr. Monks believes, one person with conviction can make all the difference. Mr. Monks 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.

MICHAEL G. KANIA, Client Implementation and Data Manager at the Firm, has over 20 years of experience in securities custody operations, specializing in securities class actions, corporate actions, and proxy voting. Mr. Kania has designed and built securities class action claims processes and applications to support the filing and payment of tens of thousands claims annually, recovering billions of dollars for damaged investors. Mr. Kania has worked with some of largest institutional investors worldwide to educate them about the securities litigation process and to provide or suggest securities litigation solutions to meet their needs. Prior to joining the Firm, Mr. Kania was employed with The Bank of New York Mellon, where he was a Vice President and Manager in Asset Servicing (Securities Custody) Operations.

KATHLEEN MCGUIGAN, serves as the Manager of the Firm's Claims Administration Department. In this role, Ms. McGuigan oversees the analysis of transactional data from the Firm's clients and manages the preparation and filing of proof of claim forms in securities class action settlements. Ms. McGuigan also oversees the Firm's claims auditing services. Ms. McGuigan has been with the Firm for 7 years.

MICHAEL A. PENNA, serves as the Firm's Client Relations Manager and focuses specifically on the Taft-Hartley community. Coming from a family with a long line of labor union workers, Mr. Penna followed suit and has over 10 years of experience in servicing the Taft-Hartley world in finance and accounting.

Prior to joining the firm, Mr. Penna served in many roles in the Taft-Hartley world, spending seven years as an auditor for various labor union funds across the country followed by becoming the assistant controller for the Iron Workers District Council of Philadelphia.

KATELYN A. ROSENBERG, is the manager of the Settlement Claims Payments Team. Ms. Rosenberg oversees all incoming settlement payments and organization of outgoing payments to our clients. She began her work at Kessler Topaz with the Data Intake Team before shifting gears to work as a Claims Payment Analyst, and eventually to Manager of the Settlement Claims Payments Team. Prior to working for Kessler Topaz her background was primarily in education and school counseling.

NICOLE B. SCHOEFLING, serves as the Marketing and Business Development Manager of the Firm. Ms. Schoeffling focuses on promoting Kessler Topaz's capabilities through various efforts including brand-building, key initiatives, writing engagements, RFP submissions, event partnerships, presentations, and award nominations.

In addition, Ms. Schoeffling manages Kessler Topaz's online presence including the website, social media, and online publications. After graduating from the University of Pennsylvania's software engineer program in 2019, Ms. Schoeffling developed and redesigned the Firm's website.

CHRISTOPHER T. SMITH, Senior Portfolio Analyst at the Firm, concentrates his practice in the area of business development for securities fraud litigation, opt out and direct actions, and global portfolio monitoring for institutional investors.

Mr. Smith has over 15 years of experience in financial services community, beginning his career at PaineWebber/UBS in their Philadelphia office. Prior to joining Kessler Topaz, Mr. Smith worked in case development for Wapner Newman, where he helped develop cases for the firm's FINRA Arbitration Practice.

IAN YEATES, Director of Financial Research & Analysis at Kessler Topaz brings a wealth of experience in investment research and data analysis to the firm. Mr. Yeates leads a group of professionals within Kessler Topaz's Lead Plaintiff Department that are dedicated to protecting the firm's clients by identifying and researching corporate fraud or malfeasance that has resulted in harm to investors and other stakeholders. By leveraging the firm's resources and technology, Mr. Yeates and his team efficiently evaluate and identify potential new matters to pursue on behalf of Kessler Topaz's clients.

Prior to joining Kessler Topaz, Ian spent several years in the private equity industry. Mr. Yeates spent four years with Hamilton Lane Advisors, L.P. before joining the National Bank of Kuwait ("NBK") in New York. At NBK, Mr. Yeates was part of a team tasked with evaluating, structuring and monitoring investments for the bank's proprietary private equity portfolio.

JUAN PABLO VILLATORO, Head of the Firm's *SecuritiesTracker*[™] Development. Mr. Villatoro has over 15 years of experience and is responsible for driving continuous improvement and best practices for portfolio monitoring and claims filing for the U.S. and international institutional investors. As a visionary, accomplished Operations and Development Executive, Mr. Villatoro has become an expert in US and non-U.S. securities litigation for domestic and international clients on numerous opt-in securities matters. Over the last few years, Mr. Villatoro has spearheaded the development of best-in-class Securities Litigation Class Action monitoring and claims filing platforms. He is responsible for the development and design of technology platforms and the creation and maintenance of databases and sophisticated data analytics.

EXHIBIT 7

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

KPH HEALTHCARE SERVICES, INC. A/K/A
KINNEY DRUGS, INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,

Plaintiff,

v.

MYLAN N.V., *et al.*,
Defendants.

Case No. 20-cv-2065-DDC-TJJ

**DECLARATION OF TRACY M. HANSON REGARDING
(A) DISSEMINATION OF THE NOTICE AND (B) REPORT ON REQUESTS FOR
EXCLUSION AND OBJECTIONS, IF ANY, RECEIVED TO DATE**

I, Tracy M. Hanson, hereby declare and state as follows:

1. I am a Project Manager with A.B. Data, Ltd. (“A.B. Data”). I am familiar with the facts contained herein based upon my personal knowledge and, if called as a witness, could and would testify competently thereto. I submit this Declaration at the request of Co-Lead Settlement Class Counsel in connection with the above-captioned action (the “Action”).

2. A.B. Data was appointed by the Court in its Order dated March 28, 2024 (ECF No. 393), as amended by the Court’s April 3, 2024, Order (ECF No. 394), to serve as Settlement Administrator for the direct purchaser class settlement with Pfizer in this case. A.B. Data’s duties in this case include administering the distribution of notice of the Settlement to Class Members. I submit this Declaration to advise the Court of A.B. Data’s activities concerning distribution of notice and the results.

Direct Mail Notice

3. A.B. Data obtained from Co-Lead Settlement Class Counsel a listing of 74 potential Settlement Class Members based on transactional data obtained in this litigation. A.B. Data supplemented the provided list with mailing addresses through the review of A.B. Data’s own

records from other direct purchaser pharmaceutical matters that A.B. Data administered, and through independent research.

4. As a result of these efforts, A.B. Data located a total of 202 mailing addresses for the 74 potential Settlement Class Members.

5. On April 24, 2024, A.B. Data arranged for the mailing via First-Class U.S. Mail of the Long-Form Notice (the “Notice”) to all 74 potential Settlement Class Members.¹ On the same day, A.B. Data posted the Notice on www.EpiPenDPPSettlement.com, the case-specific website created for this Settlement. A copy of the Notice is attached hereto as **Exhibit A**.

6. In sum, A.B. Data caused 202 Notices to be mailed to 74 potential Settlement Class Members.

7. A.B. Data is tracking the Notice mailing. No mailed Notices have been returned as undeliverable as of the date of this Declaration. If the Notice to a potential Settlement Class Member is returned as undeliverable as addressed by the United States Postal Service, A.B. Data will perform additional research to locate an updated address, and where an updated address is located, A.B. Data will promptly remail the Notice to the updated address.

8. A reminder notice will be mailed via First-Class U.S. Mail to all identified Settlement Class Members by May 22, 2024.

Media Notice

9. To supplement direct notice efforts, beginning on May 2, 2024, A.B. Data caused digital banner ads, which are scheduled to continue for 30 days, to appear on The Pink Sheet website. The Pink Sheet reaches over 3,000 of the world’s leading pharmaceutical, contract research organizations (CROs), medical technology, biotechnology, and healthcare service

¹ The Notice was also mailed to the additional addresses for Settlement Class Members where multiple addresses were available.

providers, including the top 50 global pharmaceutical organizations and top 10 CROs. These ads appeared on both desktop and mobile formats. A sample of the digital banner ad is attached as **Exhibit B**.

News Media

10. A.B. Data also caused the Short-Form Notice to be published in *The Wall Street Journal* on May 2, 2024. *The Wall Street Journal* is a national newspaper covering business news and financial information with expanded content in arts, culture, lifestyle, and sports. *WSJ* is one of the most widely read and respected publications globally with over 3 million subscribers. A copy is attached hereto as **Exhibit C**.

11. On May 2, 2024, A.B. Data disseminated a news release via *Business Wire* to announce the Settlements modeled on the Short-Form Notice approved by this Court. This news release distributed via *Business Wire* went to the news desks of approximately 10,000 newsrooms, including those of print, broadcast, and digital websites across the United States. A copy of the news release is attached as **Exhibit D**.

Website and Telephone

12. To assist potential Settlement Class Members in understanding the terms of the Settlements and their rights, A.B. Data established a case-specific toll-free telephone number, email address, and a case-specific website, which were included in the mailed and published notices.

13. On April 24, 2024, A.B. Data established a case-specific toll-free telephone number (866-778-6568) with an interactive voice response (“IVR”) system which provides summary information to frequently asked questions. This also provides callers the opportunity to speak with a live customer support representative.

On April 24, 2024, A.B. Data established a case-specific website, www.EpiPenDPPSettlement.com, and email address, info@EpiPenDPPSettlement.com. The website address appeared on the Notice and all print and digital publications. The website includes case-specific information, including relevant deadlines and downloadable versions of the Notice, Settlement Agreements, Preliminary Approval Order, and other relevant documents. To date, the website has had 76 visitors.

Claims

14. The deadline for Settlement Class Members to postmark or submit a claim online in this action is July 24, 2024. A.B. Data continues to review and process claims; however, certain audits cannot be completed until all claims have been submitted. In A.B. Data's experience, the majority of claims are typically filed close to the claim filing deadline; therefore, A.B. Data expects the claim rate to increase substantially by July 24, 2024.

Requests for Exclusion and Objections

15. The Notice instructs any Settlement Class Member requesting exclusion from the Settlement Class must postmark (if mailed) or submit (if submitted online) such a request on or before May 28, 2024. As of the date of this Declaration, A.B. Data has not received any requests for exclusion.

16. The postmark deadline for a Settlement Class Member to object to the Settlement is also May 28, 2024. The Notice directs members of the Settlement Class to file their objection with the Clerk of the United States District Court for the District of Kansas with copies to Co-Lead Settlement Class Counsel and Settling Defendants' Counsel. As of the date of this Declaration, A.B. Data has not been notified of any objections.

Settlement Administration Billing

17. A.B. Data agreed to be the Settlement Administrator in exchange for payment of its fees and out-of-pocket expenses. As of the date of this Declaration, A.B. Data has incurred fees and expenses in the amount of \$64,668.11. A copy of the invoice is attached as **Exhibit E**.

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

Executed on May 7, 2024.



Tracy M. Hanson

EXHIBIT A

COURT-ORDERED LEGAL NOTICE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

If you purchased EpiPen® or generic EpiPen directly from the manufacturer, you may receive a payment from a \$50 million class action settlement with Pfizer.

A federal court authorized this notice. This is not a solicitation from a lawyer.

If you are a member of the Direct Purchaser Class, your legal rights will be affected whether you act or don't act. Please read this notice carefully.

A proposed settlement ("Settlement") has been reached in a class action lawsuit with Pfizer, Inc., King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC), and Meridian Medical Technologies, Inc. (collectively, "Pfizer"). Under the settlement, Pfizer agreed to pay \$50,000,000 into a settlement fund ("Settlement Fund") for the Direct Purchaser Settlement Class. The settlement is only with Pfizer and resolves only the claims against Pfizer. The Court has not decided who is right.

The lawsuit alleges that Defendants Mylan, N.V., Mylan Pharmaceuticals, Inc., and Mylan Specialty, LP (collectively, "Mylan"), and Pfizer entered into an illegal market allocation agreement with Teva Pharmaceuticals USA, Inc. ("Teva") that substantially delayed the launch of generic EpiPen and unlawfully extended Pfizer's and Mylan's monopoly over the epinephrine autoinjector market. The settlement does not resolve claims against Mylan, and the lawsuit against Mylan will continue until it is resolved.

Generally, the Direct Purchaser Settlement Class is entities that purchased EpiPen or generic EpiPen directly from the manufacturer during the period from March 13, 2014, until April 3, 2024 (the "Class"). The lawsuit and Settlement concern only direct purchasers. You are receiving this notice because records show you may have made qualifying purchases of EpiPen or generic EpiPen.

The full text of the Settlement is available for inspection at www.EpiPenDPPSettlement.com. In the event of any inconsistency between this notice and the terms of the Settlement, the terms of the Settlement control.

This is not intended to be an expression of any opinion by the Court with respect to the truth of the allegations in the Action or the merits of the claims or defenses asserted. This notice is solely to advise you of the proposed Settlement of this Action as to Pfizer and your rights in connection with the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS	
SUBMIT A CLAIM	If you are a member of the Class, you may file a claim by submitting a claim form online at www.EpiPenDPPSettlement.com or by mail. This is the only way to receive a payment. The deadline to postmark or submit your claim online is <u>July 24, 2024</u> .
OBJECT	<p>You may write to the Court about why you do not like the Settlement. The objection deadline is <u>May 28, 2024</u>.</p> <p>Additionally, you may ask to go to the Final Approval Hearing and speak in Court about the fairness of the Settlement.</p> <p>If you object to the Settlement, you are still a member of the Class and you must file a claim to receive a payment.</p>
OPT OUT	You may write to the Settlement Administrator and exclude yourself from the Class. Exclusion allows you to file your own lawsuit. You will not receive any payment and will not be bound by the releases contained in the Settlement if you exclude yourself. The exclusion deadline is <u>May 28, 2024</u> .
DO NOTHING	If you do nothing, you will not receive any payment. You will be bound by the releases contained in the Settlement and will not be able to file or continue to pursue your own lawsuit.

These rights and options are explained in this notice. If you do not act by the deadline for an option, you will lose your right to exercise that option. The Court overseeing this case still has to decide whether to approve the Settlement. You may receive a payment if the Court approves the Settlement and after the period to appeal has expired and/or all appeals have been resolved. Please be patient.

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BASIC INFORMATION

1. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is a class action known as *KPH Healthcare Services, Inc. v. Mylan N.V.*, Case No. 2:20-cv-02065-DDC-TJJ (D. Kan.) (the “Lawsuit” or “Action”). Judge Daniel D. Crabtree of the United States District Court for the District of Kansas is overseeing the lawsuit.

The Lawsuit alleges that Pfizer and Mylan entered into an illegal market allocation agreement with Teva Pharmaceuticals. Plaintiffs allege that pursuant to that agreement, Teva agreed to settle patent litigation with Pfizer related to Teva’s generic EpiPen, and substantially delay launching the product, in exchange for Mylan’s agreement to settle other patent litigation with Teva related to generic Nuvigil. The agreement unlawfully extended Pfizer’s and Mylan’s monopoly power over the epinephrine autoinjector market.

No court, jury, or other authority has decided whether Pfizer engaged in any wrongdoing.

The parties reached this Settlement after a comprehensive mediation process overseen by a neutral, experienced, and well-regarded mediator David W. Aemmer, the Chief Circuit Mediator for the Tenth Circuit Court of Appeals.

2. WHAT IS A CLASS ACTION?

In a class action, one or more people or entities called “named plaintiffs” or “class representatives” (in this case, KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. or “KPH”; FWK Holdings LLC or “FWK”; and César Castillo, LLC; collectively, “Plaintiffs”) sue(s) on behalf of people and entities with similar claims. These people and entities are called a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

3. ARE YOU PART OF THE DIRECT PURCHASER CLASS?

You are part of the Direct Purchaser Class if you are a person or entity in the United States or its territories, possessions, and the Commonwealth of Puerto Rico that purchased EpiPen or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014, until the date on which the Court enters the Preliminary Approval Order.

Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

Receipt of this notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement. If you are a Class Member and you wish to participate in the distribution of proceeds from the Settlement, you are required to submit a claim form available on the Settlement website, www.EpiPenDPPSettlement.com, and supporting documentation, postmarked (if mailed) or submitted online on or before July 24, 2024.

THE SETTLEMENT

4. WHAT DOES THE SETTLEMENT PROVIDE?

If the Settlement is approved by the Court, the Court will enter a Judgment. If the Judgment becomes Final pursuant to the terms of the Settlement Agreement, all Class Members shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all of the Released Claims as defined in the Settlement Agreement. A summary of those Released Claims is included below.

In exchange for Pfizer’s agreement to pay \$50,000,000 into a Settlement Fund, Plaintiffs will ask the Court to dismiss the Action against Pfizer with prejudice and will withdraw and release Pfizer from pending discovery requests in the Action and will not seek future discovery from Pfizer. The Class Members will release all claims alleged against Pfizer in the Action (or arising out of substantially the same subject matter) (1) that were alleged

or could have reasonably been alleged, (2) that concern purchases of EpiPen and/or its generic equivalents and arise under laws relating to antitrust, fraud, unfair competition, unjust enrichment, or consumer protection, and (3) that concern the sale, marketing, or distribution of EpiPen or generic EpiPen.

The Class Members do *not* release any claims asserted against or that could be asserted against Mylan and/or Viatris, Inc.

This Settlement is not intended to release any claims arising in the ordinary course of business between Class Members and Pfizer under the Uniform Commercial Code, the laws of negligence, product liability, implied warranty, contract, express warranty, or personal injury.

Class Members and Pfizer release any and all provisions, rights, and/or benefits conferred by Section 1542 of the California Civil Code and/or any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Class Members and Pfizer also will release any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that is the subject matter of the above releases, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

The Settlement Fund may be reduced in proportion to the *pro rata* share of any Class Members who exclude themselves from the Settlement. The Settlement may be terminated by Pfizer if Class Members representing 8% or more of the total purchases of EpiPen or generic EpiPen exclude themselves from the Class. The Settlement also may be terminated if for any reason the Settlement does not become final. If the Settlement is terminated, the lawsuit will proceed against Pfizer as if a settlement had not been reached.

5. WHY IS THERE A SETTLEMENT?

Neither the Court nor a jury has decided in favor of Plaintiffs or Pfizer. Instead, both sides have agreed to settle after years of hard-fought litigation. If the Court approves the Settlement, the parties will avoid the costs, delay, and uncertainty of continuing the lawsuit, and Class Members will be eligible to receive a payment from the Settlement. The Settlement does not mean that any law was broken or that Pfizer did anything wrong, or that Plaintiffs' allegations are not true. Pfizer denies all legal claims in this case. Plaintiffs and their lawyers are confident in the allegations against Pfizer but think the Settlement is best for the Class.

SETTLEMENT PAYMENTS

6. HOW CAN YOU GET A PAYMENT FROM THE SETTLEMENT?

To retain your right to seek a payment from this Settlement, you must submit a claim form on or before July 24, 2024.

If you have been identified as a Class Member based on available records, you will receive a blank claim form. If you believe you are a Class Member, but you do not receive such a claim form, you can obtain one from the settlement website, www.EpiPenDPPSettlement.com.

You may complete your claim form online at the settlement website, www.EpiPenDPPSettlement.com, or you may print a copy, fill it out, and send it by U.S. Mail to the Settlement Administrator. The claim form includes more detailed instructions.

If you do not submit a timely claim form with all of the required information and supporting records, you will not receive a payment from the Settlement Fund. Unless you expressly excluded yourself from the Class, you will still be bound by the Settlement, the Judgment, and the release contained in them.

7. HOW MUCH WILL YOU RECEIVE FROM THE SETTLEMENT?

Pursuant to the Settlement, a \$50,000,000 settlement fund has been established (the "Settlement Amount"). The Settlement Amount together with any interest earned thereon is the Settlement Fund. The Settlement Fund less:

(a) any taxes and tax expenses; (b) any Notice and Administration Expenses; and (c) any attorneys' fees and litigation expenses and any service awards to Plaintiff Class Representatives in connection with their representation of the Class, awarded by the Court, will be distributed to Class Members under a proposed plan of allocation ("Plan of Allocation") if approved by the Court. The allocation plan proposes distributing the Settlement Fund based on their proportionate share of purchases made during the Class Period. The Court may approve the proposed allocation plan, or modify it, without additional notice to the Class. Any order modifying the allocation plan will be posted on the Settlement website, www.EpiPenDPPSettlement.com.

At this time, it is unknown how much money each Class Member will receive. It will depend on the number of Class Members that submit claim forms and the number of qualifying purchases made by each of those Class Members.

Distributions will be made to Class Members after all claims have been processed, after the Court has finally approved the Settlement, and after any appeals are resolved. If there is any balance remaining in the Settlement Fund after a reasonable amount of time from the initial date of distribution of the Settlement Fund, and if it is feasible, the Settlement Administrator will reallocate such balance among Class Members who successfully received and deposited, cashed, or otherwise accepted a distribution amount, in an equitable fashion. These redistributions shall be repeated until the balance remaining in the Settlement Fund is no longer economically feasible to distribute to Class Members. After that, Class Counsel shall seek the Court's guidance on any *de minimus* balance which remains in the Settlement Fund.

8. WHAT WILL YOU GIVE UP IN EXCHANGE FOR THE SETTLEMENT?

Members of the Class will be bound by all future orders in this case and will be bound by the release as described in Question 4.

More information about the release may be found in the Settlement Agreement, which is available on the settlement website, www.EpiPenDPPSettlement.com.

THE LAWYERS REPRESENTING THE CLASS

9. DO YOU HAVE A LAWYER IN THIS CASE?

The Court appointed the following attorneys as Co-Lead Class Counsel for the Direct Purchaser Settlement Class ("Class Counsel"):

Michael L. Roberts
 Roberts Law Firm US, PC
 1920 McKinney Avenue, Suite 700
 Dallas, TX 75201
 Telephone: (501) 952-8558
 Email: mikeroberts@robertslawfirm.us

Linda P. Nussbaum
 NUSSBAUM LAW GROUP, P.C.
 1133 Avenue of the Americas, 31st Floor
 New York, NY 10036
 Telephone: (917) 438-9102
 Email: lnussbaum@nussbaumpc.com

Class Counsel are experienced in handling similar cases against other companies.

10. HOW WILL THE LAWYERS BE PAID?

Class Counsel will file a motion for an award of attorneys' fees and expenses that will be considered at the Final Approval Hearing. Class Counsel will seek reimbursement for litigation costs and expenses, attorneys' fees of up to one-third of the Settlement Fund, plus interest earned on these amounts at the same rate as earned by the Settlement Fund, and payment of a service award to the class representatives, in recognition of their assistance with developing and pursuing the case.

If the Court grants the lawyers' requests, these payments will be made from the Settlement Fund. You will not have to pay these lawyers out of your own pocket.

The attorneys' fees and expenses requested will be the only payment to Class Counsel for their considerable time and efforts in achieving this Settlement and their risk in undertaking this representation on a wholly contingent basis, including the expenses they advanced without any guarantee of repayment. The Court will decide what constitutes a reasonable fee award and may award less than the amount requested by Class Counsel.

Class Counsel's motion for attorneys' fees, costs and expenses, and the class representative service awards will be filed with the Court and made available for download or viewing on or before May 7, 2024, at www.EpiPenDPPSettlement.com.

WHAT ARE YOUR OPTIONS?

As outlined on Page 2, and as described below, Direct Purchaser Class Members have four options: (1) submit a claim; (2) object to the Settlement; (3) exclude themselves from the Settlement; and/or (4) do nothing. The deadline for each option is listed in this notice. If you do not act by the deadline for an option, you will lose your legal right to exercise that option.

11. OPTION 1 – SUBMIT A CLAIM

You can request a payment from the Settlement by submitting a claim form. Information about how to do this, and the effect of doing this, is outlined in the "Settlement Payments" section on Pages 5-6.

Your claim form must be submitted online or postmarked by July 24, 2024. If your claim form is not submitted online or postmarked by that date, you will lose the ability to get a payment from this settlement.

12. OPTION 2 – OBJECT TO THE SETTLEMENT

If you are a Class Member, you may tell the Court what, if anything, you do not like about the Settlement, the plan of allocation, and/or Class Counsel's request for an award of attorneys' fees, reimbursement of costs and expenses, and class representative service awards, by filing an objection. For your objection to be considered, you must file your objection, accompanied by proof that you are a Class Member, with the Clerk of the Court by May 28, 2024, at the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101. If your written objection is not filed by that date, you will lose the ability to object to the Settlement. You must also mail a copy of your objection to the following Class Counsel and counsel for Pfizer:

To Plaintiffs and the Class:	To Pfizer:
Michael L. Roberts ROBERTS LAW FIRM US, PC 1920 McKinney Avenue, Suite 700 Dallas, TX 75201 Linda P. Nussbaum NUSSBAUM LAW GROUP, P.C. 1133 Avenue of the Americas, 31 st Floor New York, NY 10036	Raj Gandesha White & Case LLP 1221 Avenue of the Americas New York, NY 10020

Counsel must receive your objection by the same date, May 28, 2024.

Your objection must consist of a signed letter stating that you wish to object to the proposed settlement. Any objection must: (i) state the name, address, and telephone number of the objector and must be signed by the objector even if represented by counsel; (ii) state that the objector is objecting to the proposed Settlement, plan of allocation, and/or request of an award of attorneys' fees, reimbursement of costs and expenses, and class representative service awards; (iii) state the objection(s) and the specific reasons for each objection, including any legal and evidentiary support the objector wishes to bring to the Court's attention; (iv) state whether the objection applies only to the objector, to a subset of the Class, or to the entire Class; (v) identify all class actions to which the objector and his, her, or its counsel has previously objected; (vi) include documents sufficient to prove the objector's membership in the Class; (vii) state whether the objector intends to appear at the Fairness Hearing; (viii) if the objector intends to appear at the Fairness Hearing through counsel, state the identity of all

attorneys who will appear on the objector’s behalf at the Fairness Hearing; and (ix) state that the objector submits to the jurisdiction of the Court with respect to the objection or request to be heard.

Any Class Member who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall be forever foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Settlement Agreement, to the plan of allocation, or to the award of fees and costs and expenses to Class Counsel or any service awards to Plaintiffs, unless otherwise ordered by the Court.

If you object, you will remain a member of the Class, so in order to retain your right to seek a payment from the Settlement, you also must file a claim form by July 24, 2024, as described above.

13. OPTION 3 – OPT OUT

If you do not want the benefits offered by the Settlement and do not want to be legally bound by the terms of the Settlement, and/or if you wish to pursue your own separate lawsuit against the Pfizer Defendants, you must exclude yourself from the Class. Your request to be excluded must include (i) your name and address, (ii) a statement that you want to be excluded from the Settlement Class, and (iii) your signature.

Your request to be excluded must be postmarked (if mailed) or received (if submitted online) by May 28, 2024.

14. OPTION 4 – DO NOTHING

If you are a Class Member and you do nothing, you will remain in the Class and be bound by all orders in this lawsuit. You will also give up the right to seek a payment from the Settlement, to object to the Settlement, to speak at the hearing about the Settlement, or to be part of another lawsuit against Pfizer for any and all claims released by this Settlement Agreement.

FINAL APPROVAL HEARING

15. WHEN IS THE FINAL APPROVAL HEARING?

The Court will hold a Fairness Hearing on June 25, 2024, at 9:00 a.m. Central Time, before the Honorable Daniel D. Crabtree, United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101, Courtroom 476, for the purpose of determining whether (1) the Settlement as set forth in the Settlement Agreement for \$50,000,000 in cash should be approved by the Court as fair, reasonable, and adequate; (2) the Judgment as provided under the Settlement Agreement should be entered; (3) to award Class Counsel attorneys’ fees and expenses out of the Settlement Fund and, if so, in what amount; (4) to award Plaintiffs service awards in connection with their representation of the Class out of the Settlement Fund and, if so, in what amount; and (5) the Plan of Allocation should be approved by the Court. The Court may adjourn or continue the Fairness Hearing without further notice to members of the Class. For updated information on the hearing, you may check the settlement website, contact Class Counsel, or access the court docket for this case as described in the “How Do You Get More Information?” section on Page 9.

16. DO YOU HAVE TO ATTEND THE HEARING?

No, you do not have to attend the Final Approval Hearing to show your approval. Class Counsel will answer any questions the Court may have.

If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper address, and it complies with the other requirements provided in this notice, the Court will consider it.

But if you want to attend, you are welcome to do so at your own expense. You may also pay another lawyer to attend for you, but you will be responsible for hiring and paying that lawyer.

17. MAY YOU SPEAK AT THE HEARING?

If you object to the Settlement, you may ask the Court for permission to speak at the hearing. Your objection must include a request to speak, be timely submitted, and comply with the other requirements provided in this notice.

Your objection submission must include information or materials responsive to all nine of the items listed in the “Option 2 - Object to the Settlement” section on Pages 7-8, as well as copies of all documents or writings you want the Court to consider.

Ultimately, the Court will decide who will be allowed to speak at the hearing.

FINAL APPROVAL HEARING

18. HOW DO YOU GET MORE INFORMATION?

This notice summarizes the Settlement. The precise terms and conditions of the Settlement are detailed in the Settlement Agreement. If there are any inconsistencies between this notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement control.

The records in this Action may be examined and copied during regular office hours, and subject to customary copying fees, at the Clerk of the United States District Court for the District of Kansas. For a fee, all papers filed in this Action are available at www.pacer.gov. In addition, the Settlement Agreement, this notice, the claim form, and the plan of allocation are available at www.EpiPenDPPSettlement.com. You may contact the Settlement Administrator at 866-778-6568 if you have any questions about the Action or the Settlement.

Please do not write or call the Court, the Court Clerk’s office, or Pfizer with questions about the Settlement or the claims process.

KPH Healthcare Services, Inc. v. Mylan, N.V.
Case No. 2:20-cv-02065-DDC-TJJ
(District of Kansas)

DIRECT PURCHASER CLAIM FORM

YOUR CLAIM MUST BE SUBMITTED ONLINE OR POSTMARKED ON OR BEFORE JULY 24, 2024.

Submit this Claim Form using the Settlement Administrator’s website, www.EpiPenDPPSettlement.com.

OR

Mail your claim to: EpiPen Direct Purchaser-Pfizer Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113
Milwaukee, WI 53217

1. CLASS MEMBER INFORMATION

Company Name

First Name of Company Representative

Last Name of Company Representative

Company Street Address – Line 1

Company Street Address – Line 2

City

State

Zip Code

Email Address of Company Representative

Telephone Number

2. CLASS MEMBER REPRESENTATIVE INFORMATION

Please list the contact information for the person responsible for overseeing the claims process and communicating about your claim and distribution of any settlement payments. If the information is the same as #1, check the box below and skip to #3.

Same as Class Member Information.

Company Name for Person Responsible

First Name of Person Responsible

Last Name of Person Responsible

Street Address of Person Responsible – Line 1

Street Address of Person Responsible – Line 2

City of Person Responsible

State

Zip Code

Email Address of Person Responsible

Telephone Number of Person Responsible

3. BRAND PURCHASE INFORMATION

Please list in the space below the total number of units of **brand EpiPen purchased directly from Mylan** between March 13, 2014, and April 3, 2024, reduced to account for returns and assignments.

Units of brand EpiPen

A list of relevant National Drug Codes (NDCs) is included at the end of this Claim Form as Exhibit A.

**** You must submit supporting purchase records. ****

4. GENERIC PURCHASE INFORMATION

Please list in the space below the total number of units of **Authorized Generic EpiPen purchased directly from Mylan** between March 13, 2014, and April 3, 2024, reduced to account for returns and assignments.

Units of Authorized Generic EpiPen

Please list in the space below the total number of units of **generic EpiPen purchased directly from Teva** between March 13, 2014, and April 3, 2024, reduced to account for returns and assignments.

Units of Generic EpiPen

A list of relevant National Drug Codes (NDCs) is included at the end of this Claim Form as Exhibit A.

**** You must submit supporting purchase records. ****

5. ASSIGNMENTS

Please check here if you are filing this claim based on an assignment:

If you are submitting a claim pursuant to an assignment, please identify with particularity that assignment below. Please also attach documentation in support of such assignment, including the assignment agreement and purchase records showing your qualifying purchases from your assignor that are covered by any such assignment.

The Settlement Administrator may require additional information and documents for any claim made based on an assignment. If you are submitting this claim as an assignee, the data and supporting purchase records may be shared with the relevant assignor(s) during the claims administration process. By submitting a claim by virtue of an assignment, you agree that such data and documentation, and calculations based on such data and documentation, may be shared with your assignor.

6. WIRE TRANSFER INFORMATION

If you wish to have your share of the Net Settlement Fund paid by wire transfer, please provide the information below:

Bank Name	
Bank Address	
Account Name	
Account No.	
ABA/Routing No.	
Special Instructions	

7. SIGNATURE

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. I understand that the punishment for perjury varies by state, but perjury is a felony and carries a possible prison sentence of at least one year, plus fines and probation.

Signature: _____

Dated: _____

Printed Name: _____

Company Name: _____

Position at Company: _____

EXHIBIT A**NDCs of Brand, Authorized Generic, and Generic EpiPen**

Brand EpiPen (Sold by Mylan)
49502-500-92
49502-500-02
49502-500-01
49502-501-92
49502-501-02
49502-501-01

Authorized Generic EpiPen (Sold by Mylan)
49502-102-02
49502-101-02
49502-101-01
49502-102-01

Generic EpiPen (Sold by Teva)
00093-5985-27
00093-5986-27
00093-5985-19
00093-5986-19

EpiPen Direct Purchaser - Pfizer Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113 Milwaukee, WI 53217

COURT APPROVED NOTICE REGARDING
EpiPen Direct Purchaser - Pfizer Settlement

EXHIBIT B



**If You Purchased
EpiPen[®]
or Generic EpiPen**

**Directly from the Manufacturer,
You May Receive a Payment
from a \$50 Million
Class Action Settlement
from Pfizer**

[File a Claim HERE >](#)

EpiPenDPPSettlement.com

EXHIBIT C

**If You Purchased EpiPen® or Generic EpiPen Directly from the Manufacturer,
You May Receive a Payment from a
\$50 Million Class Action Settlement with Pfizer.**

KPH Healthcare Services, Inc. v. Mylan N.V.
Case No. 2:20-cv-02065-DDC-TJJ (District of Kansas)

This is not a recall, safety, or other similar notice. No one is claiming that EpiPen is unsafe or ineffective.

For more information and to file a claim, visit www.EpiPenDPPSettlement.com.

WHAT DOES THE SETTLEMENT PROVIDE?

A proposed settlement (“Settlement”) has been reached in a class action lawsuit with Pfizer, Inc., Meridian Medical Technologies, Inc., and King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC) (together, “Pfizer”). Under the settlement, Pfizer agreed to pay \$50,000,000 into a settlement fund for the Direct Purchaser Settlement Class (“Settlement Fund”). The lawsuit alleges that Defendants Mylan, N.V., Mylan Pharmaceuticals, Inc., and Mylan Specialty, LP (together, “Mylan”), and Pfizer entered into an illegal market allocation agreement with Teva Pharmaceuticals USA, Inc. that substantially delayed the launch of generic EpiPen and unlawfully extended Pfizer’s and Mylan’s monopoly over the epinephrine autoinjector market. The settlement does not resolve claims against Mylan, and the lawsuit against Mylan will continue until it is resolved. The Court has not decided who is right.

WHO IS INCLUDED?

People or entities who purchased EpiPen® or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014, until the date on which the Court entered the Preliminary Approval Order, April 3, 2024.

Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

HOW CAN YOU GET A PAYMENT?

If you are a member of the Class, you must submit a claim form online at www.EpiPenDPPSettlement.com or by mail to get paid. This is the only way to receive a payment.

You may have received a claim form. If not, a claim form is available at www.EpiPenDPPSettlement.com. See the claim form for instructions on how to submit a claim. If the Court approves the Settlement, claims will be paid after any appeals are resolved.

The deadline to postmark or submit your claim online at www.EpiPenDPPSettlement.com or by email to info@EpiPenDPPSettlement.com is July 24, 2024.

YOUR OTHER LEGAL RIGHTS AND OPTIONS

OBJECT	You may write to the Court about why you do not like the Settlement, the request for attorneys’ fees, reimbursement of expenses and costs, and service awards, and/or the plan of allocation. If you object to the Settlement, you are still a member of the Class and you must file a claim to receive a payment. Objections must be filed with the Court and received by the parties on or before May 28, 2024 .
OPT OUT	You may write to the Settlement Administrator and exclude yourself from the Class. Exclusion allows you to file your own lawsuit. If you exclude yourself, you will not receive any payment and will not be bound by the releases contained in the Settlement. The exclusion deadline is May 28, 2024 .
DO NOTHING	If you do nothing, you will not receive any payment. You will still be a Class member, and therefore you will be bound by the releases contained in the Settlement and will not be able to file or continue to pursue your own lawsuit.

The Court scheduled a final approval hearing for **June 25, 2024**, at **9:00 a.m. Central Time** to consider whether the settlement and plan of allocation are fair, reasonable, and adequate, as well as any objections to the settlement, the plan of allocation, and any request for attorneys’ fees, reimbursement of expenses and costs, and service awards. You do not need to attend, but you or your attorney can do so at your own expense.

**For more information about the Settlement and your options,
please visit www.EpiPenDPPSettlement.com or call 1-866-778-6568.**

EXHIBIT D

Nussbaum Law Group, P.C. and Roberts Law Firm US, PC Announce A \$50 Million Class Action Settlement with Pfizer on Behalf of Direct Purchasers of EpiPen® or Generic EpiPen

May 02, 2024 10:00 AM Eastern Daylight Time

NEW YORK--(BUSINESS WIRE)--Nussbaum Law Group, P.C. and Roberts Law Firm US, PC:

COURT-ORDERED LEGAL NOTICE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

If you purchased EpiPen® or generic EpiPen directly from the manufacturer, you may receive a payment from a \$50 million class action settlement with Pfizer.

KPH Healthcare Services, Inc. v. Mylan N.V.,
Case No. 2:20-cv-02065-DDC-TJJ (District of Kansas)

This is not a recall, safety, or other similar notice. No one is claiming that EpiPen is unsafe or ineffective.

For more information and to file a claim, visit www.EpiPenDPPSettlement.com.

WHAT DOES THE SETTLEMENT PROVIDE?

A proposed settlement ("Settlement") has been reached in a class action lawsuit with Pfizer, Inc., Meridian Medical Technologies, Inc., and King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC) (together, "Pfizer"). Under the settlement, Pfizer agreed to pay \$50,000,000 into a settlement fund for the Direct Purchaser Settlement Class ("Settlement Fund"). The lawsuit alleges that Defendants Mylan, N.V., Mylan Pharmaceuticals, Inc., and Mylan Specialty, LP (together, "Mylan"), and Pfizer entered into an illegal market allocation agreement with Teva Pharmaceuticals USA, Inc. that substantially delayed the launch of generic EpiPen and unlawfully extended Pfizer's and Mylan's monopoly over the epinephrine autoinjector market. The settlement does not resolve claims against Mylan, and the lawsuit against Mylan will continue until it is resolved. The Court has not decided who is right.

WHO IS INCLUDED?

People or entities who purchased EpiPen® or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014, until the date on which the Court entered the Preliminary Approval Order, April 3, 2024.

Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

HOW CAN YOU GET A PAYMENT?

If you are a member of the Class, you must submit a claim form online at www.EpiPenDPPSettlement.com or by mail to get paid. This is the only way to receive a payment.

You may have received a claim form. If not, a claim form is available at www.EpiPenDPPSettlement.com. See the claim form for instructions on how to submit a claim. If the Court approves the Settlement, claims will be paid after any appeals are resolved.

The deadline to postmark or submit your claim online at www.EpiPenDPPSettlement.com or by email to info@EpiPenDPPSettlement.com is July 24, 2024.

YOUR OTHER LEGAL RIGHTS AND OPTIONS

OBJECT	You may write to the Court about why you do not like the Settlement, the request for attorneys' fees, reimbursement of expenses and costs, and service awards, and/or the plan of allocation. If you object to the Settlement, you are still a member of the Class and you must file a claim to
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NUSSBAUM LAW GROUP, P.C.
AND ROBERTS LAW FIRM US, PC

Contacts

Linda P. Nussbaum
(917) 438-9189
lnussbaum@nussbaumpc.com

Michael L. Roberts
(501) 821-5575
admin@robertslawfirm.us

	receive a payment. Objections must be filed with the Court and received by the parties on or before May 28, 2024 .
OPT OUT	Home Services News Education About Us You may write to the Settlement Administrator and exclude yourself from the Class. Exclusion allows you to file your own lawsuit. If you exclude yourself, you will not receive any payment and will not be bound by the releases contained in the Settlement. The exclusion deadline is May 28, 2024 .
DO NOTHING	If you do nothing, you will not receive any payment. You will still be a Class member, and therefore you will be bound by the releases contained in the Settlement and will not be able to file or continue to pursue your own lawsuit.

[Log In](#) [Sign Up](#)

The Court scheduled a final approval hearing for **June 25, 2024**, at **9:00 a.m. Central Time** to consider whether the settlement and plan of allocation are fair, reasonable, and adequate, as well as any objections to the settlement, the plan of allocation, and any request for attorneys' fees, reimbursement of expenses and costs, and service awards. You do not need to attend, but you or your attorney can do so at your own expense.

For more information about the Settlement and your options, please visit www.EpiPenDPPSettlement.com or call 1-866-778-6568.

Contacts

Linda P. Nussbaum
 (917) 438-9189
lnussbaum@nussbaumpc.com

Michael L. Roberts
 (501) 821-5575
admin@robertslawfirm.us

EXHIBIT E

A.B. DATA, LTD.
 Class Action Administration
 600 A. B. Data Drive
 Milwaukee, WI 53217
 414-961-7523
 accounting@abdataclassaction.com
 abdataclassaction.com



NUSSBAUM LAW GROUP, PC
 1133 AVENUE OF THE AMERICAS
 31ST FLOOR
 NEW YORK, NY, 10036

INVOICE #: INV000306490
INVOICE DATE: 4/30/2024
CLIENT: 681650
PAGE: 1/1
TERMS: 30 days upon receipt

INVOICE

JOB 54769 EpiPen Direct Purchaser

DESCRIPTION	QTY	PRICE	AMOUNT
Project/Database Setup (One-Time Fee)	1	5,000.00	\$5,000.00
Receipt and Processing of Undeliverable Mail (One-Time Fee)	1	750.00	\$750.00
Website Setup and Design (One-Time Fee)	1	4,000.00	\$4,000.00
Toll-Free Telephone Line Setup (One-Time Fee)	1	1,250.00	\$1,250.00
Receipt and Preparation of Paper Claim Forms	1	5.00	\$5.00
Claim Processing, Validation and Audits (Hourly)	0.55	75.00	\$41.25
Executive Project Management (Hourly)	0.55	240.00	\$132.00
Senior Project Management (Hourly)	7.40	225.00	\$1,665.00
Project Management (Hourly)	28.45	185.00	\$5,263.25
System Support (Hourly)	0.60	195.00	\$117.00
Quality Assurance (Hourly)	0.17	170.00	\$28.90
Staff (Hourly)	2.29	110.00	\$251.90
Printing and Mailing of Notices (Flat Fee per Batch)	1	1,500.0000	\$1,500.00
Postage	1	162.80	\$162.80
Media Notices, WSJ, Business Wire, Banner Ads, Print, etc	1	40,000.00	\$40,000.00
Website Maintenance/Hosting (Monthly Dec 2023 - Apr 2024)	5	290.00	\$1,450.00
IVR and Line Maintenance (Monthly Dec 2023 - Apr 2024)	5	250.00	\$1,250.00
Post Office Box Rental/Renewal	1	1,580.00	\$1,580.00
Electronic Storage	1	221.01	\$221.01
TOTAL			\$64,668.11

MAIL CHECKS TO
 PO Box 170062, Milwaukee, WI 53217
 Make checks payable to A.B. DATA, LTD.

SEND WIRES TO
 US BANK, N.A.
 400 W. Brown Deer Road, Bayside, WI 53217
 Routing Number 075000022
 Account Number 182377466541 (AB Data, Ltd.)
 Swift Code USBKUS44IMT

Past due invoices are subject to a 1.5% per month service charge

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

KPH HEALTHCARE SERVICES, INC., a/k/a
KINNEY DRUGS INC., FWK HOLDINGS
LLC, and CÉSAR CASTILLO, LLC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL TECHNOLOGIES,
INC.,

Defendants.

Civil Action No. 2:20-cv-02065-DDC-TJJ

**EXHIBIT LIST IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF THE PFIZER SETTLEMENT,
APPROVAL OF PLAN OF ALLOCATION, AND
AWARD OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

Exhibit 1 – Declaration of Michael L. Roberts

Exhibit 2 – Declaration of Linda P. Nussbaum

Exhibit 3 – Declaration of Bradley T. Wilders

Exhibit 4 – Declaration of Dianne M. Nast

Exhibit 5 – Declaration of Eric D. Barton

Exhibit 6 – Declaration of Ethan J. Barlieb

Exhibit 7 – Declaration of Tracy M. Hanson