

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

KIMBERLY BOTTOMS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

BLOCK, INC. (F/K/A, SQUARE, INC.)
(D/B/A, CASH APP),

Defendant.

NO. 2:23-cv-01969-MJP

**DECLARATION OF JENNIFER
RUST MURRAY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

I, Jennifer Rust Murray, declare as follows:

A. Background and experience.

1. I am a member of the law firm of Terrell Marshall Law Group PLLC and co-counsel of record for Plaintiff in this matter. I am admitted to practice before this Court and am a member in good standing of the bar of the states of Washington and Oregon. I respectfully submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. Terrell Marshall is a law firm in Seattle, Washington, that focuses on complex civil and commercial litigation with an emphasis on consumer protection, product defect, civil rights, and wage and hour cases. Terrell Marshall has been appointed lead or co-lead counsel representing multi-state and nationwide classes in state and federal court in Washington and throughout the United States. Since its founding in 2008, the attorneys at Terrell Marshall have

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SETTLEMENT - 1

CASE NO. 2:23-cv-01969-MJP

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www.terrellmarshall.com

1 represented scores of classes, tried class actions in state and federal court, and obtained hundreds
 2 of millions of dollars in monetary relief to workers, consumers, and other individuals.

3 3. I am a founding member of Terrell Marshall who practices complex litigation,
 4 including the prosecution of consumer and wage and hour class actions. In 2005, I received my
 5 J.D. from the University of Washington School of Law where I was a member of the Washington
 6 Law Review. My law review article entitled “Proving Cause in Fact under Washington’s
 7 Consumer Protection Act: The Case for a Rebuttable Presumption of Reliance” won the Carkeek
 8 prize for best submission by a student author. Before law school, I earned a Ph.D. in Philosophy
 9 from Emory University. I have been an active member of the Washington State Bar Association
 10 since my admission to the bar in 2005. I was admitted to the Oregon State Bar in 2010. I
 11 currently am vice-president of the board of Washington’s Unemployment Law Project. I
 12 regularly present at legal conferences on consumer issues.

13 **B. Qualifications of other Terrell Marshall attorneys.**

14 4. Beth E. Terrell is a founding member of Terrell Marshall. With almost thirty
 15 years of experience, Ms. Terrell concentrates her practice in complex litigation, including the
 16 prosecution of multi-plaintiff, collective, mass and class litigation and arbitration on behalf of
 17 consumers and workers. Ms. Terrell has served as co-lead counsel on multi-state and nationwide
 18 class actions, resulting in hundreds of millions of dollars in settlements for consumers and
 19 workers. Ms. Terrell also represents individual employees with discrimination, sexual
 20 harassment, trade secret and restrictive covenant claims. Ms. Terrell co-chairs PLI’s Consumer
 21 Financial Services Institute, is a past President of the Public Justice Foundation Board of
 22 Directors, serves as Chair of both the Northwest Consumer Law Center and the Washington
 23 Employment Lawyers Association, and is a fellow of the American College of Consumer
 24 Financial Services Lawyers. In 2023, Ms. Terrell was awarded the National Consumer Law
 25 Center’s Vern Countryman Award, recognizing special contributions to consumer law. A
 26 member of the State Bar of California and the Washington State Bar Association, Ms. Terrell
 27

1 frequently presents on a wide variety of topics, including class actions, consumer protection,
2 legal ethics, gender equity, and electronic discovery.

3 5. Blythe H. Chandler joined Terrell Marshall in 2014 and became a member in
4 2018. Ms. Chandler practices complex litigation with a focus on prosecution of consumer class
5 actions. She has been appointed class counsel in cases challenging a wide range of unfair or
6 deceptive practices, including debt collection practices. In 2010, she received her J.D. from the
7 University of Washington School of Law with high honors, Order of the Coif. Ms. Chandler
8 served as Chief Articles Editor for the Washington Law Review. Before joining Terrell Marshall,
9 Ms. Chandler served as a law clerk to the Honorable Betty B. Fletcher, Senior United States
10 Circuit Judge for the Ninth Circuit Court of Appeals, and to the Honorable John C. Coughenour,
11 Senior United States District Judge for the Western District of Washington. Ms. Chandler also
12 served as a judicial extern to the Honorable Robert S. Lasnik, United States District Judge for the
13 Western District of Washington. Ms. Chandler co-authored chapters of the Consumer Protection
14 Deskbook published by the Washington State Association for Justice (WSAJ) and has spoken on
15 topics including use of experts and personal jurisdiction in class actions. Ms. Chandler is a
16 member of the Public Justice Foundation Board of Directors, is a Co-Coordinator of the
17 Washington Employment Lawyers Association (WELA) Amicus Committee and currently co-
18 chairs WSJA's Consumer Protection Section. She was named to the 2020 Rising Star List by
19 Washington Super Lawyers.

20 6. Eden Nordby is an associate at Terrell Marshall. Ms. Nordby joined Terrell
21 Marshall as an associate in 2021. Ms. Nordby concentrates her practice on complex civil
22 litigation, including consumer protection and wage and hour class actions. Ms. Nordby also
23 litigates employment discrimination, wrongful termination, and commercial disputes. Ms.
24 Nordby received her J.D. from the University of Washington in 2021. During law school Ms.
25 Nordby served as Executive Managing Editor of the Washington Journal of Environmental Law
26 and Policy. She received the WSBA Labor & Employment Section 2019 Summer Grant for her
27 public service work and commitment to labor and employment issues. Ms. Nordby is trained as a

mediator and mediated a number of individual civil matters through the UW School of Law Mediation Clinic. Before joining the firm as an attorney, Ms. Nordby was a senior paralegal at Terrell Marshall from the time the firm opened in 2008 until starting law school in 2018.

7. Jordan Berger joined Terrell Marshall Law Group as an associate in 2024, and concentrates her practice on complex civil litigation, civil rights, and employment law. Ms. Berger received her J.D. from New York University School of Law in 2020. Before joining Terrell Marshall Law Group, Ms. Berger worked as a Skadden Fellow for the National Center for Law and Economic Justice, and as law clerk to the Honorable Jamal Whitehead in the Western District of Washington. During law school, she interned with the ACLU Disability Rights Program and with the New York State Office of the Attorney General.

C. Other cases litigated by Terrell Marshall.

8. Examples of Commercial Electronic Mail Act and Telephone Consumer Protection Act class actions that Terrell Marshall is litigating or has litigated to successful completion include:

- a. *Kovanen v. Asset Realty, LLC (D/B/A, Century 21 NW), et al.* (CEMA)—Filed in 2021 on behalf of Washington consumers who received unsolicited text messages on their cell phones without providing clear and affirmative consent in advance. The parties agreed to the material terms of a class-wide settlement and moved for preliminary approval in May 2025.
- b. *Samson v. UnitedHealthcare Services, Inc.* (TCPA)—Filed in 2019 on behalf of consumers who received robocalls on their cell phones without their prior express consent. The Western District of Washington granted preliminary approval of a \$2.5 million settlement on January 15, 2025. This Court granted final approval of the settlement on June 20, 2025.
- c. *Williams v. PillPack LLC* (TCPA)—Filed in 2019 on behalf of consumers who received robocalls on their cell phones without their prior express written consent. The Western District of Washington granted final approval of the \$6.5 million settlement on April 18, 2025.
- d. *Moore v. Robinhood Financial LLC* (CEMA)—Filed in 2021 on behalf of Washington residents who received unsolicited text messages on their cell phones without providing clear and affirmative consent in advance. The Western District of Washington granted final approval of the \$9 million settlement on July 16, 2024.

- e. *Berman v. Freedom Financial Network, LLC, et al.* (TCPA)—Filed in 2018 on behalf of consumers who received texts and robocalls on their cell phones without their prior express written consent. The Northern District of California granted final approval of the \$9.5 million settlement on February 23, 2024.
- f. *Abante Rooter & Plumbing, Inc., et al. v. Alarm.com Inc., et al.* (TCPA)—Filed in 2015 on behalf of consumers who received solicitation calls on their cellular and residential telephones without their prior express consent. The Northern District of California granted final approval of the \$28 million settlement on August 15, 2019.
- g. *Borecki v. Raymours Furniture Co., Inc.* (TCPA)—Filed in 2017 on behalf of consumers who received spam text messages on their cellular telephones without their prior express consent. The Southern District of New York granted final approval of the \$4.25 million settlement on September 10, 2019.
- h. *Snyder v. Ocwen Loan Servicing, LLC* (TCPA)—Filed in 2014 on behalf of consumers who received automated collection calls on their cellular telephones without their prior express consent. The Northern District of Illinois granted final approval of the \$21.5 million settlement on May 14, 2019.
- i. *Melito, et al. v. American Eagle Outfitters, Inc., et al.* (TCPA)—Filed in 2014 on behalf of consumers who received spam text messages on their cellular telephones without their prior express consent. The Southern District of New York granted final approval to the \$14.5 million settlement on September 11, 2017, which the Second Circuit affirmed on April 30, 2019.
- j. *In re Capital One Telephone Consumer Protection Act Litigation* (TCPA)—Filed in 2012 on behalf of consumers who received automated, prerecorded collection calls on their cellular telephones without their prior express consent. Terrell Marshall served as co-lead counsel in the multidistrict litigation. The Northern District of Illinois granted final approval of the \$75 million settlement on February 23, 2015.
- k. *In re Monitronics International, Inc. Telephone Consumer Protection Act Litigation* (TCPA)—Filed in 2011 on behalf consumers who received automated, prerecorded solicitation calls on their residential and telephones without their prior express consent. Terrell Marshall served as co-lead counsel in the multidistrict litigation. The Northern District of West Virginia granted final approval of the \$28 million settlement on June 12, 2018.
- l. *Abante Rooter & Plumbing, Inc. v. Pivotal Payments Inc.* (TCPA)—Filed in 2016 on behalf of consumers that received automated solicitation telephone calls to their cell phones without their prior express consent. The Northern District of California granted final approval of the \$9 million settlement on October 15, 2018.

1 m. *Wilkins, et al. v. HSBC Bank Nevada, N.A., et al.* (TCPA)—Filed in 2014 on
 2 behalf of individuals who received prerecorded calls using an automatic
 3 dialing system without their prior consent. The Northern District of Illinois
 4 granted final approval of the \$39.9 million settlement on March 17, 2015.

5 n. *Booth v. Appstack, Inc.* (TCPA)—Filed in 2013 on behalf of small businesses
 6 that received prerecorded calls using an automatic dialing system on cellular
 7 telephone lines without their prior consent. The court certified the class,
 8 denied a motion to decertify, denied the defendants’ motion for summary
 9 judgment and granted partial summary judgment for the class. The case settled
 10 on the eve of trial and the court granted final approval of the \$975,000
 11 settlement in 2017.

12 9. Additional information about class actions litigated by Terrell Marshall is
 13 available on our website www.terrellmarshall.com.

14 **D. The prosecution of this case.**

15 10. Terrell Marshall has advanced significant costs for and invested numerous hours
 16 in the investigation and prosecution of this case. We will continue to commit the time and
 17 resources necessary to litigate the case and fairly and adequately represent and protect the
 18 interests of the Class.

19 11. Although the scope of discovery initially was limited to Plaintiff’s individual
 20 claims, the parties exchanged substantial information relevant to both the individual and class
 21 claims.

22 12. Block reserved the right to raise arguments on an element of Plaintiff’s CEMA
 23 claim—whether Block “[knew] or consciously avoid[ed] knowing that the initiator of the ...
 24 commercial electronic text message ... [was] engaged, or intend[ed] to engage, in any practice
 25 that violates the consumer protection act” (RCW 19.190.010). Plaintiff accordingly sought
 26 discovery on Block’s knowledge of the allegedly unlawful conduct.

27 13. During discovery, Block responded to two sets of written discovery requests
 propounded by Plaintiff and provided several supplemental responses. The parties exchanged
 written correspondence and met and conferred regarding search terms. Block produced
 documents based on the results of those searches, ultimately producing several thousands of
 pages of documents. Topics of the discovery sought by Plaintiff included the data points Block

1 tracks and maintains regarding senders and recipients of Invite Friends texts; whether any
2 persons who received Invite Friends texts consented to receive such texts in advance; Block's
3 internal communications regarding consent; the total number of cell phone numbers with
4 Washington area codes to which Invite Friends texts were initiated during the class period; the
5 number of Invite Friends texts sent to phone numbers with Washington area codes during the
6 class period; consumer complaints to Block about receiving an Invite Friends text; Block's
7 public statements and advertising regarding the Invite Friends referral program; and data
8 concerning the Invite Friends texts sent to Ms. Bottoms.

9 14. Ms. Bottoms responded to one set of written discovery propounded by Block,
10 including supplemental responses. Ms. Bottoms also searched for documents using search terms
11 the parties negotiated and produced responsive documents. Topics of the discovery sought by
12 Block included mentions of Cash App in Ms. Bottoms's social media, emails, and internet
13 browsing history; the Invite Friends text messages she received; her communications with the
14 person who sent her Invite Friends texts and how they were acquainted; whether Ms. Bottoms
15 ever used or downloaded Cash App; her cell phone accounts and activity; and damages. Block
16 also deposed Ms. Bottoms.

17 15. The parties also engaged in third-party discovery. Block deposed the individual
18 who sent Ms. Bottoms the Invite Friends referral text messages. Block also issued subpoenas to
19 several cell phone providers for data and documents regarding Ms. Bottoms's accounts and
20 phone activity. Ms. Bottoms subpoenaed records from her cell phone provider.

21 16. On March 18, 2025, the parties attended a full-day mediation with Jill R. Sperber
22 of Judicate West. The parties exchanged detailed mediation statements beforehand. While
23 settlement was not reached at mediation, the parties made significant progress toward resolution
24 and continued subsequent arms-length negotiations.

25 17. On April 11, 2025, the parties executed a Settlement Terms Sheet. The parties
26 have spent the past two months negotiating the details of the formalized Settlement Agreement.
27 The parties executed the final Settlement Agreement on June 27, 2025.

E. Claimant awards, settlement administrator selection, and attorneys' fees and costs.

18. I estimate that the total amount available from the Settlement Fund to pay claimants will be \$8,704,366.64. This amount assumes that the Court awards Plaintiff's Counsel twenty-five percent of the Settlement Fund (\$3,125,000) in attorneys' fees, \$41,133.36 as reimbursement for out-of-pocket costs, a \$10,000 service award for Ms. Bottoms, and that settlement administration costs are not-to-exceed \$619,500.

19. Terrell Marshall's out-of-pocket expenses in this litigation total \$15,087.60.

20. I understand Defendant estimates its data shows its users sent "Invite Friends" referral program text messages to approximately 1,975,187 unique phone numbers with Washington area codes. Even if there are individuals who own multiple numbers on this list, the proposed Settlement Class will number in the hundreds of thousands.

21. It is notoriously difficult to estimate the number of consumers who will submit claims. In my experience settling numerous TCPA cases, claims rate percentages in TCPA/CEMA cases have ranged from less than 1% to approximately 35%. In this case, I believe that it is fair to estimate that between 3% and 5% of Settlement Class Members will submit claims. If 3 to 5% of Settlement Class Members submit claims and the requested attorneys' fees, costs, service award, and administration costs are approved, each class member will receive between \$88 to \$147. This is of course only an estimate.

22. The parties have selected Eisner Advisory Group, LLC to serve as Settlement Administrator.

23. Approval of the Settlement Agreement does not depend on the full amount of any requested fees, costs, or service awards being approved, and there is no clear sailing provision in the settlement agreement. Block is free to object to Plaintiff's requested fee.

24. Ms. Bottoms has been actively involved in this litigation for more than one and a half years, communicating with her Counsel throughout, actively participating in discovery by responding to written requests and searching for and producing documents, sitting for her

1 deposition, reviewing and approving the settlement agreement, and continuously putting the
2 interests of the Settlement Class first. Ms. Bottoms was also prepared to testify at trial.

3 25. I believe that the proposed settlement is an excellent result for Settlement Class
4 Members.

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

7 EXECUTED at Seattle, Washington and DATED this 30th day of June, 2025.

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9 By: /s/ Jennifer Rust Murray
10 Jennifer Rust Murray, WSBA #36983
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THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

KIMBERLY BOTTOMS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

BLOCK, INC. (F/K/A, SQUARE, INC.)
(D/B/A, CASH APP),

Defendant.

No. 2:23-cv-01969-MJP

**DECLARATION OF E MICHELLE
DRAKE IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

I, E. Michelle Drake, hereby declare as follows:

1. I am one of Plaintiff's Counsel of record in the above-captioned matter.

2. I submit this Declaration in support of Plaintiff's Motion for Preliminary Approval
of Class Action Settlement.

3. A true and correct copy of the parties' Settlement Agreement is attached hereto as

E .

4. Berger Montague, along with co-counsel Terrell Marshall Law Group PLLC, has
been involved in this action from its commencement, working with co-counsel to defeat Block's
motion to dismiss, obtain the discovery Plaintiff needed to support Plaintiff's individual claims
and certify a class, produce documents and other discovery responses from Plaintiff, defend
Plaintiff's deposition, devise a mediation strategy, and finally a settlement agreement.

5. I understand Block estimates, based on a review of its records, that its users sent “Invite Friends” referral text messages to approximately 1,975,187 consumers with phone numbers containing Washington area codes.

6. Plaintiff’s Counsel has received no payment of our fees and costs in this litigation. Plaintiff’s Counsel will request that the Court approve for distribution from the Settlement Fund reasonable attorneys’ fees of up to 25% of the Settlement Fund (\$3,125,000) and reimbursement for documented out-of-pocket expenses. Berger Montague has dedicated hundreds of attorney and paralegal hours to this matter and will submit detailed contemporaneous time records, hourly rates, and lodestar information with Plaintiff’s Counsel’s motion for attorneys’ fees and costs. Plaintiff’s Counsel’s out-of-pocket expenses are currently estimated to be \$41,133.36. These costs include filing fees, mediation costs, and travel expenses. Plaintiff’s Counsel will also provide the Court with detailed information on their out-of-pocket costs in connection with their fee petition.

7. Plaintiff Kimberly Bottoms has adequately represented the Settlement Class by being engaged in this litigation for more than a year and a half, communicating with Plaintiff’s Counsel throughout, actively participating in discovery (including by being deposed), reviewing and approving the Settlement Agreement, and continuously putting the interests of the Settlement Class first.

8. My firm will continue to commit the time and resources necessary to litigate the case and fairly and adequately represent and protect the interests of the proposed Settlement Class.

9. I am proud of the settlement Plaintiff has reached with Block and fully support it.

10. I am an Executive Shareholder at Berger Montague PC. I have been practicing law since 2001 and am a graduate of Harvard College, Oxford University, and Harvard Law School. In 2016, I joined Berger Montague as a Shareholder, prior to that I was a partner at Nichols Kaster, PLLP, and ran that firm’s consumer protection group.

11. Berger Montague specializes in class action litigation and is one of the preeminent class action law firms in the United States. The firm currently consists of over 100 attorneys who primarily represent plaintiffs in complex civil litigation, and class action litigation, in federal and

1 state courts. Berger Montague has played lead roles in major class action cases for over 50 years,
 2 and has obtained settlements and recoveries totaling well over 30 billion for its clients and the
 3 classes they have represented. A copy of the firm's resume is attached hereto as E .

4 12. I serve as co-chair of the firm's Consumer Protection Department, and as chair of
 5 the Background Checks and Credit Reporting Department. My practice focuses on protecting
 6 consumers' rights when they are injured by improper credit reporting, and other illegal business
 7 practices. I currently serve as lead or co-lead counsel in dozens of class action consumer protection
 8 cases in federal and state courts across the country, including numerous consumer protection cases.
 9 A copy of my personal resume is attached hereto as E .

10 13. I serve as Vice Chair on the Board of the Southern Center for Human Rights, am
 11 on the Board of Public Justice, and as a member of the Partner's Council of the National Consumer
 12 Law Center, a former Co-Chair of the Consumer Litigation Section for the Minnesota State Bar
 13 Association, and a former Board Member of the National Association of Consumer Advocates. I
 14 have previously served as a member of the Ethics Committee for the National Association of
 15 Consumer Advocates, and as Treasurer and At-Large Council Member for the Consumer Litigation
 16 Section of the Minnesota State Bar Association. I was also an appointee to the Federal Practice
 17 Committee in 2010 by the U.S. District Court for the District of Minnesota.

18 14. I was named to the LawDragon 500 Leading Plaintiff Financial Lawyers List for
 19 2019, 2022, and 2024, and a 2020 Elite Woman of the Plaintiffs Bar by the National Law Journal.
 20 I am consistently named to the annual lists of The Best Lawyers of America, Top 50 Women
 21 Minnesota Super Lawyers, and Super Lawyers. I have been quoted in the New York Times, and
 22 the National Law Journal, and have had prior cases named as "Lawsuits of the Year" by Minnesota
 23 Law & Politics.

24 15. I present frequently at national and local conferences on class actions, consumer
 25 protection, and Fair Credit Reporting Act-related topics, and I co-authored a book chapter on
 26 background checks and related issues, "Financial and Criminal Background Checks," Job
 27 Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May

2014, and the forthcoming 2d. ed. I was a contributing author to “Consumer Law,” The Complete Lawyer’s Quick Answer Book, Minnesota Continuing Legal Education Publication, 2d. ed., 2019, and “Chapter 1: Case and Claims Selection, Other First Considerations,” Consumer Class Actions, National Consumer Law Center, 10th ed., 2019. My recent speaking engagements have included:

- “The Facts Make the Case: How to Find and Use Data to Win Your Case,” Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.
- “Data-Driven Class Actions,” Class Action Symposium at the Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.
- “Wrongly Accused of Terrorism and Drug Trafficking: A Case Study of One U.S. Navy Official’s Battle,” Harvard Plaintiffs’ Law Association, October 2024.
- “National FCRA Landscape,” National Association of Consumer Advocates Spring Training, May 2022.
- “Sealing, Expungement and FCRA: Criminal Records Reporting in a New Era,” Equal Justice Conference, May 2022.
- “Evidentiary Challenges in Certifying Class Actions,” Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, December 2021.
- “COVID and Post-COVID Issues in FCRA Litigation,” National Association of Consumer Advocates Spring Training, Virtual, April 2021.
- “Consumer Law: Overview of the Fair Credit Reporting Act,” Minnesota Continuing Legal Education, Virtual, December 2020.
- “The Role of the Lawyer in Class Actions,” Panel Chair, Global Class Actions Symposium 2020, Virtual, November 2020.

16. I litigate cases throughout the United States and have been admitted to, and am a member in good standing with, the following courts:

- United States Supreme Court, 2017
- State Bar of Georgia, 2001
- Georgia Supreme Court, 2006
- Minnesota Supreme Court, 2007

- U.S. Court of Appeals for the Eighth Circuit, 2010
- U.S. Court of Appeals for the First Circuit, 2011
- U.S. Court of Appeals for the Seventh Circuit, 2014
- U.S. Court of Appeals for the Ninth Circuit, 2015
- U.S. Court of Appeals for the Tenth Circuit, 2018
- U.S. Court of Appeals for the Third Circuit, 2019
- U.S. Court of Appeals for the Fourth Circuit, 2022
- U.S. Court of Appeals for the Sixth Circuit, 2023
- U.S. District Court for the Northern District of Georgia, 2007
- U.S. District Court for the District of Minnesota, 2007
- U.S. District Court for the Eastern District of Wisconsin, 2011
- U.S. District Court for the Western District of Texas, 2011
- U.S. District Court for the Western District of Wisconsin, 2015
- U.S. District Court for the Eastern District of Michigan, 2015
- U.S. District Court for the Central District of Illinois, 2016
- U.S. District Court for the Southern District of Texas, 2017
- U.S. District Court for the Western District of New York, 2017
- U.S. District Court for the Western District of Michigan, 2018
- U.S. District Court for the Northern District of Illinois, 2020
- U.S. District Court for the Middle District of Georgia, 2023

17. I have served as lead, or co-lead, class counsel in numerous notable consumer protection matters, including, but not limited to, the following:

Moore v. Robinhood Financial, LLC, No. 2:21-cv-01571-BJR (W.D. Wash.) (co-lead class counsel in consumer privacy case under CEMA involving corporate liability for paying commissions to individuals who market to their social networks)

In Re: Change Healthcare, Inc. Customer Data Security Breach Litigation, No. 24-md-03108 (D. Minn) (appointed co-lead counsel representing healthcare providers in a class action alleging that the defendants' post-security breach service shutdown caused healthcare providers to suffer billions of dollars in damages)

1 *In re MOVEit Customer Data Security Breach Litigation*, 1:23-md-03083 (D. Mass.)
 2 (appointed co-lead counsel in one of the largest data breach MDLs in history, a case
 involving 200 defendants and over 60 million individuals)

3 *In re: MGM Resorts International Data Breach Litigation*, No.: 2:20-cv-00376
 4 (D. Nev.) (appointed co-lead counsel in this data breach class action affecting tens of
 millions of consumers, and which recently achieved preliminary approval of a 45
 5 million settlement)

6 *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.*,
 No. 19-md-02904 (D.N.J.) (appointed to the Plaintiff's Steering Committee in the
 7 Quest Diagnostics track, which is the largest track in the coordinated MDL proceedings
 in this class action for a data breach impacting over 20 million patients of various
 8 medical labs)

9 *In re GEICO Customer Data Breach Litigation*, No. 21-cv-2210 (E.D.N.Y.) (appointed
 co-lead counsel in privacy class action alleging GEICO voluntarily disclosed millions
 10 of consumers' drivers' license numbers on its website in violation of the federal Drivers'
 Privacy Protection Act)

11 *In re MAPFRE Data Disclosure Litigation*, No. 1:23-cv-12059 (D. Mass.) (appointed
 co-lead counsel in privacy class action alleging MAPFRE voluntarily disclosed
 12 millions of consumers' drivers' license numbers on its website in violation of the
 federal Drivers' Privacy Protection Act)

14 *In re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*,
 No. 3:19-md-02913-WHO (N.D. Cal.) (appointed to the Plaintiffs' Steering Committee
 15 and chaired the consumer class action committee, achieving an overall MDL settlement
 of approximately 1.2 billion, and a consumer class settlement of 255 million)

17 *In re TransUnion Rental Screening Solutions, Inc. FCRA Litigation*, No. 1:20-md-
 02933 (N.D. Ga.) (lead counsel in consolidated MDL, achieving over 11 million in
 18 monetary relief, as well as injunctive relief, on behalf of hundreds of thousands of
 individual consumers)

19 *Clark v. Trans Union, LLC*, No. 3:15-cv-00391 (E.D. Va.) (appointed co-lead counsel
 20 in this consumer privacy and protection matter, achieving monetary and injunctive
 relief valued in the billions of dollars on behalf of a class of approximately 81 million
 21 consumers)

22 *Clark v. Experian Info. Sols., Inc.*, No. 3:16-cv- 00032 (E.D. Va.) (co-lead counsel in
 consumer privacy and protection matter, achieving monetary and injunctive relief
 23 valued in the billions of dollars on behalf of a class of approximately 50 million
 consumers)

25 *Thomas v. Equifax Info. Services, LLC*, No. 3:18-cv-00684 (E.D. Va.) (co-lead counsel
 in consumer privacy and protection matter, achieving monetary and injunctive relief
 26 valued in the billions of dollars on behalf of a class of approximately 69 million
 consumers)

1 *Fernandez v. CoreLogic Credco, LLC*, No. 20-cv-1262 (S.D. Cal.) (FCRA class action,
2 alleging violations by consumer reporting agency related to reporting possible matches
to the OFAC List, resulting in historic \$58.5 million gross settlement)

3 *Rodriguez v. National Credit Center, LLC*, No. A-23-869000-B (Clark Cnty.) (FCRA
4 class action, alleging violations by consumer reporting agency related to reporting of
inaccurate matches to the OFAC List, resulting in class action settlement of \$30 million
5 gross settlement for consumers)

6 *Knights v. Publix Super Markets, Inc.*, No. 14-cv-720 (M.D. Tenn.) (FCRA class action,
7 alleging violations by employer, resulting in a \$6.75 million settlement)

8 *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803 (E.D. Mich.) (FCRA class action,
9 alleging violations by employer, resulting in a \$6.749 million settlement)

10 *Ernst v. DISH Network, LLC & Sterling Infosystems, Inc.*, No. 12-cv-8794 (S.D.N.Y.)
(FCRA class action, alleging violations by employer and consumer reporting agency,
11 resulting in a \$4.75 million settlement with consumer reporting agency, and a \$1.75
million settlement with employer)

12 *Hill-Green v. Experian Info. Sols., Inc.*, No. 3:19-cv-00708-MHL (E.D. Va.). (co-lead
13 class counsel in credit reporting case involving allegations related to credit bureau's
data analysis relating to fraud alert reporting, achieving injunctive relief settlement as
14 well as monetary relief settlement of \$23 million)

15 *Stewart v. LexisNexis Risk Data Retrieval Services, LLC*, No. 3:20-cv-00903-JGA
(E.D. Va.) (credit-reporting case involving inaccurate reporting of tax liens and
16 judgments, resulting in injunctive relief and monetary relief of \$24 million for the
classes)

17 *Saylor v. RealPage, Inc.*, No. 1:22-cv-00053-AJT-IDD (E.D. Va.) (class counsel in
18 credit reporting case regarding inaccurate reporting of consumers as sex offenders,
19 achieving settlement for \$9.7 million)

20 *Bingollu v. One Source Technology, LLC d/b/a Asurint*, No. 0:22-cv-00077-DTS (D.
21 Minn.). (class counsel in class action involving allegations that consumer reporting
agency inaccurately reported consumers' Social Security Numbers as being "not
22 verified" or "unable to validate," achieving a \$2.4 million common fund settlement for
the class)

23 *Howell v. Checkr, Inc.*, No. 3:17-cv-04305 (N.D. Cal.) (class counsel in action brought
24 under 15 U.S.C. § 1681c, alleging consumer reporting agency reported adverse non-
25 conviction information older than seven years, achieving class relief that established a
settlement fund of \$4,460,000 for 96,040 class members and injunctive relief in terms
26 of practice changes)

Douglas v. Dice.com, No. 18CV331732 (Cal. Super. Ct., Santa Clara Cnty.) (co-lead class counsel in action alleging website aggregated information from the web into “Open Web Profiles” it sold to employers and recruiters which the FCRA by providing access to these consumer reports to those who did not have any legal right to access, failing to provide copies of consumer reports to consumers upon request, and failing to ensure the information in the reports was maximally accurate, achieving a settlement which provided practice changes to website in form of updated Terms of Use, and a 1,000,000 common fund from which 20,290 class members could make claims)

Taylor v. Inflection Risk Solutions, LLC, No. 20-cv-2266 (D. Minn.) (co-lead class counsel in action involving claims that consumer reporting agency mischaracterized criminal convictions and certain offenses in its reports on consumers, achieving 4 million common fund settlement)

Walker v. Inflection Risk Solutions, LLC, No. 22-CIV-02954 (San Mateo Super. Ct.) (class counsel in action involving claims that consumer reporting agency inaccurately reported consumers as sex offender or with inaccurate criminal histories on its reports, achieving preliminarily approved settlement that provides 1.765 million common fund settlement)

Legrand v. IntelliCorp Records, Inc., No. 1:15-cv-02091 (N.D. Ohio) (class counsel in action under FCRA § 1681e(b), alleging consumer reporting agency inaccurately reported information in the “Government Sanctions” section of its reports due to matching procedures that inaccurately matched consumers with individuals on the Department of Health and Human Services’ List of Excluded Individuals and Entities, achieving a settlement for 1,100,000 common fund for 4,791 class members, as well as injunctive relief in the form of free consumer reports to class members)

Heaton v. Social Finance, Inc., No. 14-cv-05191- TEH (N.D. Cal.) (co-lead class counsel in case involving impermissible access to consumer credit files, achieving injunctive relief to change the hard inquiries to soft credit inquiries on class members’ credit, and a 2,500,000 common fund)

Grissom v. Sterling Infosystems, Inc., No. 1:20-cv-07948-VSB (S.D.N.Y.) (class counsel in action involving allegations that consumer reporting agency included records developed through a SSN trace on consumers’ reports that did not match that consumers’ full name, achieving settlement that provides 2.5 million common fund for the class)

Halvorson v. TalentBin, Inc., No. 3:15-cv-5166 (N.D. Cal.) (co-lead class counsel in action alleging consumer reporting agency failed to provide full files to consumers upon request, failed to provide required documentation regarding rights and responsibilities under the FCRA, and failed to obtain certifications from end-users, achieving a settlement which provided a common fund of 1,150,000 for 72,676 class members)

Rubio-Delgado & Moore v. Aerotek, Inc., Nos. 2:15-cv-2701, 2:16-cv-1066 (S.D. Ohio) (as co-lead class counsel, achieved 15 million settlement on behalf of a nationwide class of employees and applicants for violations of § 1681b(b)(2) of the Fair Credit Reporting Act, which at the time was the largest settlement of its kind)

Gambles v. Sterling Infosystems, Inc., No. 15-cv-9746 (S.D.N.Y.) (FCRA class action, alleging violations by consumer reporting agency, resulting in a gross settlement of 15 million, one of the largest FCRA settlements to date at the time)

In re Capital One Financial Corporation, Affiliate Marketing Litigation, No. 1:25-cv-00023 (E.D. Va.) (co-lead counsel in consolidated class action representing affiliate marketers in allegations of cookie-stuffing by Capital One)

Rilley v. MoneyMutual, LLC, No. 16-cv-4001 (D. Minn.) (court certified a litigation class of over 20,000 Minnesota consumers alleging that MoneyMutual violated Minnesota payday lending regulations, resulting in 2,000,000 settlement with notable injunctive relief, led by Ms. Drake and team from Berger Montague)

In re Target Corp. Customer Data Security Breach Litig., MDL No. 14-2522 (D. Minn.). (Data security breach class action, resulting in a 10 million settlement for consumers.)

18. My litigation efforts and experience have received judicial acknowledgement and praise throughout the years of my practice. Examples of such recognition include:

From Judge Paul A. Engelmayer, United States District Court, Southern District of New York:

I know the diligence of counsel and dedication of counsel to the class. Thank you, Ms. Drake. As always I appreciate the your extraordinary dedication to your to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It's a pleasure always to have you before me. Class counsel [] generated this case on their own initiative and at their own risk. Counsel's enterprise and ingenuity merits significant compensation. Counsel here are justifiably proud of the important result that they achieved.

Sept. 22, 2020, Final Approval Hearing, *Gambles v. Sterling Info., Inc.*, No. 15-cv-9746.

From Judge Harold E. Kahn, Dep't 302, Superior Court of Cal., San Fran. Cnty.:

You're very articulate on this issue. Obviously, you're very thoughtful and you have given it a great deal of thought. And I appreciate your ability to respond to my questions off the cuff. It shows that you have given these issues a lot of thought ... I have to say that your thoughtfulness this morning has somewhat diminished my concerns [regarding high multiplier on attorney fees]. You're demonstrating credibility by a mile as you go. You are extraordinarily impressive. And I thank you for being here, and for

1 your candid, noninvasive [sic] response to every question I have. I was extremely
 2 skeptical at the outset this morning. You have allayed all of my concerns and have
 3 persuaded me that this is an important issue, and that you have done a great service to
 4 the class. And for that reason, I am going to approve your settlement in all respects
 5 And I congratulate you on your excellent work.

6 Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146

7 From Judge Laurie J. Michelson, United States District Court, E.D. Mich.:

8 Counsel's quality of work in this case was high. The Court has been impressed with
 9 counsel's in-court arguments. And counsel has provided the Court with quality briefing
 10 as well.

11 Aug. 11, 2017, Opinion & Order on Mtn. for Atty. Fees, and Mtn. for Final Approval,
 12 *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803.

13 From Magistrate Judge Terence P. Kemp, United States District Court, S.D. Ohio:

14 The parties in this case are represented by counsel with substantial experience in class
 15 action litigation, and FCRA cases in particular. Class Counsel are experienced and
 16 knowledgeable in FCRA litigation, are skilled, and are in good standing.

17 June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*,
 18 No. 16-cv-1066.

19 From Judge Paul A. Magnuson, United States District Court, D. Minn.:

20 [T]he class representatives and their counsel more than adequately protected the class's
 21 interests. [T]he comprehensive nature of the settlement in turn, reflects the adequacy,
 22 indeed the superiority, of the representation the class received from its named Plaintiffs
 23 and from class counsel.

24 May 17, 2017, Mem. & Order on Mtn. to Certify Class, *In re Target Corp. Customer*
 25 *Data Sec. Breach Litig.*, MDL No. 14-2522.

26 From Judge Paul A. Engelmayer, United States District Court, S.D.N.Y.:

27 The high quality of [plaintiffs' counsel]'s representation strongly supports approval of
 the requested fees. The Court has previously commended counsel for their excellent
 lawyering. The point is worth reiterating here. [Plaintiffs' counsel] was energetic,
 effective, and creative throughout this long litigation. The Court found [Plaintiffs'
 counsel]'s briefs and arguments first-rate. And the documents and deposition transcripts

1 which the Court reviewed in the course of resolving motions revealed the firm's far-
 2 sighted and strategic approach to discovery. Further, unlike in many class actions,
 3 plaintiffs' counsel did not build their case by piggybacking on regulatory investigation or
 settlement. The lawyers [] can genuinely claim to have been the authors of their
 clients' success.

4 Sept. 22, 2015, Final Approval Order, *Hart v. RCI Hospitality Holdings, Inc.*, No. 09-cv-
 5 3043.

6 From Magistrate Judge Laurel Beeler, United States District Court, N.D. Cal.:

7 Counsel have worked vigorously to identify and investigate the claims in this case, and,
 8 as this litigation has revealed, understand the applicable law and have represented their
 9 clients vigorously and effectively.

10 June 13, 2014, Order Granting Mtn. for Class Cert., *Ellsworth v. U.S. Bank, N.A.*, No.
 11 12-cv-2506.

12 From Judge Richard H. Kyle, United States District Court, D. Minn.:

13 Well, I think you did a great job on this. I mean, I really do. it seems to me you folks
 14 have gotten it done the right way.

15 Jan. 6, 2014, Prelim. Approval Hearing, *Bible v. General Revenue Corp.*, No. 12-cv-1236.

16 From Judge Deborah Chasanow, United States District Court, D. Md.:

17 [plaintiffs' counsel] are qualified, experienced, and competent, as evidenced by their
 18 background in litigating class-action cases involving FCRA violations. As noted
 19 above, Plaintiffs' attorneys are experienced and skilled consumer class action litigators
 20 who achieved a favorable result for the Settlement Classes.

21 Oct. 2, 2013, Final Approval Order, *Singleton v. Domino's Pizza, LLC*, No. 11-cv1823.

22 From Judge Lorna G. Schofield, United States District Court, S.D.N.Y.:

23 [Plaintiffs' Counsel] has demonstrated it is able fairly and adequately to represent the
 24 interests of the putative class.

25 July 23, 2013, Order Appointing Interim Lead Counsel, *Ernst v. DISH Network, LLC*,
 26 No. 12-cv-8794.

1 From Judge Susan M. Robiner, Minnesota District Court, Henn. Cnty.:

2 Plaintiffs' counsel are adequate legal representatives for the class. They have done work
3 identifying and investigating potential claims, have handled class actions in the past,
4 know the applicable law, and have the resources necessary to represent the class. The
class will be fairly and adequately represented.

5 Oct. 16, 2012, Order Granting Mtn. for Class Cert., *Spar v. Cedar Towing & Auction,*
6 *Inc.*, No. 27-CV-411-24993.

7 19. The foregoing statement is made under penalty of perjury, and is true and correct
8 to the best of my knowledge and belief.

9 DATED this 30th day of June, 2025.

10 /s/E. Michelle Drake

11 E. Michelle Drake, Admitted *Pro Hac Vice*

EXHIBIT 2



About Berger Montague

Berger Montague is one of the nation's preeminent law firms focusing on complex civil litigation, class actions, and mass torts with nationally known attorneys highly sought after for their legal skills and commitment to justice.

The firm has been recognized by federal and state courts across the country for its ability and expertise in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation.

For more than 50 years, Berger Montague has played leading roles in precedent-setting cases and our attorneys have recovered over \$50 billion for their clients and the classes they have represented.

Berger Montague laid the groundwork for the use of class actions in antitrust and securities litigation. The firm has since expanded the use of class actions in the fields of consumer, employment, environmental, and insurance litigation as well as of civil and human rights.

From helping companies in high-stakes commercial litigation to representing whistleblowers who have identified fraud against the government, our 100+ lawyers are able to tackle the most complex, precedent-setting legal matters.

Berger Montague has earned a national reputation for delivering results for clients. Our record of obtaining successful multimillion dollar settlements and verdicts is a direct reflection of our philosophy of preparing for trial from the moment we take your case — and paying attention to the details.

Berger Montague is a full-spectrum civil litigation firm, with nationally known and respected attorneys highly sought after for their legal skills. Throughout the United States, federal courts, state courts, and legal peers have recognized Berger Montague lawyers for their ability, agility and decades of experience in handling major complex litigation across multiple practice areas.

Berger Montague has been named one of *U.S. News* and *Best Lawyers* "Best Law Firms" multiple times, a leading antitrust law firm by *Chambers and Partners*, and a Class Action Department of the Year finalist by *Legal Intelligence*. Every year, our lawyers are recognized for their outstanding achievements by *Super Lawyers*, the *Best Lawyers in America*, the *National Law Journal*, *Lawdragon*, and more. Berger Montague is frequently called upon to serve as co-counsel in complex, consequential litigation.

Berger Montague is one of the largest plaintiffs' firms in the United States and maintains eight offices across the country and internationally.

Our offices are located in

- Philadelphia, Pennsylvania (headquarters)
- Chicago, Illinois
- Malvern, Pennsylvania
- Minneapolis, Minnesota
- San Diego, California



- San Francisco, California
- Toronto, Ontario, Canada
- Washington, D.C.
- Wilmington, Delaware

Our Practice Areas Include:

- Antitrust
- Appeals & Complex Briefing
- Child Sexual Abuse & Sexual Assault
- Commercial Litigation
- Commodities & Options
- Complex Litigation Ethics
- Consumer Protection
- Credit Reporting & Background Checks
- Defective Drugs & Medical Devices
- Defective Products
- Employee Benefits & ERISA
- Employment Law & Unpaid Wages
- Environmental Law & Public Health
- False Claims Act, Qui Tam & Whistleblower
- Government Representation
- Healthcare
- Intellectual Property
- Securities Fraud
- & Investor Protection
- Securities & Financial Fraud
- Technology, Privacy & Data Breach

History of the Firm

Berger Montague was founded in 1970 to concentrate on the representation of plaintiffs in antitrust class actions. The founding members of the firm pioneered the use of class actions in antitrust litigation and were later instrumental in extending the use of the class action procedure to other practice areas, including securities, civil and human rights, and consumer protection. During the last several decades, the firm continued to expand its practice areas and has now recovered over \$50 billion dollars for its clients and the classes they have represented. In complex litigation, and particularly in the area of class action litigation, Berger Montague has established new law and forged the path for recovery.

Berger Montague has achieved many victories over the years, including for example:

- Trial counsel in the Exxon Valdez Oil Spill litigation in Anchorage, Alaska, and obtained a record jury award of \$5 billion against Exxon, later set by the U.S. Supreme Court to \$507.5 million;



- Lead counsel in the School Asbestos Litigation, in which a national class of elementary and secondary schools recovered over \$200 million to defray the costs of asbestos abatement in the first mass tort property damage class action certified on a national basis;
- Represented the plaintiffs in the Drexel Burnham Lambert/Michael Milken securities and bankruptcy litigation, in which the claimants recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of Drexel;
- Lead counsel in *Cook v. Rockwell International Corp.*, involving environmental contamination at the Rocky Flats nuclear weapons facility in Colorado, and tried and won the largest jury verdict in Colorado history, a \$554 million verdict on behalf of property owners whose homes were exposed to plutonium, which when interest was added, totaled \$926 million, and a \$375 million settlement was thereafter reached in 2016;
- Served on the executive committee in the Holocaust Victim Assets Litigation and helped achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War, and also played an instrumental role in achieving a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust;
- Represented the State of Connecticut in the tobacco litigation; and
- Co-lead counsel in In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, in which, after 15 years of litigation, a \$6.2 billion settlement – the largest antitrust class action settlement in U.S. history – was recently affirmed by the United States Court of Appeals for the Second Circuit, in a case against Visa, MasterCard, and the largest banks in the country, challenging the fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees.

Many other notable victories are available for viewing at www.bergermontague.com.

Commitment to Community and Pro Bono Opportunities

Berger Montague attorneys and professionals commit their most valuable resource, their time, to their communities, charities, nonprofit organizations, and important pro bono (unpaid volunteer) legal work. For over half a century, Berger Montague has encouraged its employees to support charitable causes and volunteer in the community. Our attorneys understand that participating in pro bono representation is an essential component of their professional and ethical responsibilities.

Berger Montague is strongly committed to charitable causes. Over his lengthy career, the firm's founding partner, David Berger, was prominent in many philanthropic and charitable enterprises, including serving as Honorary Chairman of the American Heart Association; a Trustee of the



American Cancer Society; and a member of the Board of Directors of the American Red Cross. This tradition continues to the present.

Community Legal Services of Philadelphia, an organization that has provided free civil legal assistance to more than one million low-income residents of Philadelphia, honored Berger Montague with its 2021 Champion of Justice Award for the firm's work leading a case against the IRS that succeeded in getting unemployed people their rightful benefits during the COVID-19 pandemic.

Berger Montague has also received the Chancellor's Award presented by the Philadelphia Volunteers for the Indigent Program ("VIP"), which provides crucial legal services to low-income Philadelphia residents. VIP relies on volunteer attorneys to provide pro bono representation for families and individuals. In 2009 and 2010, Berger Montague also received an award for its volunteer work with the VIP Mortgage Foreclosure Program following the 2008 subprime mortgage crisis.

Berger Montague attorneys are currently engaged in many pro bono opportunities with many organizations, including, for example:

- Public Justice
- Public Interest Law Center of Philadelphia ("PILCOP")
- Community Legal Services of Philadelphia ("CLS")
- Philadelphia Legal Assistance
- Education Law Center
- Legal Clinic for the Disabled
- Support Center for Child Advocates
- Veterans Pro Bono Consortium
- AIDS Law Project of Philadelphia
- Center for Literacy
- National Liberty Museum
- Philadelphia Volunteers for the Indigent Program
- Philadelphia Mortgage Foreclosure Program
- The Impact Fund
- Southern Center for Human Rights

Berger Montague is proud of its written pro bono policy that encourages and strongly supports its attorneys who get involved in this important and rewarding work. Many attorneys at Berger Montague have been named to the First District of Pennsylvania's Pro Bono Honor Roll.

Berger Montague also makes annual contributions to the Philadelphia Bar Foundation, an umbrella charitable organization dedicated to promoting access to justice for all people in the community, particularly those struggling with poverty, abuse, and discrimination.

The firm has held numerous clothing drives, toy drives, food drives, and blood drives. Through these efforts, Berger Montague's employees have donated thousands of items of clothing, toys, and food to local charities including the Salvation Army, Toys for Tots, and Philabundance, a local food bank. Blood donations are made to the American Red Cross. Berger Montague



attorneys also volunteer at MANNA, a Philadelphia non-profit organization that prepares and delivers meals to those suffering with serious illnesses.

Read more about our commitment to pro bono work at www.bergermontague.com/pro-bono.

Opportunity and Employee Engagement at Berger Montague

Recruiting, developing, and promoting talented and highly motivated professionals is in the firm's and our clients' best interests. The mission of the Opportunity and Employee Engagement team is to enrich the firm with multiple perspectives to foster teamwork, encourage employee growth, and create opportunities to serve a broader set of clients. Learn more about working at Berger Montague at www.bergermontague.com/Careers.

Our Opportunity and Engagement Team at Berger Montague includes Co-Coordinator Camille Fundora Rodriguez and Andrew C. Curley. The Committee oversees the following tasks:

- **Training Attorneys.** Our cases are complex and require a high degree of skill and teamwork. We have developed formal and informal training programs to help junior attorneys attain a variety of legal skills critical to successfully litigating our cases. Such skill development sessions includes legal writing, taking depositions, and negotiating with opposing counsel.
- **Developing Talent.** Berger Montague has also created an associate checklist that provides guidelines for fostering employee growth. We ensure that attorneys are getting the varied professional experiences they need to progress in their careers. Our firm promotes continuous mentoring and feedback. Senior attorneys are evaluated annually on their efforts to mentor and train their less experienced colleagues.
- **Mentoring Attorneys.** Our attorney development and mentorship program matches Associates with a Shareholder or Senior Counsel to help form important working relationships, nurture junior talent, and ensure that Associates meet well-defined annual goals.
- **Staffing Cases Strategically.** We evaluate each case and staff it in a fair and considered manner, based on the case's particular needs with an eye toward giving attorneys varied experiences.
- **Retaining Attorneys.** Berger Montague has been litigating cutting edge cases for over 50 years. We explore creative new case theories and approaches. We encourage all attorneys at all levels to think expansively about how to use the law to represent our clients' interests and hold wrongdoers accountable. Once a case has been filed, as part of our deep commitment to development and teamwork, we encourage all attorneys to participate in shaping case strategy.

Summary of Practice Areas

Antitrust

Berger Montague's innovative approach to antitrust class actions continues to recover billions of dollars for clients and class members. The Firm has played a principal role in numerous



precedent-setting cases, including a number of the largest and most successful antitrust class actions.

Our pivotal role has obtained billions of dollars in settlements across diverse industries, including commodity markets, pharmaceuticals, and financial products. As a result of our successes and the skill, reputation and experience of our Firm's antitrust lawyers, Berger Montague is routinely appointed by federal courts to serve in leadership roles in complex antitrust class action cases.

The firm and its antitrust lawyers have been recognized by *Chambers USA* for over 20 years. The firm has also received recognition from *The Legal 500*, Martindale-Hubbell, *America's Best Lawyers*, *Lawdragon.com*, and *The National Law Journal* for its outstanding work in antitrust litigation. The country's leading judges have also noted our tremendous litigation skills and our outstanding preparation and representation of our clients and class members.

- **Cung Le, et al v. Zuffa, LLC, d/b/a Ultimate Fighting Championship (UFC), et al Antitrust Litigation:** Co-lead counsel obtained a \$375 million settlement on behalf of a certified class of UFC fighters, charging the UFC with violations of the antitrust laws. The class fought for the UFC between December 16, 2010 and June 30, 2017 in *Le v. Zuffa, LLC*. There is also a proposed class of UFC fighters who fought for the UFC between July 1, 2017 and the present in *Johnson v. Zuffa, LLC, et al*. The complaints in the *Le* Action and the *Johnson* Action allege that the plaintiffs and members of the classes are victims of the UFC's illegal scheme to eliminate its competition in the sport of Mixed Martial Arts (MMA), and that the defendants have suppressed compensation for UFC Fighters.
- **In re: Platinum and Palladium Antitrust Litigation:** Co-lead counsel obtained a \$20 million settlement in these consolidated class actions on behalf of traders of platinum of platinum and palladium-based derivative contracts, physical platinum and palladium, and platinum and palladium-based securities against BASF, Goldman Sachs, HSBC, and ICBC Standard Bank (collectively, the "Fixing Participants" or "defendants").
- **In re Domestic Drywall Antitrust Litigation:** Co-lead Counsel and obtained a \$190.7 million settlement on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the United States and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." The case was litigated in the United States District Court for the Eastern District of Pennsylvania.
- **In re Commodity Exchange Inc., Gold Futures and Options Trading Litigation:** Co-lead Counsel and obtained total settlements of \$152 million in this class action antitrust lawsuit alleging that the five banks that participated in the London Gold Fixing conspired to suppress the PM Gold Fix, an important gold pricing benchmark, thereby harming sellers of physical gold and certain gold investments. The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank Ag, HSBC Bank plc and Société Générale are all members of the London Gold Market Fixing Ltd., which conducts the London Gold Fixing. The London Gold Fixing is a twice daily process where the defendants set an important



benchmark price for gold. The plaintiffs alleged that the defendants conspired to manipulate this benchmark for their collective benefit. The plaintiffs further alleged that they were injured because the defendants' manipulation caused prices for gold-based derivatives contracts, physical gold, and gold-based securities to be made artificial.

- **In re: Generic Pharmaceuticals Pricing Antitrust Litigation:** On the Plaintiffs' Steering Committee for a proposed class of generic drug purchasers in price-fixing and market allocation litigation brought against many of the generic drug manufacturers operating in the United States. This large MDL litigation contains various, similar complaints filed by the plaintiffs which allege that generic pharmaceutical manufacturers engaged in an unlawful scheme or schemes to fix, maintain, and stabilize prices, rig bids, and engage in market and customer allocations concerning many generic drugs.
- **In re Google Digital Advertising Antitrust Litigation.** Co-Lead Counsel representing "Publishers," i.e., ad-supported online content companies, in a suit alleging that Google engaged in a scheme to monopolize markets for products publishers use to sell their ad inventory. Plaintiffs alleges that Google's scheme to monopolize suppresses the ad revenues Publishers can generate on their content.
- **In re: Shale Oil Antitrust Litigation.** Co-Lead Counsel for a class of purchasers who paid inflated prices for gasoline, heating oil, and other crude oil-derived products as a result of a conspiracy among major U.S. shale oil producers to restrict production under the pretext of "market discipline." The proposed class includes individuals and entities in the United States who purchased gasoline, diesel fuel, or heating oil at artificially inflated prices due to the alleged anticompetitive conduct of major shale oil producers.

Additional Firm Antitrust Experience

Over the last half century, the firm has litigated many of the significant civil antitrust cases alleging price fixing and monopoly abuse. Our founding partner is recognized for pioneering the modern antitrust class action, leading to the recovery of billions of dollars for our clients and the classes we represent.

Berger Montague's antitrust practice has also obtained some of the largest antitrust class action settlements including \$5.6 billion in *In re Payment Card Interchange Fee & Merchant Discount Litigation*, and \$750 million in *In re Namenda Direct Purchaser Antitrust Litigation*. Our innovative approach to antitrust litigation helped shaped the applicable legal standards.

Pharmaceutical Antitrust Class Actions

Berger Montague has also played a principal role in obtaining over \$1 billion in settlements from drug companies alleged to have impeded the entry of generics and artificially inflated drug prices.



These Pay-for-Delay cases include:

- **In re Namenda Direct Purchaser Antitrust Litigation – Antitrust Class Action Settlement:** Co-lead counsel and obtained a \$750 million settlement on behalf of a class of direct purchasers of branded and/or generic Namenda IR and/or branded Namenda XR. This is the largest single-defendant settlement ever for a case alleging delayed generic competition. The case was litigated in the United States District Court for the Southern District of New York.
- **In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation:** Represented a certified class of direct purchaser plaintiffs who purchased Suboxone tablets directly from defendant Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) (“Reckitt”). Shortly before trial was scheduled to start (the Court had set the trial start date for October 30, 2023), the parties reached a \$385 million settlement.
- **King Drug Co. of Florence Inc. v. Cephalon Inc. – Provigil Antitrust Settlement:** Served on the Executive Committee and obtained total settlements of over \$512 million in this antitrust pay for delay class action on behalf of direct purchasers of Provigil (modafinil), a prescription drug for sleeping disorders manufactured and sold by defendant Cephalon, Inc. After nine years of hard-fought litigation, the court approved a \$512 million partial settlement, then the largest settlement ever for a case alleging delayed generic competition. The case was litigated in the United States District Court for the Eastern District of Pennsylvania.
- **In Re: Opana ER Antitrust Litigation – Antitrust Settlement:** Co-lead class counsel and obtained a \$145 million settlement in this antitrust pay for delay action on behalf of a certified class of direct purchasers of brand or generic Opana, alleging that the defendants entered into a pay for delay agreement whereby Impax delayed the launch of its generic Opana ER product in exchange for valuable consideration from Endo. After eight years of hard-fought litigation and the court’s class certification opinion in favor of the plaintiffs on June 4, 2021, the class and Impax settled as trial commenced (and proceeded against Endo), reaching what Judge Leinenweber described as an “excellent” settlement.
- **Celebrex (Celecoxib) Antitrust Class Action Settlement:** Class counsel and obtained a \$94 million settlement for the class of direct purchasers of brand and generic Celebrex (celecoxib) in this antitrust action against Pfizer. The plaintiffs alleged that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case was litigated in the District Court for the Eastern District.
- **In re Loestrin 24 Fe Antitrust Litigation – Antitrust Class Action Settlement:** Co-lead counsel and obtained a \$120 million settlement for the class of direct purchasers of brand Loestrin, generic Loestrin, and brand Minastrin. The direct purchaser class alleged that the defendants violated the antitrust laws by unlawfully impairing the introduction of



generic versions of the prescription drug Loestrin 24 Fe. The case was litigated in the United States District Court for the District of Rhode Island.

- **In re K-Dur Antitrust Litigation – Antitrust Class Action Settlement:** Co-Lead Counsel and obtained \$62.3 million in total settlements for a class of direct purchasers of the brand-name drug K-Dur 20, a potassium chloride supplement used to treat patients with depleted potassium. The lawsuit alleged that the defendants, Schering-Plough, Upsher-Smith, and American Home Products, violated federal antitrust law by entering into written, anti-competitive agreements under which Schering-Plough paid its rival generic manufacturers, Upsher-Smith and American Home Products, \$60 million to delay the market entry of their generic versions of K-Dur 20. The case was litigated in United States District Court for the District of New Jersey.
- **In re Solodyn Antitrust Litigation – Antitrust Class Action Settlement:** Co-lead counsel and obtained over \$76.8 million in total settlements on behalf of a class of direct purchasers of brand and generic Solodyn (extended-release minocycline hydrochloride tablets) in this antitrust action. The plaintiffs alleged that Medicis Pharmaceutical Corp. entered into agreements with each of Impax Laboratories, Inc., Sandoz Inc., and Lupin Limited/Lupin Pharmaceuticals, Inc. not to compete in the market for extended-release minocycline hydrochloride tablets, including Solodyn and its generic equivalents. The case was litigated in the United States District Court for the District of Massachusetts
- **In re Tricor Antitrust Litigation:** Class counsel and obtained a \$250 million settlement on behalf of a class of direct purchasers of the cholesterol drug Tricor. The plaintiffs charged Abbott Laboratories and Fournier Industrie et Sante, two brand-name pharmaceutical companies, with monopolizing the market for Tricor and its generic equivalents and paying its competitors to refrain from introducing less expensive generic versions of the drug. The case was litigated in the United States District Court for the District of Delaware.

Commodities Antitrust Class Actions

- **In re Capacitors Antitrust Direct Purchaser Litigation:** One of the lead trial counsel obtaining over \$604.5 million in settlements on behalf of a class of direct purchasers of aluminum and tantalum electrolytic capacitors and film capacitors. After nearly a decade of hard-fought litigation, and two nearly completed trials in front of California juries, the plaintiffs ultimately obtained combined settlements for the class, representing an extraordinary recovery of 141.4% of the class's single damages as calculated by the class' expert. Capacitors are a fundamental component of electrical circuits that store electric charge and, as such, are ubiquitous in electronic devices. The challenged conduct included both formal and informal conspiratorial meetings and communications with anticompetitive exchanges occurring throughout Asia, Europe, and the U.S.
- **In re: Platinum and Palladium Antitrust Litigation:** Co-lead counsel obtained a \$20 million settlement in these consolidated class actions on behalf of traders of platinum of platinum and palladium-based derivative contracts, physical platinum and palladium, and



platinum and palladium-based securities against BASF, Goldman Sachs, HSBC, and ICBC Standard Bank (collectively, the “Fixing Participants” or “defendants”).

- **In re Commodity Exchange Inc., Gold Futures and Options Trading Litigation:** Co-lead Counsel and obtained total settlements of \$152 million in this class action antitrust lawsuit alleging that the five banks that participated in the London Gold Fixing conspired to suppress the PM Gold Fix, an important gold pricing benchmark, thereby harming sellers of physical gold and certain gold investments. The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank Ag, HSBC Bank plc and Société Générale are all members of the London Gold Market Fixing Ltd., which conducts the London Gold Fixing. The London Gold Fixing is a twice daily process where the defendants set an important benchmark price for gold. The plaintiffs alleged that the defendants conspired to manipulate this benchmark for their collective benefit. The plaintiffs further alleged that they were injured because the defendants’ manipulation caused prices for gold-based derivatives contracts, physical gold, and gold-based securities to be made artificial.
- **In re: Generic Pharmaceuticals Pricing Antitrust Litigation:** On the Plaintiffs’ Steering Committee for a proposed class of generic drug purchasers in price-fixing and market allocation litigation brought against many of the generic drug manufacturers operating in the United States. This large MDL litigation contains various, similar complaints filed by the plaintiffs which allege that generic pharmaceutical manufacturers engaged in an unlawful scheme or schemes to fix, maintain, and stabilize prices, rig bids, and engage in market and customer allocations concerning many generic drugs.

Athletic and Academic Antitrust Class Actions

- **Cung Le, et al v. Zuffa, LLC, d/b/a Ultimate Fighting Championship and UFC – Antitrust Litigation:** Co-lead counsel obtained a \$375 million settlement on behalf of a certified class of UFC fighters, charging the UFC with violations of the antitrust laws. The class fought for the UFC between December 16, 2010 and June 30, 2017 in *Le v. Zuffa, LLC*, as well as a proposed class of UFC fighters who fought for the UFC between July 1, 2017 and the present in *Johnson v. Zuffa, LLC*. The complaints in the *Le Action* and the *Johnson Action* allege that the plaintiffs and members of the classes are victims of the UFC’s illegal scheme to eliminate its competition in the sport of Mixed Martial Arts (MMA), and that the defendants have suppressed compensation for UFC Fighters.
- **Fusion Elite All Stars v. Varsity Brands, LLC – Antitrust Class Action Settlement:** Co-Lead Class Counsel representing classes of All-Star Cheer Gyms and Spectators of All Star Cheer Events in antitrust litigation against Varsity Brands, LLC and its subsidiaries (collectively “Varsity”) and U.S. All-Star Federation, Inc. (“USASF”). In late 2022, the plaintiffs’ negotiation team reached a settlement of the matter for \$82 million in cash plus valuable prospective relief that would unwind some of the key conduct that the plaintiffs alleged Varsity had used to monopolize the market for All Star Cheer Events in the United States.
- **Henry, et al. v. Brown University, et al. 568 Cartel Antitrust Litigation:** Co-lead counsel obtained \$284 million in settlements to date in this antitrust class action lawsuit



filed against Brown University, California Institute of Technology, University of Chicago, Columbia University, Cornell University, Dartmouth College, Duke University, Emory University, Georgetown University, Massachusetts Institute of Technology, Northwestern University, Notre Dame, University of Pennsylvania, Rice University, Vanderbilt University, and Yale University. U.S. District Court Judge Matthew Kennelly rejected motions by the defendant universities to dismiss the case. Discovery in the litigation is now going forward.

Financial Services Antitrust Class Actions

Sophisticated investors' portfolios contain a diverse set of investment vehicles, including equities, bonds, futures, swaps, commodities and other financial instruments. Plaintiffs' law firms that focus on traditional securities fraud and Delaware litigation are, generally, focused on investor losses on one category of investment products: equities. Berger Montague has a long history of success in securities litigation. Our broad litigation expertise—including in antitrust and commodities litigation—enables us to also identify and successfully pursue meritorious claims for losses suffered in other financial instruments, such as bonds, swaps, futures, commodities, etc., on behalf of our investor clients that the firm's peers often overlook.

Representative complex antitrust litigation experience includes financial services companies includes:

- **Currency Conversion Fee Litigation – Antitrust Class Action Settlement:** Co-lead counsel led this class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved. A subsequent settlement with American Express increased the settlement amount to \$386 million. The case was litigated in the United States District Court for the Southern District of New York.
- **Ross v. Bank of America:** Lead counsel for the cardholder classes and obtained settlements with four of the nation's largest credit card companies, JPMorgan Chase, Bank of America, Capital One and HSBC. The plaintiffs alleged that six major credit card banks and one arbitration provide unlawfully colluded to require cardholders to arbitrate disputes, including debt collection disputes, and to preclude cardholders from participating in any class actions. The case was litigated in United States District Court for the Southern District of New York.
- **In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:** Co-Lead Counsel and obtained a \$5.6 billion antitrust settlement for a national class of direct purchasers in the Payment Card Interchange Fee and Merchant Discount Antitrust Litigation against Visa, MasterCard, and several of the largest banks in the United States including JPMorgan Chase, Bank of America, and Citibank. The case is pending in the United States District Court for the Eastern District of New York. Our team earned high judicial praise.



- **Contant v. Bank of America corp. – Antitrust Class Action Settlement:** Lead Counsel and obtained \$23.63 million in settlements with the defendants in the multistate indirect purchaser antitrust class action, Contant, et al. v. Bank of America Corp., et al. The plaintiffs alleged that the defendants including 16 of the world's largest dealer banks colluded to manipulate prices on foreign currency instruments. The case was litigated in the United States District Court for the Southern District of New York. We earned judicial praise.

Additional Complex Antitrust Litigation Experience

- **Dental Supplies Antitrust Litigation:** As Co-lead counsel obtained an \$80 million settlement for a class of dental practices and dental laboratories in this antitrust lawsuit against Henry Schein, Inc., Patterson Companies, Inc., and Benco Dental Supply Company, the three largest distributors of dental supplies in the United States. Our team earned judicial praise for our work.
- **In re Domestic Drywall Antitrust Litigation:** As Co-lead Counsel and obtained a \$190.7 million settlement on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the United States and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." The case was litigated in the United States District Court for the Eastern District of Pennsylvania.
- **Marchbanks Truck Service Inc. v. Comdata Network, Inc. – Antitrust Settlement:** As Co-lead counsel and obtained settlements totaling \$130 million for a class of 6,500 independent truck stops and other retail fueling facilities in this antitrust lawsuit. The settlement also included valuable prospective relief that rolled back much of the conduct that the plaintiffs challenged in the lawsuit as anticompetitive. The case was litigated in the United States District Court for the Eastern District of Pennsylvania.
- **Chicken Farmers In re Broiler Chicken Grower Antitrust Litigation:** As Co-lead counsel and obtained \$169 million for a class of chicken farmers (also called "growers") in a pay suppression case alleging that the major chicken processing companies (e.g., Tyson, Perdue, Pilgrim's Pride) conspired to suppress the growers' pay by illegally sharing confidential grower compensation data and illegally conspiring not to recruit each other's growers. This is believed to be the largest recovery ever for growers against the chicken companies.

Appeals & Complex Briefing

For more than 50 years, Berger Montague has successfully argued high stakes appeals and briefed complex issues in trial courts around the country. Berger Montague has a proven track record of winning appeals and obtaining favorable results after complex briefing. Our San Francisco office, led by Supreme Court advocate Joshua Davis, has become a destination Appeals & Complex Briefing practice where clients and peer law firms turn when they need top-



flight advocacy in federal and state courts of appeal, in the United States Supreme Court, and for critical briefing in trial courts.

- **Harrow v. Department of Defense:** Appellate counsel representing Petitioner Harrow in a briefing on the merits and oral argument before the Supreme Court. Berger Montague is litigating in the Federal Circuit after shareholder Josh Davis secured a unanimous 9-0 U.S. Supreme Court victory on behalf of a furloughed federal employee.
- **Innovative Health, LLC v. Biosense Webster, Inc:** Counsel representing Plaintiff-Appellant Innovative Health, LLC in a civil appeal of an adverse judgment. Berger Montague successfully reversed a grant of summary judgment in the U.S. Court of Appeals for the Ninth Circuit. The case challenges a medical device provider's exclusionary conduct under federal antitrust laws.
- **Simon & Simon v. Align:** Counsel representing Plaintiff-Appellant Simon & Simon in a civil appeal of an adverse judgment. Berger Montague is engaged in briefing in the U.S. Court of Appeals for the Ninth Circuit, challenging a summary judgment antitrust ruling in a refusal-to-deal case. The U.S. Department of Justice and American Antitrust Institute filed supportive amicus briefs.
- **Giordano v. Saks Incorporated:** Counsel representing Plaintiff Giordano in a civil appeal. Berger Montague briefed and argued Saks before the U.S. Court of Appeals for the Second Circuit. The briefing case challenges a conspiracy where defendants agreed not to compete for one another's employees.
- **Berger Montague is Pro Bono Appellate Counsel representing Donald Felton in a criminal appeal:** Matt Summers argued U.S. v. Felton in the U.S. Court of Appeals for the Seventh Circuit. Berger Montague represents a criminal defendant challenging an unlawful warrant on Fourth Amendment grounds.
- **Osheske v. Landmark Theaters:** Counsel representing Osheske in a civil appeal of an adverse judgment. Berger Montague associate Sophia Rios argued before the U.S. Court of Appeals for the Ninth Circuit, contending that the Video Privacy Protection Act applies to movie theaters that sell consumer data to third parties.
- **In Re Abbott Labs:** Counsel representing Plaintiffs-Respondents in a civil appeal. Berger Montague developed briefing in this Third Circuit case against two former U.S. Solicitors General, resulting in an opinion upholding the district court's use of the crime-fraud exception against pharmaceutical company that had engaged in sham litigation.
- **Harris v. Krasner:** Counsel representing Plaintiffs-Appellants Harris and Dixon-Fowler in a civil appeal of an adverse judgment. Berger Montague achieved a precedential Third Circuit victory representing District Attorney Larry Krasner.
- **Boynes v. Limetree Bay Ventures LLC:** Counsel representing Plaintiffs-Appellees in a civil appeal. Berger Montague represented residents of St. Croix before the U.S. Court of Appeals for the Third Circuit. The Third Circuit affirmed a preliminary injunction requiring



oil companies to provide bottled water to affected residents after their refinery contaminated local water supplies.

- **Gilead v. Superior Court:** Appellate Counsel representing Justice Catalyst as amicus curiae in a briefing on the merits. Berger Montague filed an amicus brief in the California Supreme Court arguing that pharmaceutical companies should be liable for substantial, unreasonable harm. The amicus brief argues that hyperbolic arguments from the pharmaceutical industry's amici are baseless, in part because analogous doctrines in antitrust law provide liability under similar circumstances.
- **NVIDIA Corp. v. E. Ohman J:OR Fonder AB:** Appellate Counsel representing certain institutional investors as amici curiae in a briefing on the merits. Berger Montague filed an amicus brief in the Supreme Court of the United States on behalf of major institutional investors, advocating against the imposition of novel pleading standards that would impede meritorious securities litigation.
- **Gibson v. Cendyn:** Appellate Counsel representing the American Antitrust Institute as amicus curiae in a briefing on the merits. Berger Montague filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit, collaborating with the American Antitrust Institute to address the antitrust implications of algorithmic collusion in the hospitality industry.
- **In re: Merck Mumps Vaccine Antitrust Litigation:** Appellate Counsel representing the American Antitrust Institute as amicus curiae in a brief supporting a petition for rehearing en banc. Berger Montague filed an amicus brief in the U.S. Court of Appeals for the Third Circuit. Berger Montague collaborated with the American Antitrust Institute to argue that the en banc Third Circuit Court of Appeals should re-consider the applicability of the Noerr-Pennington doctrine on knowing misrepresentations.

Child Sex Abuse & Sexual Assault

The Child Sexual Abuse Team at Berger Montague works to obtain justice for survivors of sexual predators. Berger Montague has a national reputation dating over a half century for the successful representation of our clients. During its history, Berger Montague has recovered over Forty Billion Dollars for its clients. We use our decades of experience, professional expertise, and unwavering commitment to justice to shine a light on the truth, obtain compensation for our clients, and help our clients begin their healing journey.

We serve survivors across the United States and can meet with you confidentially and inform you about your options for pursuing justice and the types of remedies that can be pursued.

Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with



our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- **Ginsburg v. Philadelphia Stock Exchange, Inc.**, No. 2202-CC (Del. Ch.). Lead counsel and obtained a settlement valued at over \$99 million on behalf of a former trader who brought a shareholder class action on behalf of minority shareholders of the Philadelphia Stock Exchange. The litigation alleged breaches of fiduciary duty by directors of the exchange and the exchange itself. The settlement was reached on the eve of trial and provided for significant changes to corporate governance to prevent the recurrence of the disenfranchisement that occasioned the litigation in the first place.
- **Robert S. Spencer, et al. v. The Arden Group, Inc., et al.**, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program). Represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement.
- **Forbes v. GMH**, (No. 07-cv-00979 (E.D. Pa.)) Represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced.

Commodities & Financial Instruments

Berger Montague ranks among the country's preeminent firms for managing and trying complex Commodities & Financial Instruments related cases on behalf of individuals and as class actions. The firm's commodities clients include individual hedge and speculation traders, hedge funds, energy firms, investment funds, and precious metals clients.

- **In re Peregrine Financial Group Customer Litigation:** Co-lead counsel obtained settlements worth over \$73.5 million on behalf of former customers of Peregrine Financial Group, Inc. in litigation against U.S. Bank, N.A. and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse. The plaintiffs alleged that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use.
- **In re MF Global Holdings Ltd. Investment Litigation:** Co-lead counsel obtained \$1.6 billion to thousands of commodities account holders who were victims to the alleged massive theft and misappropriation of client funds at the former global commodities brokerage firm, MF Global. This was one of the largest recoveries arising out of the U.S. financial crisis. The firm reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that benefitted the plaintiffs and class members. The class members received more than 100% of the funds allegedly misappropriated by MF Global even after all attorneys' fees and expenses.



- **In re Commodity Exchange Inc., Gold Futures and Options Trading Litigation:** Co-lead counsel obtained total settlements of \$152 million in this class action antitrust lawsuit alleging that the five banks that participated in the London Gold Fixing conspired to suppress the PM Gold Fix, an important gold pricing benchmark, thereby harming sellers of physical gold and certain gold investments. The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank Ag, HSBC Bank plc and Société Générale are all members of the London Gold Market Fixing Ltd., which conducts the London Gold Fixing. The London Gold Fixing is a twice daily process where the defendants set an important benchmark price for gold. The plaintiffs alleged that the defendants conspired to manipulate this benchmark for their collective benefit.
- **In re: Platinum and Palladium Antitrust Litigation:** Co-lead counsel obtained a \$20 million settlement in these consolidated class actions on behalf of traders of platinum and palladium-based derivative contracts, physical platinum and palladium, and platinum and palladium-based securities against BASF, Goldman Sachs, HSBC, and ICBC Standard Bank (collectively, the “Fixing Participants” or “defendants”).
- **In re Libor-Based Financial Instruments Antitrust Litigation:** Class counsel and obtained settlements totaling \$187 million on behalf of investors who transacted in Eurodollar futures contracts and options on futures contracts on the Chicago Mercantile Exchange (“CME”). The suit alleged that 13 global banks conspired and colluded to misreport and manipulate LIBOR rates, thereby harming investors in futures, swaps, and other Libor-based derivative products. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

Complex Litigation Ethics

Berger Montague offers a wide range of services on ethics issues in complex litigation and class action settings. Our team provides guidance, expert testimony, representation, and counseling to law firms and lawyers on a variety of legal ethics issues, such as:

- Attorney-client privilege and work product protections
- Attorney fee awards
- Communications with absent class members
- Conflicts of interest
- Confidentiality
- Litigation funding
- Settlements
- Solicitation
- Third-party claim filers

Consumer Protection

Berger Montague’s Consumer Protection Group protects consumers when they are injured by false or misleading advertising, defective products, data privacy breaches, and various other unfair trade practices. Consumers too often suffer the brunt of corporate wrongdoing, particularly in the area of false or misleading advertising, defective products, and data or privacy breaches.



- **In re Public Records Fair Credit Reporting Act Litigation:** Class counsel in three class action settlements involving how the big three credit bureaus, Experian, TransUnion, and Equifax, report public records, including tax liens and civil judgments. The settlements provide groundbreaking injunctive relief valued at over \$100 billion and provide a streamlined process for consumers to receive uncapped monetary payments for claims related to inaccurate reporting of public records.
- **In re: CertainTeed Fiber Cement Siding Litigation,** (MDL No. 2270 (E.D. Pa.). Co-lead counsel obtained a settlement of more than \$103 million in this product liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class.
- **Countrywide Predatory Lending Enforcement Action:** Advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against Countrywide (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.
- **In re Experian Data Breach Litigation:** Served on the Executive Committee of this class action lawsuit that arose from a 2015 data breach at Experian in which computer hackers stole personal information including Social Security numbers and other sensitive personal information for approximately 15 million consumers. The settlement is valued at over \$170 million. It consisted of \$22 million for a non-reversionary cash Settlement Fund; \$11.7 million for Experian's remedial measures implemented in connection with the lawsuit; and two years of free credit monitoring and identity theft insurance. The aggregate value of credit monitoring claimed by class members during the claims submission process exceeded \$138 million, based on a \$19.99 per month retail value of the service.
- **In re Pet Foods Product Liability Litigation,** 1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.). Co-lead counsel obtained a \$24 million settlement suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover.
- **In re TJX Companies Retail Security Breach Litigation,** No. 1:07-cv-10162-WGY, (D. Mass.). The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license



replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60.

- **In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation.** No. 4:09-MD-2046 (S.D. Tex. 2009). Served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history.
- **In re: Countrywide Financial Corp. Customer Data Security Breach Litigation,** No. 3:08-md-01998-TBR (W.D. Ky.). The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief.
- **In re Educational Testing Service Praxis Principles of Learning and Teaching,** MDL No. 1643 (E.D. La.). Grades 7-12 Litigation: The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam.
- **Rilley v. MoneyMutual, LLC,** No. 16-cv-4001 (D. Minn.). Court certified a litigation class of over 20,000 Minnesota consumers alleging that MoneyMutual violated Minnesota payday lending regulations, resulting in \$2 million with notable injunctive relief.

Credit Reporting and Background Checks

Berger Montague's credit reporting and background checks practice group litigates on behalf of consumers nationwide to protect them against violations of their rights under the Fair Credit Reporting Act and other laws that govern credit reports and background checks.

We are committed to ensuring that credit report and background check information is accurate and that it is sold and used for legal purposes. When your rights are violated by an employer, consumer reporting agency, credit bureau, background check company, landlord, or another report user, our team is here to help.

- **Fernandez v. CoreLogic Credco, LLC,** No. 20-cv-1262 (S.D. Cal.). Firm was class counsel in this class action alleging violations by consumer reporting agency related to reporting possible matches to the OFAC List, resulting in historic \$58.5 million gross settlement, the second-largest class action FCRA settlement.



- **Rodriguez v. National Credit Center, LLC**, No. A-23-869000-B (Clark Cnty.). Firm served as class counsel in class action alleging violations by consumer reporting agency related to reporting of inaccurate matches to the OFAC List, resulting in class action settlement of \$30 million gross settlement for consumers.
- **Clark v. Experian Info. Sols., Inc.**, No. 3:16-cv- 00032 (E.D. Va.). Firm served as co-lead counsel in this consumer privacy and protection matter alleging that credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 50 million consumers.
- **Thomas v. Equifax Info. Services, LLC**, No. 3:18-cv-00684 (E.D. Va.). Firm served as co-lead counsel in this consumer privacy and protection matter alleging credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 69 million consumers.
- **Clark v. Trans Union, LLC**, No. 3:15-cv-00391 (E.D. Va.) Firm was appointed co-lead counsel in this consumer privacy and protection matter, alleging that credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 81 million consumers.
- **Hill-Green v. Experian Info. Sols., Inc.**, No. 3:19-cv-00708-MHL (E.D. Va.). Firm served as co-lead class counsel in credit reporting case involving allegations related to credit bureau's data analysis relating to fraud alert reporting, achieving injunctive relief settlement as well as monetary relief settlement of \$23 million.
- **Stewart v. LexisNexis Risk Data Retrieval Services, LLC**, No. 3:20-cv-00903-JGA (E.D. Va.) Firm served as part of class counsel in credit reporting case involving inaccurate reporting of tax liens and judgments, resulting in injunctive relief and monetary relief of \$24 million for the classes.
- **Rubio-Delgado v. Aerotek, Inc.**, No. 16-cv-1066 (S.D. Ohio). Firm was co-lead class counsel on class action under 15 U.S.C. §§ 1681b(b)(2) and b(b)(3), alleging employer failed to provide a stand-alone disclosure that it would procure a consumer report for employment purposes and failed to provide pre-adverse



action notice, achieving a \$15 million common fund for 654,436 class members. The settlement also provided non-monetary benefits of participation in defendant's job postings, resume assistance, and the ability to request copies of the background checks defendant procured on them.

- **Gambles v. Sterling Infosystems, Inc.**, No. 15-cv-9746 (S.D.N.Y.). Firm was co-lead class counsel on class action alleging violations by consumer reporting agency reported addresses as "high risk" that were older than seven years from the date of the consumer's report, achieving a gross settlement of \$15 million.
- **In re TransUnion Rental Screening Solutions, Inc. FCRA Litigation**, No. 1:20-md-02933 (N.D. Ga.). Firm was appointed co-lead counsel in this consolidated MDL related to claims that tenant screening agency inaccurately reported landlord-tenant actions, criminal records, and sex offender records, achieving over \$11 million in monetary relief, as well as injunctive relief, on behalf of hundreds of thousands of individual consumers.
- **Saylor v. RealPage, Inc.**, No. 1:22-cv-00053-AJT-IDD (E.D. Va.). Firm served as class counsel in credit reporting case regarding inaccurate reporting of consumers as sex offenders, achieving settlement for \$9.7 million.
- **Smith v. A-Check America Inc. d/b/a A-Check Global**, No. 5:16-cv-00174-VAP-KK (C.D. Cal.). Firm served as class counsel in class action involving allegations that credit reporting agency reported non-conviction adverse information older than seven years in violation of 15 U.S.C. § 1681c, achieving monetary relief for the approximately 2,000 class members.
- **Garrett v. Advantage Plus Credit Reporting, Inc.**, No. 2:21-cv-2082-PHX-DJH (D. Ariz.). Firm served as class counsel in class action involving allegations that credit reporting agency inaccurately reported living consumers as deceased, achieving monetary relief for each class member at the top of the statutory damages range provided by the FCRA.
- **Bingollu v. One Source Technology, LLC d/b/a Asurint**, No. 0:22-cv-00077-DTS (D. Minn.). Firm served as class counsel in class action involving allegations that consumer reporting agency inaccurately reported consumers' Social Security Numbers as being "not verified" or "unable to validate," achieving a \$2.4 million common fund settlement for the class.



- **Boskie v. Backgroundchecks.com, LLC**, No. 2019CP3200824 (Lexington Cnty. Court of Comm. Pleas). Firm served as class counsel in class action involving claims that consumer reporting agency had reported outdated adverse information on consumers, achieving injunctive and monetary relief on a class basis.
- **Dougherty v. Barrett Business Services, Inc.**, No. 2:15-cv-1501 (W.D. Wash.). Firm served as class counsel in class action alleging that employer provided improper disclosure/authorization, achieving a \$1,500,000 common fund settlement for 48,935 class members.
- **Berryman, Jr. v. Avantus, LLC**, No. 3:21-cv-01651-VAB (D. Conn.). Firm was class counsel on class action involving allegations that credit reporting agency inaccurately reported living consumers as deceased, achieving monetary relief for over 1,300 class members.
- **Howell v. Checkr, Inc.**, No. 3:17-cv-04305 (N.D. Cal.). Firm was class counsel on this class action brought under 15 U.S.C. § 1681c, alleging consumer reporting agency reported adverse non-conviction information older than seven years, achieving class relief that established a settlement fund of \$4,460,000 for 96,040 class members and injunctive relief in terms of practice changes.
- **McAfee v. CIC Mortg. Credit, Inc.**, No. 3:22-cv-00772-RCY (E.D. Va.). Firm was co-lead class counsel in credit reporting class action case regarding inaccurate reporting of consumers as deceased, achieving monetary relief for the class of consumers.
- **Steinberg v. CoreLogic Credco, LLC**, No. 3:22-cv-00498-H-SBC (S.D. Cal.). Firm was class counsel in this class action involving allegations that credit reporting agency inaccurately reported living consumers as deceased, achieving a \$5.695 million common fund settlement for class members, as well as injunctive relief.
- **Williams v. CoreLogic Rental Property Solutions, LLC**, No. 8:16-cv-00058 (D. Md.). Firm was co-lead class counsel on class action under 15 U.S.C. § 1681g claims that tenant screening agency inaccurately identified source of record in its file disclosures to consumers, achieving a settlement that established common fund of \$595,000 for 2,264 consumers and an injunctive relief order was entered prohibiting the practice at issue regarding the source's identification in file disclosures.



- **Terrell v. Costco Wholesale Corp.**, No. 16-2-19140-1 (Wash. Super. Ct., King Cnty.). Firm was co-lead class counsel on class action alleging that employer's disclosure form to applicants regarding the procurement of a background check violated 15 U.S.C. § 1681b(b)(2), achieving a settlement that established \$2,490,000 common fund for 113,489 class members.
- **Pang v. Credit Plus, Inc.**, No. 1:20-cv-00122 (D. Md.). Firm was co-lead class counsel on class action under 15 U.S.C. § 1681e(b), alleging that consumer reporting agency failed to maintain and follow reasonable procedures to ensure maximum possible accuracy in its reports by routinely including "deceased" notations on consumers' credit reports when they were in fact alive, achieving a settlement that provided a \$900,000 common fund for 8,124 class members, and allowed that class members could request free copies of their consumer reports from the defendant.
- **Douglas v. Dice.com**, No. 18CV331732 (Cal. Super. Ct., Santa Clara Cnty.). Firm was co-lead class counsel on class action alleging website aggregated information from the web into "Open Web Profiles" it sold to employers and recruiters which the FCRA by providing access to these consumer reports to those who did not have any legal right to access, failing to provide copies of consumer reports to consumers upon request, and failing to ensure the information in the reports was maximally accurate, achieving a settlement which provided practice changes to website in form of updated Terms of Use, and a \$1,000,000 common fund from which 20,290 class members could make claims.
- **Ernst v. DISH Network, LLC & Sterling Infosystems, Inc.**, No. 12-cv-8794 (S.D.N.Y.). Firm was co-lead class counsel on class action, alleging violations by employer and consumer reporting agency, resulting in a \$4.75 million settlement with consumer reporting agency, and a \$1.75 million settlement with employer.
- **Bankhead v. First Advantage Background Services Corp.**, No. 1:17-cv-02910 (N.D. Ga.). Firm was class counsel on class action involving 15 U.S.C. § 1681c claims alleging that consumer reporting agency included information on background reports that related to criminal charges that did not result in convictions and which predated the report by more than seven years, achieving settlement that provided injunctive relief in the form of practice changes as well as a common fund of \$1,975,000 for 23,465 class members.
- **Tyus v. General Information Solutions LLC**, No. 2017CP3201389 (Lexington Cnty. Ct. of Comm. Pleas). Firm was class counsel on class action involving allegations that credit reporting agency included outdated adverse information in



violation of 15 U.S.C. § 1681c in its consumer reports, achieving a settlement that provided a common fund settlement for the class members, and practice changes by the defendant.

- **Lee v. The Hertz Corp.**, No. CGC-15-547520 (Cal. Super. Ct., San Fran. Cnty.). Firm was co-lead class counsel on this class action under 15 U.S.C. §§ 1681b(b)(2) and b(b)(3), alleging that employer failed provide a stand-alone disclosure that a consumer report would be procured on employees and applicants, and by failing to provide pre-adverse action notice, achieving a settlement that provided settlement fund of \$1,619,000 for 24,484 class members and practice changes.
- **Taylor v. Inflection Risk Solutions, LLC**, No. 20-cv-2266 (D. Minn.). Firm was co-lead class counsel on class action involving claims that consumer reporting agency mischaracterized criminal convictions and certain offenses in its reports on consumers, achieving \$4 million common fund settlement.
- **Walker v. Inflection Risk Solutions, LLC**, No. 22-CIV-02954 (San Mateo Super. Ct.). Firm is class counsel on class action involving claims that consumer reporting agency inaccurately reported consumers as sex offender or with inaccurate criminal histories on its reports, achieving preliminarily approved settlement that provides \$1.765 million common fund settlement.
- **Legrand v. IntelliCorp Records, Inc.**, No. 1:15-cv-02091 (N.D. Ohio). Firm was class counsel on class action under 15 U.S.C. § 1681e(b), alleging consumer reporting agency inaccurately reported information in the “Government Sanctions” section of its reports due to matching procedures that inaccurately matched consumers with individuals on the Department of Health and Human Services’ List of Excluded Individuals and Entities, achieving a settlement for \$1,100,000 common fund for 4,791 class members, as well as injunctive relief in the form of free consumer reports to class members.
- **Hillson v. Kelly Services, Inc.**, No. 15-cv-10803 (E.D. Mich.). Firm was co-lead class counsel on class action alleging FCRA violations by employer, and resulting in a \$6.749 million settlement.
- **Bartlow v. Medical Facilities of Am., Inc.**, No. 3:16-cv-00572 (E.D. Va.). Firm was co-lead class counsel on class action related to allegations that employer failed to provide pre-adverse action notice as required by the FCRA, achieving monetary relief for the class.



- **McAfee v. MeridianLink, Inc.**, No. 3:23-cv-00439-RCY (E.D. Va.). Firm served as co-lead class counsel in credit reporting case regarding inaccurate reporting of consumers as deceased, achieving injunctive relief settlement for the class.
- **Nesbitt v. Postmates, Inc.**, No. CGC-15-547146 (Cal. Super. Ct., San Fran. Cnty.). Firm as class counsel on class action alleging that Postmates violated 15 U.S.C. §§ 1681b(b)(2) and b(b)(3) by failing to provide a stand-alone disclosure that it would procure a background check for employment purposes and by failing to provide pre-adverse action notice, achieving a settlement which provided a \$2,500,000 common fund.
- **Dougherty v. QuickSIUS, LLC**, No. 2:15-cv-06432 (E.D. Pa.). Firm served as class counsel on class action for claims under 15 U.S.C. § 1681e(b) alleging that consumer reporting agency failed to maintain reasonable procedures to assure maximum possible accuracy by inaccurately reporting Pennsylvania summary offenses as misdemeanors, and by reporting the same offenses in multiple sections of the same report, achieving a settlement provided a \$450,000 common fund for 7,900 class members.
- **Spendlove v. RapidCourt, LLC**, No. 3:18-cv-00856-REP (E.D. Va.). Firm served as co-lead class counsel in credit reporting case regarding reporting of outdated adverse information, resulting in injunctive relief settlement for the class.
- **Easley v. The Reserves Network, Inc.**, No. 1:16-cv-00544 (N.D. Ohio). Firm was class counsel in class action alleging that employer failed to provide pre-adverse action notice as required by the FCRA, achieving monetary relief for the class.
- **Heaton v. Social Finance, Inc.**, No. 14-cv-05191- TEH (N.D. Cal.). Firm was co-lead class counsel in case involving impermissible access to consumer credit files, achieving injunctive relief to change the hard inquiries to soft credit inquiries on class members' credit, and a \$2,500,000 common fund.
- **Grisson v. Sterling Infosystems, Inc.**, No. 1:20-cv-07948-VSB (S.D.N.Y.). Firm is class counsel on class action involving allegations that consumer reporting agency included records developed through a SSN trace on consumers' reports that did not match that consumers' full name, achieving preliminarily approved settlement that provides \$2.5 million common fund for the class.



- **Halvorson v. TalentBin, Inc.**, No. 3:15-cv-5166 (N.D. Cal.). Firm was co-lead class counsel on class action alleging consumer reporting agency failed to provide full files to consumers upon request, failed to provide required documentation regarding rights and responsibilities under the FCRA, and failed to obtain certifications from end-users, achieving a settlement which provided a common fund of \$1,150,000 for 72,676 class members.
- **McKey v. TenantReports.com, LLC**, No. 2:22-cv-01908 (E.D. Pa.). Firm was class counsel on class action alleging that tenant screening company reported outdated adverse information in violation of 15 U.S.C. § 1681c, achieving settlement that provided monetary and injunctive relief for the class members.
- **Hinkel v. Universal Credit Services, LLC**, No. 2:22-cv-01902 (E.D. Pa.). Firm was class counsel on class action alleging that credit reporting agency inaccurately reported living consumers as deceased, achieving monetary relief for the class.
- **In re Public Records Fair Credit Reporting Act Litigation**: Class counsel in three class action settlements involving how the big three credit bureaus, Experian, TransUnion, and Equifax, report public records, including tax liens and civil judgments. The settlements provide groundbreaking injunctive relief valued at over \$100 billion and provide a streamlined process for consumers to receive uncapped monetary payments for claims related to inaccurate reporting of public records.
- **Christopher Hicks v. Advanced Background Check, Inc.**, No. 3:22-cv-361 (S.D. Ohio). Resolved a case for Mr. Hicks who lost a job opportunity after his records falsely stated he was a Registered Sex Offender and violent criminal.
- **Mariaeugenia Pintos-Quiroga v. Equifax Information Services LLC, et al.** No. 1:21-cv-00184-SM (S.D. Ohio). Resolved a case for Ms. Pintos-Quiroga after her credit reports were negatively affected by personal information and numerous credit accounts that did not belong to her.

Defective Drugs & Medical Devices

- **In re Philips Recalled CPAP, Bi-Level PAP, And Mechanical Ventilator Products Litigation**, MDL No. 3014 (W.D. Pa.). Appointed to Plaintiffs' Steering Committee in this multi-district litigation alleging claims for economic losses, medical monitoring, and personal injuries in connection with Philips' recall of millions of CPAPs, BiPAPs and ventilators that contained polyester-based polyurethane foam that degrades into particles and emits volatile toxic compounds, and in which the Court granted preliminary



approval to a proposed settlement of class members' economic loss claims that, if approved, will require the Philips defendants to pay over \$479 million to class members.

- **Allergan Textured Breast Implants Litigation.** Co-lead Counsel in this nationwide consolidated mass tort and class action litigation against medical device manufacturer Allergan (now acquired by AbbVie). The multi-district litigation, captioned *In re: Allergan BIOCELL Textured Breast Implant Products Liability Litigation*, No. 2:19-md-02921, MDL No. 2921 (D.N.J.), and pending in the United States District Court for the District of New Jersey, asserts claims for personal injuries, economic harms, and medical monitoring, on behalf of women in the United States who have been harmed by Allergan's Biocell® Textured Breast Implants. The Allergan Textured Breast Implants were recalled on a global basis in 2019.

Defective Products

Berger Montague's Defective Products Group represents homeowners, vehicle owners and other consumers nationwide who have been harmed by failing products. Whether the problem is with a construction product, an appliance or an automobile, we will vigorously fight to protect your rights under the law and to make you whole.

Manufacturers seem to have an unfair advantage when evaluating — and often rejecting or dismissing — warranty claims and other complaints made by consumers concerning faulty products. Berger Montague, however, has the ability to level the playing field through the legal system.

- **State of Connecticut Tobacco Litigation:** Co-lead counsel for the State of Connecticut and helped it recover approximately \$3.6 billion from certain manufacturers of tobacco products in its litigation against the tobacco industry.
- **In re School Asbestos Litigation**, No. 83-0268 (E.D. Pa.). Co-lead counsel and obtained a \$215 million asbestos remediation settlement for elementary and secondary schools suffering property damage in this historic environmental and defective product action. The settlement included cash in excess of \$70 million plus \$145 million in discounts toward replacement building materials. This vigorously fought action spanned thirteen years. This was the first mass tort property damage class action certified in the United States on a nationwide basis.
- **In re: Building Materials Corporation of America Asphalt Roofing Shingle Products Liability Litigation**, MDL No.: 8:11-mn-02000-JMC (D.S.C.), Class Counsel in the GAF roof shingles litigation on behalf of homeowners harmed by allegedly defective roof shingles that settled for over \$200 million.
- **In re: CertainTeed Fiber Cement Siding Litigation**, (MDL No. 2270 (E.D. Pa.). Co-lead counsel obtained a settlement of more than \$103 million in this product liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class.



- **Cole, et al. v. NIBCO Inc.**, No. 13-cv-7871 (D.N.J.). Co-Lead Counsel and obtained a \$43.5 million settlement for class members harmed by allegedly defective pex tubing, fittings, or clamps.
- **In re Pet Foods Product Liability Litigation**, MDL Docket No. 1850, No. 07-cv-02867 (D.N.J.). Co-lead counsel and obtained a \$24 million settlement in this lawsuit against Menu Foods and other defendants seeking damages for harms caused by the manufacture and sale of contaminated dog food and cat food.
- **George v. Uponor, Inc.**, No. No. 12-cv-249 (D. Minn.). Co-Lead Counsel and obtained a \$21 million settlement on behalf of consumers who had water leaks and economic losses as a result of Uponor high-zinc yellow brass plumbing fittings used in potable water distribution systems throughout the United States.

Automotive Defect Litigation

The firm is a leader in class actions brought on behalf of drivers against automobile manufacturers.

- **Wood, et al. v. FCA US LLC.**, No. 5:20-cv-11054-JEL-APP (E.D. Mich.). Member of Plaintiffs' Steering Committee and obtained a settlement of at least \$88.15 million in this consolidated class action on behalf of owners and lessees of any FCA vehicle equipped with a 2.4L Tigershark MultiAir II Engine. The engines in these vehicles suffer from a defect that causes them to (a) consume excessive engine oil so that oil pressure drops too low before recommended oil changes; (b) to avoid engine damage when oil pressure drops too low, shut off during operation without warning; and (c) release excessive oil into the exhaust system causing vehicles to emit higher levels of toxic emissions that exceed relevant emissions standards. As a result, these vehicles stall unexpectedly and without warning, often when turning at an intersection or when accelerating or decelerating, creating a serious safety hazard. The defect can also result in engine damage and premature wear that necessitates costly repairs, including engine replacements.
- **Vargas, et al. v. Ford Motor Co.**, No. 2:12-08388-ABF-FFM (C.D. Cal.). Co-counsel and obtained a settlement of at least \$77.4 million. Plaintiffs alleged that 2011-2016 Ford Fiesta and 2012-2016 Ford Focus vehicles contained a defect in their DPS6 PowerShift transmissions—a kind of automated manual transmission that causes shuddering, bucking, jerking, hesitating and slipping. The settlement provided extraordinary benefits to 1.9 million class members.
- **Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.** No. ATL-1461-03 (D.N.J.). Co-Lead counsel and obtained a settlement exceeding \$2 million for plaintiffs with autos with defectively designed timing belt tensioners, timing belts, and/or associated parts (the "timing belt tensioner system"). The plaintiffs further alleged that the defendant failed to disclose and/or misrepresented the appropriate service interval for replacement of the timing belt tensioner system. Settlement included reimbursement



for past documented out of pocket losses, implementation of a revised maintenance program, and an extended warranty program.

- **Steele, et al v. General Motors**, No. 2:17-cv-04323-BRO-SK (C.D. Cal). Obtained a confidential settlement after plaintiffs alleged that 2010-2015 Cadillac SRX vehicles contain a defect that causes their headlights to wear out and fail unexpectedly and prematurely.
- **Patrick v. Volkswagen Group of America, Inc.**, No. 8:19-cv-01908 (C.D. Cal.). Co-lead counsel and obtained a settlement against Volkswagen Group of America, Inc. on behalf plaintiffs who were purchasers and lessees of certain 2019 and 2020 Volkswagen Golf GTI or Jetta GLI vehicles equipped with manual transmissions exhibiting an alleged engine stalling defect. Class members were able to receive an engine control module software update, free of charge. Class members were also able to recover up to 100% reimbursement for out-of-pocket costs of repairs for engine stalling at low speeds such as while the vehicle was slowing down or coming to a stop or when the vehicle was already at a stop while the engine was running.
- **Soto v. American Honda Motor Co., Inc.**, No. 3:12-cv-01377 (N.D. Cal.): Case concerned engine misfiring and excessive oil consumption for Honda models with 6 cylinders with VCM-2 controls. Settlement provided reimbursement for repairs and an extended 8 year warranty for numerous Honda models (Accords, Odysseys, Pilots, and Crosstours) covering 2008-2013 model years.
- **Vargas, et al. v. Ford Motor Co.**, No. 2:12-08388-ABF-FFM (C.D. Cal.). Co-counsel and obtained a settlement of at least \$77.4 million. Plaintiffs alleged that 2011-2016 Ford Fiesta and 2012-2016 Ford Focus vehicles contained a defect in their DPS6 PowerShift transmissions—a kind of automated manual transmission that causes shuddering, bucking, jerking, hesitating and slipping. The settlement provided extraordinary benefits to 1.9 million class members.
- **Weiss et al v. General Motors LLC**, No. 1:19-cv-21552-SCOLA/TORRES (S.D. Fla). Obtained confidential settlement after plaintiffs alleged that General Motors' recent generation of half-ton "K2XX platform" trucks and SUVs that causes certain Vehicles to shake violently at cruising speeds. Consumers have named this defect the "Chevy Shake."
- **Boulom et al. v. Toyota Motor Sales, U.S.A., Inc.**, No. 2:20-cv-00999 (C.D. Cal.). Obtained confidential settlement for plaintiffs alleging that 2019 and 2020 Toyota RAV4 Hybrids have defective fuel tanks that cannot be filled to its advertised 14.5 gallon capacity, compromising the promised range of the vehicles, increasing emissions, and increasing the risk of overflow during fueling.
- **Talley, et al., v. General Motors, LLC**, No. 20-cv-01137 (D. Del.). Obtained confidential settlement against General Motors, LLC, on behalf of plaintiffs who purchased or leased



certain 2010 to 2022 Chevrolet Camaro vehicles (“Class Vehicles”) for violations of the express and implied warranty statutory provisions.

- **Bolton et al. v. Ford Motor Company**, No. 1:23-cv-00632 (D. Del.). Obtained confidential settlement against Ford on behalf of plaintiffs who were owners or lessees of a 2016 or later Ford-brand vehicle equipped with a 1.0L EcoBoost engine, including 2016-2017 Ford Fiesta, 2018-2021 Ford EcoSport, and 2016-2018 Ford Focus vehicles alleging that Ford Motor Company marketed, distributed, and sold these vehicles with a defective engine which does not allow for the engine oil to circulate properly, thus damaging the engine and causing it to fail prematurely.
- **Swinburne, et al., v. Volkswagen Group of America, Inc., d/b/a Audi of America, Inc. and Audi AG**, No. 20-cv-917 (E.D. Va.). Obtained confidential settlement for plaintiffs who purchased vehicles contain design, manufacturing, and/or workmanship defects which result in the Start/Stop System causing the Class Vehicles’ engines to lag, hesitate, or otherwise fail to immediately engage or restart when drivers attempt to accelerate from a full or rolling stop.
- **Buchanan, et al., v. Volvo Car USA, LLC, Volvo Cars of North America, LLC, and Volvo Personvagnar AB**, No. 22-cv-022227 (D.N.J.). Obtained confidential settlement for plaintiffs who purchased or leased vehicles with a latent design, workmanship, and/or manufacturing defects in the Class Vehicles’ engines’ pistons/piston heads (the “Defect”). The Defect can cause the pistons and the engine itself to fail at any time. It can also cause the engine to consume an excessive amount of oil.
- **Loo v. Toyota Motor Sales, U.S.A., Inc.**, No. 8:19-cv-00750-VAP (C.D. Cal.). Obtained a confidential settlement for plaintiffs experiencing hesitation, jerking, unintended acceleration, lurching, excessive revving before upshifting (also known as excessively high RPM shift points), and lack of power when needed (such as from a stop).
- **Parker v. American Isuzu Motors**, No. 3476 (CCP). Obtained settlement where plaintiffs were able to recover up to \$500 each for economic damages resulting from accidents caused by the faulty brakes.
- **Parrish, et al. v. Volkswagen Group of America, Inc.**, No. 8:19-cv-01148 (C.D. Cal.) Obtained settlement where plaintiffs were able to obtain an update of the vehicle’s transmission control module software and installation of a damper weight on the drive shaft, free of charge. Certain class members able to recover up to 100% reimbursement for out-of-pocket costs of repairs.

Employment Law & Unpaid Wages

The Berger Montague Employment & Unpaid Wages Department works tirelessly to safeguard the rights of employees and devotes all of their energies to helping the firm’s clients achieve their goals.



Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

Berger Montague is at the forefront of class action litigation, seeking remedies for employees under the Fair Labor Standards Act, state wage and hour law, breach of contract, unjust enrichment, and other state common law causes of action.

Berger Montague's Employment & Unpaid Wages Group, which is chaired by Executive Shareholder Shanon Carson, is repeatedly recognized for outstanding success in effectively representing its clients. In 2015, The National Law Journal selected Berger Montague as the top plaintiffs' law firm in the Employment Law category at the Elite Trial Lawyers awards ceremony. Portfolio Media, which publishes Law360, also recognized Berger Montague as one of the eight Top Employment Plaintiffs' Firms in 2009.

Representative cases include the following:

- **Anstead, et al. v. Ascension Health, et al.**, No. 3:22-CV-2553-MCR-HTC (N.D. Fla.) Co-lead counsel and obtained a \$19.74 million settlement in this wage and hour lawsuit against Ascension Health and Sacred Heart Health System, Inc., et. al. ("Ascension") on behalf of approximately 84,600 individuals employed in the United States as non-exempt healthcare professionals.
- **Jantz v. Social Security Administration**, EEOC No. 531-2006-00276X. Co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities ("TDEs") alleged that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million.
- **Fenley v. Applied Consultants, Inc.**, No. 2:15-cv-259 (W.D. Pa.). Lead counsel and obtained a settlement of \$9.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week.
- **Salcido v. Cargill Meat Solutions Corp.** Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.). Co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history.
- **Acevedo v. Brightview Landscapes, LLC**, No. 3:13-cv-02529 (M.D. Pa.). Co-lead counsel and obtained a settlement of \$6.95 million on behalf of a class of landscaping



crew members who allegedly did not receive proper overtime premiums for hours worked in excess of 40 per week.

- **Amador, et al. v. The Brickman Group, Ltd., LLC**, No. 3:13-cv-02529 (M.D. Pa). Co-lead counsel and obtained a \$6.95 million settlement in this wage and hour lawsuit against Brightview Landscapes, LLC f/k/a the Brickman Group LTD. LLC (“Brightview”) on behalf of approximately 1,315 individuals employed as salaried landscape/crew/irrigation Supervisors who were paid on a “fluctuating workweek”-type half-time overtime pay scheme.
- **Fenley v. Wood Group Mustang, Inc.**, No. 2:15-cv-326 (S.D. Ohio). Lead counsel and obtained a settlement of \$6.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week.
- **Ciamillo v. Baker Hughes, Incorporated**, No. 14-cv-81 (D. Alaska). Lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who allegedly did not receive any overtime compensation for working hours in excess of 40 per week.
- **Gundrum v. Cleveland Integrity Services, Inc.**, No. 4:17-cv-55 (N.D. Okl.). Lead counsel and obtained a settlement of \$4.5 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week.
- **Braniff, et al. v. HCTec Partners, LLC**, No. 3:17-cv-00496 (M.D. Tenn.). Co-lead counsel and obtained a \$4.5 million settlement in this wage and hour lawsuit against HCTec Partners, LLC, f/k/a HCTec, LLC on behalf of approximately 2,271 individuals employed in the United States as Consultants.
- **Gentry, et al., v. Scientific Drilling International, Inc.**, No. 4:14-cv-00363 (S.D. Tex.). Co-lead counsel and obtained a \$4.45 million settlement in this wage and hour lawsuit against Scientific Drilling International, Inc. on behalf of approximately 745 individuals employed in the United States as Measurement While Drilling (“MWD”) Hand Technicians and Survey Field Technicians.
- **Arrington v. Optimum Healthcare IT, LLC**, No. 2:17-cv-03950-RBS (E.D. Pa.). Co-lead counsel and obtained a \$4.9 million settlement in this wage and hour lawsuit against Optimum Healthcare IT, LLC on behalf of approximately 2,110 individuals employed in the United States as Consultants.
- **Cortez v. Nebraska Beef**, No. 8:08-cv-00090 (D. Neb.) Co-lead counsel and obtained a \$3.9 million settlement on behalf of a class of non-exempt employees at Nebraska Beef’s processing plant. The plaintiffs alleged that Nebraska Beef failed to pay them for all pre-shift and post-shift time in the beef processing facility that the workers



spent donning, doffing, and washing their required personal protective equipment that was integral and indispensable to their work duties.

- **Sanders v. The CJS Solutions Group, LLC**, No. 17-3809 (S.D.N.Y.). Co-lead counsel and obtained a settlement of \$3.24 million on behalf of a class of IT healthcare consultants who allegedly did not receive overtime premiums for hours worked in excess of 40 per week.
- **Chabrier v. Wilmington Finance, Inc.**, No. 06-4176 (E.D. Pa.). Co-lead counsel and obtained a settlement of \$2.9 million on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class).
- **Koszyk et al. v. Country Financial a/k/a CC Services, Inc.**, No. 1:16-cv-03571 (N.D. Ill.). Co-lead counsel and obtained a \$2.825 million settlement in this wage and hour lawsuit against Country Financial a/k/a CC Services, Inc. on behalf of approximately 1,381 individuals employed in the United States as Financial Representatives.
- **Hatzey v. Divurgent, LLC**, No. 1:17-cv-03237-RLM-DLP (E.D. Va.). Co-lead counsel and obtained a \$2.45 million settlement in this wage and hour lawsuit against Divurgent, LLC, on behalf of approximately 1,065 individuals employed in the United States as Consultants.
- **Bonnette v. Rochester Gas & Electric Co.**, No. 07-6635 (W.D.N.Y.). Co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment.
- **Lopez v. T/J Inspection, Inc.** No. 5:16-cv-00148-M (W.D. Okla.). Co-lead counsel and obtained a \$2 million settlement in this wage and hour lawsuit against T/J Inspection, Inc. on behalf of approximately 520 individuals employed in the United States as Inspectors paid a daily rate.
- **Beasley, et al. v. Custom Communications, Inc.** No. 5:15-CV-00583-F (E.D.N.C.). Co-lead counsel and obtained a \$1.22 million settlement in this wage and hour lawsuit against Custom Communications, Inc. ("CCI") on behalf of approximately 296 individuals employed in the United States as Technicians.
- **Diaz v. TAK Communications CA, Inc., et al.** No. RG20064706 (Cal. Super. Ct., Alameda Cty.). Co-lead counsel and obtained a \$1.2 million settlement in this wage and hour lawsuit against TAK Communications CA, Inc. and TAK Communications, Inc. on behalf of approximately 770 individuals employed in the United States as Technicians.



- **Black v. Wise Intervention Services, Inc.**, No. 2:15-cv-00453-MPK (W.D. Pa.). Co-lead counsel and obtained a \$826,014.42 settlement in this wage and hour lawsuit against Wise Intervention Services, Inc. ("WISE") on behalf of 47 individuals employed by WISE in Pennsylvania as Coiled-Tubing Spread.
- **Benton, et al. v. Flyway Express, LLC, et al.**, No. 5:20-cv-01028-EEF-MLH (W.D. Tenn.). Co-lead counsel and obtained a \$695,000 settlement in this wage and hour lawsuit against DHL Express (USA) Inc. d/b/a DHL Express and Flyway Express, LLC on behalf of approximately 104,690 individuals employed in the United States as non-exempt employees.
- **Thorpe v. Golden Age Home Care, Inc.**, No. 2:17-cv-01187-TR (E.D. Pa.). Lead counsel and obtained a \$725,000 settlement in this wage and hour lawsuit against Golden Age Home Care, Inc., on behalf of approximately 323 individuals employed in the United States as Home Health Aides.
- **Ware, et al. v. CKF Enterprises, Inc. et al.**, No. 5:19-cv-183-DCR (E.D. Ky.). Co-lead counsel and obtained a \$595,000 settlement in this wage and hour lawsuit against CKF Enterprises, Inc., d/b/a ExecuTrain of Kentucky, d/b/a Optim Support, Inc. ("ExecuTrain") on behalf of approximately 652 individuals employed in the United States as non-exempt Consultants.
- **Rivera v. Vital Support Home Health Care Agency, Inc.**, (E.D. Pa.). No. 2:15-cv-04857-GEKP Co-lead counsel and obtained a \$586,000 settlement in this wage and hour lawsuit against Vital Support Home Health Care Agency, Inc. ("Vital Support") on behalf of approximately 230 individuals employed in the United States as Home Health Aides.
- **Thomas v. Accenture, LLP, d/b/a Sagacious Consultants, LLC, and DB Healthcare, Inc.**, No. 2:18-cv-13128-VAR-SDD (E.D. Mich.). Co-lead counsel and obtained a \$415,000 settlement in this wage and hour lawsuit against Accenture, LLP, d/b/a Sagacious Consultants, LLC, and DB Healthcare, Inc., on behalf of approximately 257 individuals employed in the United States as Consultants.

Environmental Litigation & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs.

- **Cook v. Rockwell International Corporation**, No. 90-cv-00181-JLK (D. Colo.). Won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which,



with interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their “long and hard-fought” victory against “formidable corporate and government defendants.” The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.

- **In re Exxon Valdez Oil Spill Litigation**, No. A89-0095-CVCHRH (D. Alaska). On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs’ discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 “Trial Lawyer of the Year Award” given by the Trial Lawyers for Public Justice.
- **Drayton v. Pilgrim’s Pride Corp.**, No. 03-2334 (E.D. Pa). The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim’s Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants’ motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006..)).
- **In re Three Mile Island Litigation**, No. 79-0432 (M.D. Pa.). As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved.
- **State of Connecticut Tobacco Litigation**: Co-lead counsel for the State of Connecticut and helped it recover approximately \$3.6 billion from certain manufacturers of tobacco products in its litigation against the tobacco industry.

ERISA & Fiduciary Compliance

Berger Montague represents employees who have claims under the federal Employee Retirement Income Security Act. We litigate cases on behalf of employees whose 401(k) and pension investments have suffered losses as a result of the breach of fiduciary duties by plan administrators and the companies they represent. Berger Montague has recovered hundreds of millions of dollars in lost retirement benefits for American workers and retirees, and also gained favorable changes to their retirement plans.



- **Diebold v. Northern Trust Investments, N.A.:** As co-lead counsel in this ERISA breach of fiduciary duty case, the firm secured a \$36 million settlement on behalf of participants in retirement plans who participated in Northern Trust's securities lending program. Plaintiffs alleged that defendants breached their ERISA fiduciary duties by failing to manage properly two collateral pools that held cash collateral received from the securities lending program. The settlement represented a recovery of more than 25% of alleged class member losses. (No. 1:09-cv-01934 (N.D. Ill.)).
- **Glass Dimensions, Inc. v. State Street Bank & Trust Co.:** The firm served as co-lead counsel in this ERISA case that alleged that defendants breached their fiduciary duties to the retirement plans it managed by taking unreasonable compensation for managing the securities lending program in which the plans participated. After the court certified a class of the plans that participated in the securities lending program at issue, the case settled for \$10 million on behalf of 1,500 retirement plans that invested in defendants' collective investment funds. (No. 1:10-cv-10588-DPW (D. Mass)).
- **In re Eastman Kodak ERISA Litigation:** The firm served as class counsel in this ERISA breach of fiduciary duty class action which alleged that defendants breached their fiduciary duties to Kodak retirement plan participants by allowing plan investments in Kodak common stock. The case settled for \$9.7 million. (Master File No. 6:12-cv-06051-DGL (W.D.N.Y.)).
- **Lequita Dennard v. Transamerica Corp. et al.:** The firm served as counsel to plan participants who alleged that they suffered losses when plan fiduciaries failed to act solely in participants' interests, as ERISA requires, when they selected, removed and monitored plan investment options. The case settled for structural changes to the plan and \$3.8 million monetary payment to the class. (Civil Action No. 1:15-cv-00030-EJM (N.D. Iowa)).

False Claims Act, Qui Tam, & Whistleblower

Berger Montague's nationally recognized Whistleblower, Qui Tam & False Claims Act Group has recovered more than \$3 billion for federal and state governments, as well as over \$500 million for our whistleblower clients.

Berger Montague's award-winning team has litigated False Claims Act cases for over two decades. Berger lawyers Sherrie Savett, Joy Clairmont, Michael Fantini, and William Ellerbe won *The Anti-Fraud Coalition's* Whistleblower Lawyers of the Year Award this year for their work on United States ex rel. Silver v. Omnicare, Inc., PharMerica Corp, et al. and United States et al. ex rel. Penelow v. Janssen Products, LP. Both were government-declined cases that Berger Montague doggedly litigated for over a decade. The PharMerica case settled for \$100 million, and the Janssen judgment exceeded \$1.6 billion.

- **In United States ex rel Silver v. Omnicare, Inc. et al**, No. 11-cv-1326 (NLH)(AMD) (D.N.J.). the relator alleged that defendant PharMerica violated the federal False Claims Act and Anti-Kickback Statute by offering kickbacks to certain nursing homes in the form



of below-cost Part A prescription drug prices in exchange for the referral of their federally-insured Medicare Part D business. This unlawful practice is known as “swapping” and is a form of a kickback. In November 2023, after 13 years of hard-fought litigation, and just two weeks before trial, the parties reached an agreement to settle this case for \$100 million.

- **United States ex rel Penelow v. Janssen Products, LP**, No. 12-7758 (ZNQ)(JBD) (D.N.J.). the relators alleged that Janssen violated the federal and state False Claims Acts by engaging in false, fraudulent, and off label marketing of two of its HIV drugs Prezista and Intelence from June 2006 to 2014. After 12 years of litigation, and a 6-week trial held in May/June 2024, the jury reached a verdict finding that Janssen violated the federal and state FCAs and finding that federal and state damages collectively amount to over \$150 million. With the imposition of mandatory trebling of damages and civil penalties, the judgment exceeded \$1.6 billion. This represents one of the largest False Claims Act jury verdicts (in a government-declined case) in history.
- **United States ex rel. Zissa v. Santa Barbara County Alcohol, Drug, and Mental Health Services, et al.** Case No: 14- cv-06891- DMG (RZX) (CDCAL). Berger Montague brought this Medi-Cal fraud case for a former Santa Barbara County compliance officer who had been illegally fired for uncovering and reporting Medi-Cal fraud. The government declined to intervene, but our team aggressively litigated this case achieving a \$28 million settlement for our client and the Federal government. It was one of the largest False Claims Act settlements against a public entity.
- **United States ex rel. Streck v. Bristol-Myers Squibb Co.**, No. 2:13-cv-7547 (E.D. Pa.). Berger Montague, on behalf of their whistleblower client, achieved a \$75 million settlement resolving allegations that Bristol-Myers Squibb had fraudulently underpaid rebates on its drugs owed to State Medicaid Programs across the country.
- **United States ex rel. Kieff and LaCorte v. Wyeth and Pfizer, Inc.**, Nos. 03-12366 and 06-11724-DPW (D. Mass.). Berger Montague represented one of two whistleblowers who alleged that the drug manufacturers, Wyeth and Pfizer, had defrauded the federal government by failing to give the government its Best Price, as required by Medicaid, on its acid-reflux drug, Protonix. The case settled for \$784.6 million.
- **United States ex rel. Jain v. Universal Health Services, Inc., et al.**, No. 2:14-cv-00921 (E.D. Pa.). Berger Montague represented a whistleblower who was a psychiatrist who had worked in a UHS hospital and claimed a national scheme by this giant hospital system of over 100 in-patient psychiatric hospitals who were violating Medicare regulations concerning admittance and treatment in these facilities on a national basis. The government intervened in this case and related cases and reached a global settlement of \$127 million.
- **United States ex rel. Srivastava v. Trident USA Health Services LLC, et al.**, No. 16-cv-2956 (E.D. Pa.). in this False Claims Act and Anti-Kickback Statute case, Berger Montague represented the former Chief Information Officer of a company that provided mobile diagnostic and x-ray services to nursing home residents. The whistleblower



alleged that the company engaged in a “swapping” arrangement, in which it provided certain diagnostic services to nursing homes at below cost, in exchange for those nursing homes referring to the company their more remunerative Medicare Part B and Medicaid business. We obtained an \$8.5 million settlement in this case within the context of a Chapter 11 bankruptcy proceeding.

- **United States ex rel. Burris v. The Scripps Research Institute**, No. 1:15-cv-01443 (D. Md.). Berger Montague represented a scientist employed by Scripps who learned of grant fraud. According to the whistleblower, Scripps was using money from National Institutes of Health-funded research grants to pay for time spent by its researchers on activities outside of the scope of the grant. Research funds were improperly claimed from approved grants for time spent by principal investigators writing applications for other, unrelated grants, teaching, and other administrative duties. Scripps settled this case for \$10 million.

Healthcare

Our Healthcare & Benefits Law Group is a one-stop solution for group health plans to contain costs, advise on and draft plan documents, negotiate claims, and protect plan assets. We bring decades of experience from a variety of the key players including the U.S. Department of Labor, private law practice, the insurance industry, and a deep bench of subject-matter experts.

Securities & Financial Fraud

Berger Montague’s Securities & Investor Protection Group includes many accomplished litigators and a cadre of paralegals, analysts, investigators and support staff. Depth and versatility of talent are among our law firm’s greatest strengths. Whether in litigation, mediation or arbitration, or on behalf of an individual client or a class, we fully commit our resources and experience to maximizing recoveries. We are always ready, willing and able to take cases to trial, and defense lawyers know this. In fact, Berger Montague is one of the few firms in the country that has actually tried securities class action cases and won a substantial jury verdict. We also believe that a well-prepared case should be amenable to dispute resolution prior to trial, and our record of achieving excellent settlements for our clients speaks for itself.

- **In re Five Below, Inc. Securities Litigation.** Co-Lead Counsel, representing Co-Lead Plaintiff the Arkansas Public Employees' Retirement System (APERS), in this securities class action on behalf of a proposed class of investors who purchased Five Below’s common stock at artificially inflated prices. Lead Plaintiffs’ claims arise from a series of allegedly materially false and misleading statements made by defendants concerning Five Below’s ability to recognize and respond to product trends, shrink mitigation efforts and the impact of shrink, and store growth plans. The market learned the truth through a series of disclosures that revealed disappointing earnings and sales, and the departure of Five Below’s CEO. These disclosures caused Five Below’s stock price to plummet, wiping out billions of dollars in shareholder value. Lead Plaintiffs filed their consolidated amended complaint on January 13, 2025.
- **Camille Lamar Roberts, Inc., et al. v. Rice Energy Inc., et al.** Sole lead counsel and obtained an \$18.75 million settlement with a natural gas and oil company, Rice Energy Inc. on behalf of a class of certain of the company’s convertible debenture investors. The



settlement arises from a securities class action brought in Pennsylvania state court in Pittsburgh for common law breach of contract and unjust enrichment, along with a novel claim for violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTPCPL”). The plaintiffs alleged that the defendants intentionally withheld material information in violation of their contractual and statutory obligations to certain debenture holders of Rice Drilling B LLC. Plaintiffs alleged that defendants concealed a planned IPO and that the information withheld was material and induced investors to exercise their put options and forfeit potential equity in Rice Energy as a public company.

- **In re: Platinum and Palladium Antitrust Litigation.** Co-lead counsel obtained a \$20 million settlement in these consolidated class actions on behalf of traders of platinum and palladium-based derivative contracts, physical platinum and palladium, and platinum and palladium-based securities against BASF, Goldman Sachs, HSBC, and ICBC Standard Bank (collectively, the “Fixing Participants” or “defendants”).
- **In re MF Global Holdings Ltd. Investment Litigation.** Co-lead counsel obtained \$1.6 billion to thousands of commodities account holders who were victims to the alleged massive theft and misappropriation of client funds at the former global commodities brokerage firm, MF Global. This was one of the largest recoveries arising out of the U.S. financial crisis. Berger Montague reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that benefitted the plaintiffs and class members. The class members represented by Berger Montague received more than 100% of the funds allegedly misappropriated by MF Global even after all attorneys’ fees and expenses.
- **In re Merrill Lynch Securities Litigation.** Co-Lead counsel obtained a settlement of \$475 million representing the Ohio State Teachers’ Retirement System, for the benefit of the class in one of the largest recoveries among the financial crisis cases.
- **Allred, et al. v. Chicago Title Company, et al.** Settled a lawsuit against Chicago Title Co. on behalf of its individual clients who alleged they were victims in a more than \$400 million liquor license lending Ponzi scheme engineered by Gina Champion-Cain through ANI Development. Following extensive proceedings and hard-fought negotiations, Chicago Title agreed to pay 70% of Berger Montague’s clients’ out-of-pocket losses, which was greater than Chicago Title’s agreement to pay 65% of losses suffered by investors who filed individual cases in federal court. Recovered 70% of the class members’ net losses.
- **In re Rite Aid Corp. Securities Litigation.** Co-lead counsel obtained settlements totaling \$334 million against Rite Aid Corp.’s outside accounting firm and certain of the company’s former officers.
- **In re Mutual Funds Investment Litigation (Scudder) – Securities Class Action Settlement.** Lead counsel obtained over \$300 million for a class of investors in the Scudder/Deutsche Bank/Mutual Funds track of the nationwide Mutual Funds Market Timing cases.



- **Waste Management, Inc. Securities Litigation.** Obtained a class settlement for investors of \$220 million cash which included a settlement against Waste Management's outside accountants.
- **In re Commodity Exchange Inc., Gold Futures and Options Trading Litigation.** Co-lead counsel obtained total settlements of \$152 million in this class action antitrust lawsuit alleging that the five banks that participated in the London Gold Fixing conspired to suppress the PM Gold Fix, an important gold pricing benchmark, thereby harming sellers of physical gold and certain gold investments. The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank Ag, HSBC Bank plc and Société Générale are all members of the London Gold Market Fixing Ltd., which conducts the London Gold Fixing. The London Gold Fixing is a twice daily process where the defendants set an important benchmark price for gold. The plaintiffs alleged that the defendants conspired to manipulate this benchmark for their collective benefit.
- **In re IKON Office Solutions Inc. Securities Litigation.** Representing the City of Philadelphia as both co-lead and liaison counsel, obtained a cash settlement of \$111 million for the benefit of the class.
- **Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202-CC (Del. Ch.).** Lead counsel and obtained a settlement valued at over \$99 million on behalf of a former trader who brought a shareholder class action on behalf of minority shareholders of the Philadelphia Stock Exchange. The litigation alleged breaches of fiduciary duty by directors of the exchange and the exchange itself. The settlement was reached on the eve of trial and provided for significant changes to corporate governance to prevent the recurrence of the disenfranchisement that occasioned the litigation in the first place.
- **Fleming Companies, Inc. Securities Fraud Class Action Settlement.** Co-lead counsel obtained settlements totaling \$94 million on behalf of a class of shareholders of Fleming Companies, Inc., in connection with losses suffered as a result of alleged securities fraud by Fleming and its auditors and underwriters.
- **In re CIGNA Corp. Securities Litigation.** Co-lead counsel representing the Pennsylvania State Employees' Retirement System, obtained a settlement of \$93 million for the benefit of the class.
- **In Re Melridge, Inc. Securities Litigation.** Lead counsel on behalf of a class of purchasers of Melridge common stock and convertible debentures. A four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million, and judgment was entered on RICO claims against certain defendants for \$239 million. Following additional proceedings, the court approved settlements totaling \$58 million.
- **In re CVR Refining, LP Unitholder Litigation.** Co-lead counsel obtained a \$78.5 million settlement on behalf of certified class of holders of CVR Refining, LP common units regarding allegations that the defendants underpaid the unit holders. The action settled for after a four-day trial. The case was litigated in the Delaware Chancery Court.



- **In re Sotheby's Holding, Inc. Securities Litigation.** Lead counsel obtained a \$70 million settlement in this securities fraud class action, of which \$30 million was contributed personally by an individual defendant.
- **In re Peregrine Financial Group Customer Litigation.** Co-lead counsel obtained settlements worth over \$73.5 million on behalf of former customers of Peregrine Financial Group, Inc. in litigation against U.S. Bank, N.A. and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse. The plaintiffs alleged that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use.
- **KLA-Tencor Securities Litigation Settlement.** Executive Committee and obtained a \$65 million cash settlement in this securities fraud class action on behalf of investors against KLA-Tencor and certain of its officers and directors.
- **Howell Family Trust DTD 01/27/2004 v. Hollis Greenlaw, et al.** Lead counsel obtained settlements worth over \$55.5 million on behalf of former customers of Peregrine Financial Group, Inc. in litigation against U.S. Bank, N.A. and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse. The lawsuit sought to remedy harm inflicted as a result of bad faith conduct by United Development Funding Land Opportunity Fund, L.P. ("LOF") General Partner and the General Partner's affiliates. The settlement also included the introduction of corporate governance procedures.
- **In re Sepracor Inc. Securities Litigation.** Co-lead counsel obtained a \$52.5 million settlement for the bond and stock purchaser classes in this action.
- **State of New Jersey, et al. v. Qwest Communications International Inc., et al.** Berger Montague obtained a \$45 million settlement for the State of New Jersey pension funds for public employees in this securities fraud opt-out action alleging losses on investments in Qwest Communications International common stock. Berger Montague represented the State of New Jersey against Qwest and certain officers in the Superior Court of New Jersey.
- **Brown v. Kinross Gold U.S.A., Inc.** Co-lead counsel and obtained a \$35.7 million settlement in this securities fraud lawsuit consisting of a \$29.25 million cash settlement plus an additional \$6,528,371 in dividends for a gross settlement value of \$35,778,371. Led by Michael Dell'Angelo, this case was litigated in the United States District Court for the District of Nevada.
- **Dodona I, LLC v. Goldman, Sachs & Co. – Securities Fraud Class Action Settlement.** Lead counsel obtained a \$27.5 million settlement in this securities fraud class action against Goldman, Sachs & Co. and other defendants. The plaintiff alleged that the defendants violated Section 10(b) of the Securities Exchange Act of 1934 and New York law in structuring, offering, and selling to the plaintiff and other investors certain Hudson CDO securities.



- **The City of Hialeah Employees' Retirement System v. Toll Brothers, Inc.** Co-lead counsel, obtained a class settlement of \$25 million against home builder Toll Brothers, Inc.
- **Pennsylvania Public School Employees' Retirement System v. Time Warner, Inc.** The Firm, representing four Commonwealth of Pennsylvania public pension and other funds in securities opt-out litigation filed in Pennsylvania state court, obtained a settlement of \$23 million.
- **In re NetBank, Inc. Securities Litigation – Securities Fraud Class Action Settlement.** Lead counsel obtained a \$12.5 million settlement on behalf of purchasers of NetBank common stock alleging claims against NetBank and certain of its officers and directors for violations of federal securities laws.
- **In re Nuvelo, Inc. Securities Litigation.** Co-counsel obtained an \$8.9 million settlement for the class of investors in this securities fraud class action. The plaintiffs alleged that Nuvelo, Inc. misled investors by repeatedly trumpeting prior clinical success in the ongoing clinical trials of its lead drug candidate, alfinetrapase, to treat blocked leg arteries and blocked catheters.
- **Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.** Co-lead counsel obtained an \$8.25 million settlement in this lawsuit on for holders of Prime Group Realty Trust's ("PGRT") Series B Cumulative Redeemable Preferred Stock. The plaintiff claimed that the defendants breached their fiduciary duties to the class by transferring control of PGRT to Five Mile and forcing the plaintiff and class members to surrender their Series B Shares for inadequate compensation.
- **Kahn v. Sakar (Foodarama) – Shareholder Protection Settlement.** Obtained a \$6.9 million settlement in a state law class action in which the plaintiff alleged that the defendants breached fiduciary duties under the New Jersey Shareholders' Protection Act in a going private transaction.
- **In re: Patriot National, Inc. Securities Litigation.** Co-lead counsel obtained a \$6.5 million settlement on behalf of a class of investors who bought Patriot National, Inc. stock between Jan. 15, 2015, and Nov. 28, 2017. The plaintiffs won the settlement with the bankrupt company's directors and officers.
- **Gray v. Gessow – Commercial Litigation Settlement.** Represented a litigation trust and brought actions against the officers and directors of Sunterra Inc., and its accountants, and obtained a \$4.5 million settlement. The cases were litigated in the United States District Courts for the District of Maryland and the Middle District of Florida.
- **Hemispherx Biopharma Inc. Securities Litigation – Securities Fraud Class Action Settlement.** Co-lead counsel obtained a \$3.6 million settlement in this securities class action arising from the collapse of Hemispherx stock after it was revealed in December 2009 that the U.S. Food and Drug Administration had rejected Ampligen despite



repeated assurances by the company that approval was right around the corner. The FDA said that two primary clinical studies that Hemispherx submitted with its application did not provide credible evidence that the drug helped treat chronic fatigue syndrome. Hemispherx's stock dropped 40 percent the next day, the second major fall for the stock in the span of a month.

- **In re Xcel Inc. Securities, Derivative & “ERISA” Litigation.** The Firm obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors.
- **In re Alcatel Alsthom Securities Litigation.** The Firm obtained a class settlement for investors of \$75 million cash.
- **Countrywide Predatory Lending Enforcement Action:** The Firm advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against Countrywide (and its parent, Bank of America) culminating in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.
- **Citigroup Opt-Out Litigation:** The Firm, representing the Commonwealth of Pennsylvania School Employees' Retirement System and Commonwealth of Pennsylvania Municipal Retirement Board in securities opt-out litigation, obtained a substantial recovery. (The amount remains confidential under the terms of the settlement agreement.)
- **In re Lehman Brothers Securities and BRISA Litigation:** The Firm, representing the State of New Jersey public pension funds in opt-out litigation against officers and directors of Lehman Brothers Holding, Inc. and Lehman's auditor, Ernst & Young (“E&Y”), obtained \$8.25 million in a settlement with the D&Os in 2011, and a confidential amount from E&Y.
- **Alaska Electrical Pension Fund v. Bank of America.** The firm represents the lead plaintiff Pennsylvania Turnpike Commission in alleged antitrust conspiracy to manipulate ISDAfix, a key benchmark rate used to set the terms for swaps and financial instruments. ISDAfix was incorporated into a broad range of financial derivatives, billions of dollars of which were traded during the alleged class period.
- **In re Luckin Coffee Inc. Securities Litigation.** (New York County, Index No. 651939/2020). Lead Counsel in a state court Section 11 action concerning Luckin Coffee Inc.'s May 17, 2019 IPO and January 10, 2020 SPO. In addition to the state court Section 11 class, the firm also represented Convertible Noteholders who were not included in the federal securities class action. The noteholders claims settled for \$7 million.
- **In Re Woodbridge Investments Litigation.** No. 2:18-cv-00103-DMG-MRW (C.D. Cal.). Served on the Executive Committee settled for \$54.2 million in an action against Comerica Bank for aiding and abetting the Woodbridge Ponzi scheme. The action



alleged that Woodbridge principal Robert H. Shapiro ran a nationwide Ponzi scheme, raising \$1.2 billion in investments from thousands of investors, styled as investments in “notes” or “units” in Woodbridge fund entities.

- **Crivellaro v. Singularity Future Technology Ltd. et al.** No. 1:22-cv-07499-BMC (E.D.N.Y.). Lead Counsel in a lawsuit against Singularity Future Technology Ltd. concerning material omissions and misstatements in connection with Singularity’s claim that it was transforming from a small, struggling shipping company into a global leader in the opaque, but booming, world of cryptocurrencies.
- **In re Lottery.com, Inc. Securities Litigation** No. 1:22-cv-07111-JLR (S.D.N.Y.). Counsel in a lawsuit against Lottery.com, Inc. concerning the company’s false or misleading portrayal of its financial position after a business combination with a Special Purpose Acquisition Company (SPAC).
- **Pirani v. Medical Properties Trust, Inc. et al.** No. 2:23-cv-00486-CLM (N.D. Ala.). Lead Counsel in a lawsuit against Medical Properties Trust, Inc. concerning an alleged scheme to conceal from investors that its portfolio of assets was severely distressed.
- **Commonwealth of Pennsylvania Municipal Retirement Board in securities opt-out litigation:** The Firm, representing and Commonwealth of Pennsylvania Municipal Retirement Board in securities opt-out litigation, obtained a substantial recovery. (The amount remains confidential under the terms of the settlement agreement.)
- **Campbell Soup Securities Litigation** (D.N.J.), the Firm recovered \$35 million in a class action involving allegations of channel stuffing, i.e., sending more product on to customers to show growth regardless of whether the customer actually wanted, or could sell, the additional product.
- **Crivellaro v. Singularity Future Technology Ltd. et al.** No. 1:22-cv-07499-BMC (E.D.N.Y.). Lead counsel in a lawsuit against Singularity Future Technology Ltd. concerning material omissions and misstatements in connection with Singularity’s claim that it was transforming from a small, struggling shipping company into a global leader in the opaque, but booming, world of cryptocurrencies.
- **Sun v. TAL Education Group**, No. 1:22-cv-01015 (ALC) (KHP) (S.D.N.Y.). Co-Lead Counsel for the proposed class, representing Co-Lead Plaintiff Public Employees’ Retirement System of Mississippi (“Mississippi”). Mississippi was appointed Co-Lead Plaintiff with the New Mexico State Investment Council. Lead Plaintiffs’ claims arise from a series of alleged materially false and misleading statements made by the defendants from April 26, 2018 through July 22, 2021, concerning TAL’s core business, including its adherence to Chinese regulations governing the private, after school for-profit tutoring industry, its ability to comply with those regulations, the causes for its increasing student enrollment and financial success, and the characterization of those regulations as “beneficial.” TAL told the investing public that it complied with these critical regulations, however, the plaintiffs allege that it intentionally failed to do so to fuel its rapid growth, contributing to a shut-down of the industry and TAL’s profitable tutoring business. Lead



Plaintiffs filed their Second Amended Complaint on November 20, 2023, and motions to dismiss that pleading are fully briefed and before the court.

- **Dong v. Cloopen Group Holding Limited, et al.**, No. 1:21-cv-10610 (S.D.N.Y.) (Koeltl, J.). Berger Montague is Lead Counsel in a securities class action on behalf of all persons who: (a) purchased or otherwise acquired Cloopen American Depositary Shares (“ADSs”) pursuant and/or traceable to the registration statement and prospectus (collectively, the “Registration Statement”) issued in connection with Cloopen’s initial public offering and/or (b) purchased or otherwise acquired Cloopen securities. Lead Plaintiff brings strict liability, non-fraud claims under the Securities Act of 1933 and fraud-based claims under the Securities Exchange Act of 1934. Lead Plaintiff alleges that the Registration Statement concealed from investors that Cloopen had incurred a massive liability related to the increased fair value of a recently granted Series F Warrant and that Defendants’ representations in the Registration Statement regarding Cloopen’s growth strategy were false and misleading because as of the effective date of the Registration Statement, Cloopen had already lost a material percentage of existing customer business during and had done so at an exponentially increasing rate over the rate reported in the Registration Statement. On January 23, 2024, the New York Supreme Court, Commercial Division, granted final approval of a \$12 million cash settlement resolving claims in both federal and state court. Michael Dell’Angelo, Barbara Podell and Andrew Abramowitz worked on this case.
- **PLB Investments LLC, et al. v. Heartland Bank & Trust Company**, No. 1:20-cv-01023 (N.D. Ill.). Berger Montague is lead counsel for a proposed class of investors that collectively lost more than \$80 million to Today’s Growth Consultant Inc. (“TGC”) and owner Kenneth Courtright (“Courtright”) in an alleged Ponzi scheme. TGC is in receivership and Courtright has been indicted. The suit names as defendant TGC’s and Courtright’s bank and alleges that the bank substantially assisted TGC’s fraudulent scheme by allowing TGC to steal millions of dollars from hundreds of victims across the country and misuse, divert, and misappropriate the investors’ proceeds, all through TGC’s and Courtright’s bank accounts. Discovery is complete, subject to potential motions to compel. Michael Dell’Angelo and Barbara Podell are responsible for this matter.
- **In re GPB Capital Holdings, LLC Litigation**, Index No. 157679/2019 (Sup. Ct., New York County) (Commercial Division). Berger Montague is Co-lead counsel in this class action on behalf of investors in GPB’s funds, which were offered as limited partnerships. Plaintiffs allege that the funds were a Ponzi scheme and involved serious financial wrongdoing. GPB was investigated by and produced documents to the SEC, the New Jersey and Massachusetts securities regulators, the US Attorney for the Eastern District of New York and the New York City Business Integrity Commission. Justice Andrew Borrok of the New York Supreme Court granted plaintiffs’ motion to compel in its entirety, ordering defendants to produce all documents produced to regulators, GPB’s books and records and permitting full discovery to proceed prior to a decision on defendants’ motions to dismiss. An SEC monitor was appointed to oversee the operations of the general partner of the funds and three of the individual defendants were indicted. The case is stayed pending resolution of the criminal cases. The



monitorship has been converted into a receivership. Michael Dell'Angelo and Barbara Podell are responsible for this matter.

- **NECA-IBEW Pension Trust Fund (The Decatur Plan), and Ann F. Lynch, as Trustee for the Angela Lohmann Revocable Trust, v. Precision Castparts Corp.**, No. 3:16-cv-01756-YY (D. Or.). Berger Montague is Co-lead counsel in this action in which Plaintiffs allege that Defendants issued a false and misleading proxy statement in connection with the acquisition of Precision Castparts by Berkshire Hathaway in violation of §§14(a) and 20(a) of the Securities Exchange Act of 1934. Magistrate Judge You issued a Findings and Recommendation suggesting that Defendants' motion to dismiss be denied in its entirety. Senior District Judge Brown adopted Judge You's Findings and Recommendation and denied Defendants' motion over Defendants' objections. Motions for class certification, summary judgment and to exclude expert testimony were filed. The case settled for \$21 million. Larry Deutsch was responsible for this matter.
- **In re Patriot National, Inc. Sec. Litig.**, No. 1:17-cv-01866-ER (S.D.N.Y.) (\$6.5 million class settlement). The Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws (the "Complaint") asserted claims against Defendants under Sections 10(b) and 20 (a) of the Securities Exchange Act of 1934. Among other things, the Complaint alleged that Patriot National and the defendants made materially false and misleading statements about Patriot National's failure to adhere to its publicly disclosed Policy Regarding Transactions with Related Persons and the fact that Patriot National's most important customer was on the brink of failure. A settlement for \$6.5 million was reached with the director and officer defendants. Although the settlement was appealed by two investors, the Second Circuit upheld all aspects of the settlement. Larry Deutsch was responsible for this matter.
- **In re Fisker Automotive Holdings, Inc. Shareholder Securities**, No. 13-02100-SLR (D. Del.). Berger Montague was Co-lead counsel in this action arising under Section 10b and Rule 10b-5 of the 1934 Securities Exchange Act. It was brought by 18 substantial investors, including institutional investors, because of their investment in electric car developer Fisker Automotive Holdings, Inc., which filed for bankruptcy. All three of Defendants' motions to dismiss were denied. Extensive formal discovery was conducted, and summary judgment motions were pending when the case was resolved in a confidential settlement shortly before trial. Barbara Podell assumed a major role in this matter.
- **Medaphis/Deloitte & Touche**, No. 1:96-CV-2088-FMH (N.D. GA). The Firm obtained a class settlement for investors of \$96.5 million.

Technology, Privacy, & Data Breach

Berger Montague's Technology, Privacy & Data Breach practice group litigates cases on behalf of consumers nationwide to protect their privacy rights and seek redress.

In the modern economy where sensitive financial, medical, and other personal information is routinely stored electronically by corporations large and small, protecting personal information is



vitally important. All too frequently companies fail to protect consumers' personal information, leading to privacy breaches with devastating consequences.

- **Fernandez v. CoreLogic Credco, LLC**, No. 20-cv-1262 (S.D. Cal.). Firm was class counsel in this class action alleging violations by consumer reporting agency related to reporting possible matches to the OFAC List, resulting in historic \$58.5 million gross settlement, the second-largest class action FCRA settlement.
- **Rodriguez v. National Credit Center, LLC**, No. A-23-869000-B (Clark Cnty.). Firm served as class counsel in class action alleging violations by consumer reporting agency related to reporting of inaccurate matches to the OFAC List, resulting in class action settlement of \$30 million gross settlement for consumers.
- **Clark v. Experian Info. Sols., Inc.**, No. 3:16-cv- 00032 (E.D. Va.). Firm served as co-lead counsel in this consumer privacy and protection matter alleging that credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 50 million consumers.
- **Thomas v. Equifax Info. Services, LLC**, No. 3:18-cv-00684 (E.D. Va.). Firm served as co-lead counsel in this consumer privacy and protection matter alleging credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 69 million consumers.
- **Clark v. Trans Union, LLC**, No. 3:15-cv-00391 (E.D. Va.) Firm was appointed co-lead counsel in this consumer privacy and protection matter, alleging that credit bureau inaccurately reported public records' dispositions and statuses, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 81 million consumers.
- **Hill-Green v. Experian Info. Sols., Inc.**, No. 3:19-cv-00708-MHL (E.D. Va.). Firm served as co-lead class counsel in credit reporting case involving allegations related to credit bureau's data analysis relating to fraud alert reporting, achieving injunctive relief settlement as well as monetary relief settlement of \$23 million.
- **Stewart v. LexisNexis Risk Data Retrieval Services, LLC**, No. 3:20-cv-00903-JGA (E.D. Va.) Firm served as part of class counsel in credit reporting case involving inaccurate reporting of tax liens and judgments, resulting in injunctive relief and monetary relief of \$24 million for the classes.
- **Gambles v. Sterling Infosystems, Inc.**, No. 15-cv-9746 (S.D.N.Y.). Firm was co-lead class counsel on class action alleging violations by consumer reporting agency reported addresses as "high risk" that were older than seven years from the date of the consumer's report, achieving a gross settlement of \$15 million.



- **In re TransUnion Rental Screening Solutions, Inc.** FCRA Litigation, No. 1:20-md-02933 (N.D. Ga.). Firm was appointed co-lead counsel in this consolidated MDL related to claims that tenant screening agency inaccurately reported landlord-tenant actions, criminal records, and sex offender records, achieving over \$11 million in monetary relief, as well as injunctive relief, on behalf of hundreds of thousands of individual consumers.
- **Saylor v. RealPage, Inc.**, No. 1:22-cv-00053-AJT-IDD (E.D. Va.). Firm served as class counsel in credit reporting case regarding inaccurate reporting of consumers as sex offenders, achieving settlement for \$9.7 million.
- **Smith v. A-Check America Inc. d/b/a A-Check Global**, No. 5:16-cv-00174-VAP-KK (C.D. Cal.). Firm served as class counsel in class action involving allegations that credit reporting agency reported non-conviction adverse information older than seven years in violation of 15 U.S.C. § 1681c, achieving monetary relief for the approximately 2,000 class members.
- **Bingollu v. One Source Technology, LLC d/b/a Asurint**, No. 0:22-cv-00077-DTS (D. Minn.). Firm served as class counsel in class action involving allegations that consumer reporting agency inaccurately reported consumers' Social Security Numbers as being "not verified" or "unable to validate," achieving a \$2.4 million common fund settlement for the class.
- **Boskie v. Backgroundchecks.com, LLC**, No. 2019CP3200824 (Lexington Cnty. Court of Comm. Pleas). Firm served as class counsel in class action involving claims that consumer reporting agency had reported outdated adverse information on consumers, achieving injunctive and monetary relief on a class basis.
- **Howell v. Checkr, Inc.**, No. 3:17-cv-04305 (N.D. Cal.). Firm was class counsel on this class action brought under 15 U.S.C. § 1681c, alleging consumer reporting agency reported adverse non-conviction information older than seven years, achieving class relief that established a settlement fund of \$4,460,000 for 96,040 class members and injunctive relief in terms of practice changes.
- **Douglas v. Dice.com**, No. 18CV331732 (Cal. Super. Ct., Santa Clara Cnty.). Firm was co-lead class counsel on class action alleging website aggregated information from the web into "Open Web Profiles" it sold to employers and recruiters which the FCRA by providing access to these consumer reports to those who did not have any legal right to access, failing to provide copies of consumer reports to consumers upon request, and failing to ensure the information in the reports was maximally accurate, achieving a settlement which provided practice changes to website in form of updated Terms of Use, and a \$1,000,000 common fund from which 20,290 class members could make claims.
- **Bankhead v. First Advantage Background Services Corp.**, No. 1:17-cv-02910 (N.D. Ga.). Firm was class counsel on class action involving 15 U.S.C. § 1681c claims alleging that consumer reporting agency included information on background reports that related to criminal charges that did not result in convictions and which predated the report by



more than seven years, achieving settlement that provided injunctive relief in the form of practice changes as well as a common fund of \$1,975,000 for 23,465 class members.

- **Tyus v. General Information Solutions LLC**, No. 2017CP3201389 (Lexington Cnty. Ct. of Comm. Pleas). Firm was class counsel on class action involving allegations that credit reporting agency included outdated adverse information in violation of 15 U.S.C. § 1681c in its consumer reports, achieving a settlement that provided a common fund settlement for the class members, and practice changes by the defendant.
- **Taylor v. Inflection Risk Solutions, LLC**, No. 20-cv-2266 (D. Minn.). Firm was co-lead class counsel on class action involving claims that consumer reporting agency mischaracterized criminal convictions and certain offenses in its reports on consumers, achieving \$4 million common fund settlement.
- **Walker v. Inflection Risk Solutions, LLC**, No. 22-CIV-02954 (San Mateo Super. Ct.). Firm is class counsel on class action involving claims that consumer reporting agency inaccurately reported consumers as sex offender or with inaccurate criminal histories on its reports, achieving preliminarily approved settlement that provides \$1.765 million common fund settlement.
- **Legrand v. IntelliCorp Records, Inc.**, No. 1:15-cv-02091 (N.D. Ohio). Firm was class counsel on class action under 15 U.S.C. § 1681e(b), alleging consumer reporting agency inaccurately reported information in the “Government Sanctions” section of its reports due to matching procedures that inaccurately matched consumers with individuals on the Department of Health and Human Services’ List of Excluded Individuals and Entities, achieving a settlement for \$1,100,000 common fund for 4,791 class members, as well as injunctive relief in the form of free consumer reports to class members.
- **Dougherty v. QuickSIUS, LLC**, No. 2:15-cv-06432 (E.D. Pa.). Firm served as class counsel on class action for claims under 15 U.S.C. § 1681e(b) alleging that consumer reporting agency failed to maintain reasonable procedures to assure maximum possible accuracy by inaccurately reporting Pennsylvania summary offenses as misdemeanors, and by reporting the same offenses in multiple sections of the same report, achieving a settlement provided a \$450,000 common fund for 7,900 class members.
- **Spendlove v. RapidCourt, LLC**, No. 3:18-cv-00856-REP (E.D. Va.). Firm served as co-lead class counsel in credit reporting case regarding reporting of outdated adverse information, resulting in injunctive relief settlement for the class.
- **Heaton v. Social Finance, Inc.**, No. 14-cv-05191- TEH (N.D. Cal.). Firm was co-lead class counsel in case involving impermissible access to consumer credit files, achieving injunctive relief to change the hard inquiries to soft credit inquiries on class members’ credit, and a \$2,500,000 common fund.
- **Grissom v. Sterling Infosystems, Inc.**, No. 1:20-cv-07948-VSB (S.D.N.Y.). Firm is class counsel on class action involving allegations that consumer reporting agency included records developed through a SSN trace on consumers’ reports that did not



match that consumers' full name, achieving preliminarily approved settlement that provides \$2.5 million common fund for the class.

- **Halvorson v. TalentBin, Inc.**, No. 3:15-cv-5166 (N.D. Cal.). Firm was co-lead class counsel on class action alleging consumer reporting agency failed to provide full files to consumers upon request, failed to provide required documentation regarding rights and responsibilities under the FCRA, and failed to obtain certifications from end-users, achieving a settlement which provided a common fund of \$1,150,000 for 72,676 class members.
- **McKey v. TenantReports.com, LLC**, No. 2:22-cv-01908 (E.D. Pa.). Firm was class counsel on class action alleging that tenant screening company reported outdated adverse information in violation of 15 U.S.C. § 1681c, achieving settlement that provided monetary and injunctive relief for the class members.
- **In re TJX Retail Securities Breach Litigation**. MDL Docket No. 1838, No. 1:07-cv-10162-WGY (D. Mass.). Co-lead counsel and obtained a settlement valued at over \$200 million in this multidistrict litigation on behalf of consumers whose personal and financial data were stolen by computer hackers from TJX Companies, Inc. ("TJX").
- **In re Experian Data Breach Litigation**, No. 15-cv-1592 (C.D. Cal.). Firm served on the Executive Committee and assisted in obtaining a \$170 million settlement which included a \$22 million non-reversionary cash settlement fund as well as remedial measures and two years of free credit monitoring and identity theft insurance.
- **In re: MGM Resorts International Data Breach Litigation**, No.: 2:20-cv-00376 (D. Nev.). Firm was appointed co-lead counsel in this data breach class action affecting tens of millions of consumers which recently achieved preliminary approval of a \$45 million settlement.
- **In re MOVEit Customer Data Security Breach Litigation**, 1:23-md-03083 (D. Mass.). Firm was appointed co-lead counsel in one of the largest data breach MDLs in history, a case involving 200 defendants and over 93 million impacted individuals, and has successfully defeated a partial motion to dismiss.
- **In Re: Change Healthcare, Inc. Customer Data Security Breach Litigation**, No. 24-md-03108 (D. Minn). Firm is appointed co-lead counsel in action for data breach impacting over 190 million individuals, representing healthcare providers alleging that the defendants' post-security breach service shutdown caused healthcare providers to suffer billions of dollars in damages.
- **In re Heartland Payment Systems, Inc. Customer Data Security Breach Litigation**, No. H-10-171 (S.D. Tex.). Firm was appointed to Plaintiff's Steering Committee in class action for data breach involving 100 million credit and debit card numbers. The case settled in 2011 for a cash fund to reimburse out-of-pocket costs, and injunctive relief.



- **In re Target Corp. Customer Data Security Breach Litigation**, No. 14-2522 (D. Minn.). Executive Shareholder Michelle Drake was appointed liaison counsel and helped achieve a settlement on behalf of a class of approximately 100 million consumers upheld by the Eighth Circuit.
- **In re: Capital One Customer Data Security Breach Litigation**, No. 1:19-MD-02915 (E.D. Va.). Firm assisted co-lead counsel in class action for data breach impacting 98 million individuals—was the only firm to whom co-lead counsel allocated a multiplier on its time as a result of the value the Firm’s work provided to the litigation.
- **Hasson v. Comcast Cable Commc’ns.**, No. 2:23-cv-05039-JMY (E.D. Pa.). Firm was appointed to Plaintiffs’ Executive Committee in data breach action affecting over 35.9 million Comcast customers.
- **In re Wawa, Inc. Data Security Litigation**, No. 2:19-cv-06019-GEKP (E.D. Pa.). Firm was appointed to the Consumer Track Plaintiffs’ Class Counsel, and helped achieve final approval of class action settlement for data breach impacting 34 million payment cards.
- **In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.**, No. 19-md-02904 (D.N.J.). Firm was appointed to the Plaintiff’s Steering Committee in the Quest Diagnostics track, which is the largest track in the coordinated MDL proceedings in this class action for a data breach impacting over 20 million patients of various medical labs.
- **Beckett v. Aetna Inc.**, No. 2:17-cv-03864-JS (E.D. Pa.). Firm served as co-lead counsel and obtained a \$17.1 million settlement in this lawsuit in which the plaintiffs alleged Aetna violated the privacy rights of thousands of its customers by exposing their private and confidential information regarding prescriptions for HIV medication.
- **Bretto v. AMC Entertainment Holdings, Inc.**, No. 2:23-cv-02317-DDC (D. Kan.). Firm is serving as putative class counsel in case alleging that defendant violated the Video Protection Privacy Act by sharing statutorily protected information collected from consumers, with Facebook, and has successfully defeated a motion to compel arbitration.
- **In re Consulting Radiologists Data Incident Litigation**, No. 27-CV-24-9850 (Henn. Cnty.). Firm is appointed co-lead counsel in data breach consolidated class action involving Minnesota consumers.
- **In re: Countrywide Fin’l. Corp. Customer Data Security Breach Litig.**, MDL 1998, No. 08-MD-01998 (W.D. Ky.). Firm was appointed to the Plaintiff’s Steering Committee in this class action for a data breach involving 17 million individuals.
- **In re GEICO Customer Data Breach Litigation**, No. 21-cv-2210 (E.D.N.Y.). Firm was appointed co-lead counsel in privacy class action alleging GEICO voluntarily disclosed millions of consumers’ drivers’ license numbers on its website in violation of the federal



Drivers' Privacy Protection Act.

- **Doe v. Gilead Sciences, Inc.**, No. 20-CIV-03699 (San Mateo Super. Ct.). Firm served as class counsel and achieved \$4 million settlement on behalf of over 18,000 class members for claims that Gilead included in a mailer "HIV Prevention Team" and thus breached plaintiffs' privacy rights under state statutes.
- **In re: Hannaford Bros. Co. Customer Data Sec. Breach Litig.**, MDL 1954, No. 08-md-01954 (D. Me.). Firm assisted lead counsel in class action for data breach involving 4 million credit and debit card numbers.
- **In re MAPFRE Data Disclosure Litigation**, No. 1:23-cv-12059 (D. Mass.). Firm was appointed co-lead counsel in privacy class action alleging MAPFRE voluntarily disclosed millions of consumers' drivers' license numbers on its website in violation of the federal Drivers' Privacy Protection Act.
- **In re: Medical Informatics Engineering, Inc. Customer Data Security Breach Litig.**, MDL 2667, No. 15-md-02667 (N.D. Ind.). Firm assisted lead counsel in case involving theft of medical and personal information for 4 million individuals from a medical records company.
- **In re: MNGI Digestive Health, PA**, No. 27-CV-10788 (Henn. Cnty.). Firm appointed class counsel in data breach consolidated class action involving Minnesota consumers.
- **Lurry v. Pharmerica Corp.**, No. 3:23-cv-00297 (W.D. Ky.). Firm was appointed co-lead counsel in class action for data breach involving over 5.8 million individuals.
- **Shackelford v. Regents of the Univ. Of Minn.**, No. 27-CV-23-14056 (Minn. Dist. Ct., Henn.Cnty.). Firm was appointed to plaintiffs' steering committee in data breach involving 7 million consumers.

Judicial Praise for Berger Montague Attorneys

Berger Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

Antitrust Cases

From **Judge Richard F. Boulware, II.**, U.S. District Court of Nevada:

During the hearing where the Court granted final approval of a precedent-setting \$375 million class action settlement on behalf of a class of mixed-martial arts fighters in *Le v. Zuffa et al*, Judge Boulware praised "the investment, the quality of the representation in this case, [and] the hours spent" by the Firm and its co-counsel."

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Transcript of the February 6, 2025 hearing in **Cung Le, et al. v. Zuffa, LLC, d/b/a Ultimate Fighting Championship and UFC**, Case No. 2:15-cv-01045-RFB-BNW (D.Nev.).

From **Hon. Gregory H. Woods**, U.S. District Court for the Southern District of New York:

The Court praised the \$20 million settlement in the *In re: Platinum and Palladium Antitrust Litigation* observing that the Firm has "...considerable experience in antitrust litigation such as this...in addition to a host of successful settlements in antitrust and commodities litigation" and that the "high quality of defense counsel opposing plaintiffs' efforts further proves the caliber of representation that was necessary to achieve the settlement. Plaintiffs' opponents were well resourced global financial institutions. Plaintiffs secured a settlement that grants the settlement class financial relief, despite being opposed by well-funded defendants represented by top-flight law firms. The ability of plaintiffs' counsel to obtain a favorable settlement for the class in the face of such formidable legal opposition confirms the quality of their representation of the class."

Transcript of the January 14, 2025 Hearing in the *In re: Platinum and Palladium Antitrust Litigation*, No. 1:14-cv-09391 (GHW).

From **Judge Lorna G. Schofield**, of the U.S. District Court for the Southern District of New York:

"I'm not sure I've ever seen a case without a single objection or opt-out, so congratulations on that."

Transcript of the November 19, 2020 Hearing in **Contant, et al. v. Bank of America Corp., et al.**, No. 1:17-cv-03139 (S.D.N.Y.).

From **Judge William E. Smith**, of the U.S. District Court for the District of Rhode Island:

"The degree to which you all litigated the case is – you know, I can't imagine attorneys litigating a case more rigorously than you all did in this case. It seems like every conceivable, legitimate, substantive dispute that could have been fought over was fought over to the max. So you, both sides, I think litigated the case as vigorously as any group of attorneys could. The level of representation of all parties in terms of the sophistication of counsel was, in my view, of the highest levels. I can't imagine a case in which there was really a higher quality of representation across the board than this one."

Transcript of the August 27, 2020 Hearing in *In re Loestrin 24 Fe Antitrust Litigation*, No. 13-md-02472 (D.R.I.).

From **Judge Margo K. Brodie**, of the U.S. District Court for the Eastern District of New York:

"Class counsel has without question done a tremendous job in litigating this case. They represent some of the best plaintiff-side antitrust groups in the country, and the size and skill of the defense they litigated against cannot be overstated. They have also



demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required...”

In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, No. 1:05-md-01720 (E.D.N.Y. 2019) (Mem. & Order).

From **Judge Brian M. Cogan**, of the U.S. District Court of the Eastern District of New York:

“This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs’ lawyers in this case who were running it.”

Transcript of the June 24, 2019 Fairness Hearing in ***In re Dental Supplies Antitrust Litigation***, No. 16-cv-696 (E.D.N.Y.).

From **Judge Michael M. Baylson**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[C]ounsel...for direct action plaintiffs have done an outstanding job here with representing the class, and I thought your briefing was always very on point. I thought the presentation of the very contentious issues on the class action motion was very well done, it was very well briefed, it was well argued.”

Transcript of the June 28, 2018 Hearing in ***In re Domestic Drywall Antitrust Litigation***, No. MD-13-2437 at 11:6-11.

From **Judge Madeline Cox Arleo**, of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

“I just want to thank you for an outstanding presentation. I don’t say that lightly . . . it’s not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don’t see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you’ve shown for each other, the respect you’ve shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don’t fight, good lawyers advocate. And I really appreciate that more than I can express.”

Transcript of the September 9 to 11, 2015 Daubert Hearing in ***Castro v. Sanofi Pasteur***, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:



“Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation...were unique and issues of first impression.”

* * *

“Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues...The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.”

In re Currency Conversion Fee Antitrust Litigation, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg**, of the United States District court for the District of New Jersey:

“[W]e sitting here don’t always get to see such fine lawyering, and it’s really wonderful for me both to have tough issues and smart lawyers...I want to congratulate all of you for the really hard work you put into this, the way you presented the issues,... On behalf of the entire federal judiciary, I want to thank you for the kind of lawyering we wish everybody would do.”

In re Remeron Antitrust Litig., Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again.”

In re Linerboard Antitrust Litig., 2004 WL 1221350, at *5-*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

“[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel....[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]”

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras**, of the U.S. District Court for the Northern District of Illinois:



“The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation... There is no question that the results achieved by class counsel were extraordinary [.]”

Regarding the work of Berger Montague in achieving more than \$700 million in settlements with some of the defendants in ***In Re Brand Name Prescription Drugs Antitrust Litigation***, 2000 U.S. Dist. LEXIS 1734, at *3-*6 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte**, of the U.S. District Court for the District of Maryland:

“The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs’ counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded.”

Settlement Approval Hearing, Oct. 28, 1994, in ***Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.***, CA No. PJM-92-3624 (D. Md.).

From **Judge Donald W. Van Artsdalen**, of the U.S. District Court for the Eastern District of Pennsylvania:

“As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs’ counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure.”

Bogosian v. Gulf Oil Corp., 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:



“Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result.”

In re Art Materials Antitrust Litigation, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

From **Judge Joseph Blumenfeld**, of the U.S. District Court for the District of Connecticut:

“The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions.”

In re Master Key Antitrust Litigation, 1977 U.S. Dist. LEXIS 12948, at *35 (Nov. 4, 1977).

Securities & Investor Protection Cases

From **Judge Brantley Starr** of the U.S. District Court for the Northern District of Texas, Dallas Division:

“I think y’all have been a model on how to handle a case like this. So I appreciate the diligence y’all have put in separating the fee negotiations until after the main event is resolved...Everything I see here is in great shape, and really a testament to y’all’s diligence and professionalism. So hats off to y’all...So thanks again for your professionalism in handling this case and handling the stipulated settlement. Y’all are model citizens, and so I wish I could send everyone to y’all’s school of litigation management.”

Howell Family Trust DTD 1/27/2004 v. Hollis Greenlaw, et al., No. 3:18-cv-02864-X (N.D. Tex., March 25, 2021).

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

Court stated that lead counsel had made “very full and well-crafted” and “excellent submissions”; that there was a “very fine job done by plaintiffs’ counsel in this case”; and that this was “surely a very good result under all the facts and circumstances.”

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:



“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

In re CIGNA Corp. Sec. Litig., 2007 U.S. Dist. LEXIS 51089, at *17-*18 (E.D. Pa. July 13, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett... [A]nd the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

In re U.S. Bioscience Secs. Litig., No. 92-0678 (E.D. Pa. April 4, 1994).

From **Judge Wayne Andersen** of the U.S. District Court for the Northern District of Illinois:

“[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here...I would say this has been the best representation that I have seen.”

In re: Waste Management, Inc. Secs. Litig., No. 97-C 7709 (N.D. Ill. 1999).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

“All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that’s a testimony – Mr. Valihura correctly says that’s what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.”

Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202 (Del. Ch., Oct. 22, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed



those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

“ Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here.”

In re Rite Aid Corp. Securities Litigation, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

“In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.”

* * *

“Throughout the course of their representation, the attorneys at Berger Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.”

In Re Melridge, Inc. Securities Litigation, No. CV 87-1426-FR (D. Ore. April 15, 1996).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

“[T]he Co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action...These counsel have also acted vigorously in their clients’ interests...”

* * *

“The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines.”

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in ***In re Ikon Office Solutions, Inc. Securities Litigation***, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:



“In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger Montague....”

* * *

“Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich.”

Commenting in *In re Revco Securities Litigation*, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

Consumer Protection Cases

From **Judge Paul A. Engelmayer** of the U.S. District Court for the Southern District of New York:

“I know the diligence of counsel and dedication of counsel to the class...Thank you, Ms. Drake. As always, I appreciate the – your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It’s a pleasure always to have you before me...Class Counsel [] generated this case on their own initiative and at their own risk. Counsel’s enterprise and ingenuity merits significant compensation...Counsel here are justifiably proud of the important result that they achieved.”

Sept. 22, 2020, Final Approval Hearing, *Gambles v. Sterling Info., Inc.*, No. 15-cv-9746.

From **Judge Joel Schneider** of the U.S. District Court for the District of New Jersey:

“I do want to compliment all counsel for how they litigated this case in a thoroughly professional manner. All parties were zealously represented in the highest ideals of the profession, legitimately and professionally, and not the usual acrimony we see in these cases...I commend the parties and their counsel for a very workmanlike professional effort.”

Transcript of the September 10, 2020 Final Fairness Hearing in *Somogyi, et al. v. Freedom Mortgage Corp.*

From **Judge Harold E. Kahn** of the Superior Court of California County of San Francisco:

“You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of



this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys' fees. And I congratulate you on your excellent work."

Transcript of the November 7, 2017 Hearing in **Loretta Nesbitt v. Postmates, Inc.**, No. CGC-15-547146

Civil/Human Rights Cases

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

"We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers."

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

Insurance Litigation

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

Noting the "very significant risk in pursuing this action" given its uniqueness in that "there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants." Further, "the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel's outstanding work in this case and substantial effort over five years, no member of the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result."

Regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in **Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.**, in the Order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

Customer/Broker Arbitrations

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:



“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

About the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in ***Steinman v. LMP Hedge Fund, et al.***, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

Employment & Unpaid Wages Cases

From **Judge Timothy R. Rice**, United States Magistrate Judge for the U.S. District Court for the Eastern District of Pennsylvania:

Describing Berger Montague as “some of the finest legal representation in the nation,” who are “ethical, talented, and motivated to help hard working men and women.”

Regarding the work of Berger Montague attorney Camille F. Rodriguez in ***Gonzalez v. Veritas Consultant Group, LLC, d/b/a Moravia Health Network***, No. 2:17-cv-1319-TR (E.D. Pa. March 13, 2019).

From **Judge Malachy E. Mannion**, United States District Judge for the U.S. District Court for the Middle District of Pennsylvania:

“At the final approval hearing, class counsel reiterated in detail the arguments set forth in the named plaintiffs’ briefing. ... The court lauded the parties for their extensive work in reaching a settlement the court deemed fair and reasonable.

* * *

“The court is confident that [class counsel] are highly skilled in FLSA collective and hybrid actions, as seen by their dealings with the court and the results achieved in both negotiating and handling the settlement to date.”

Acevedo v. Brightview Landscapes, LLC, No. 3:13-cv-2529, 2017 WL 4354809 (M.D. Pa. Oct. 2, 2017).

From **Judge Joseph F. Bataillon**, United States District Judge for the U.S. District Court for the District of Nebraska:



[P]laintiffs' counsel succeeded in vindicating important rights. ... The court is familiar with "donning and doffing" cases and based on the court's experience, defendant meat packing companies' litigation conduct generally reflects "what can only be described as a deeply-entrenched resistance to changing their compensation practices to comply with the requirements of FLSA." (citation omitted). Plaintiffs' counsel perform a recognized public service in prosecuting these actions as a 'private Attorney General' to protect the rights of underrepresented workers.

The plaintiffs have demonstrated that counsel's services have benefitted the class. ... The fundamental policies of the FLSA were vindicated and the rights of the workers were protected.

Regarding the work of Berger Montague among other co-counsel in ***Morales v. Farmland Foods, Inc.***, No. 8:08-cv-504, 2013 WL 1704722 (D. Neb. Apr. 18, 2013).

From **Judge Jonathan W. Feldman**, United States Magistrate Judge for the U.S. District Court for the Western District of New York:

"The nature of the instant application obliges the Court to make this point clear: In my fifteen years on the bench, no case has been litigated with more skill, tenacity and legal professionalism than this case. The clients, corporate and individual, should be proud of the manner in which their legal interests were brought before and presented to the Court by their lawyers and law firms."

and

"...the Court would be remiss if it did not commend class counsel and all those who worked for firms representing the thousands of current and former employees of Kodak for the outstanding job they did in representing the interests of their clients. For the last several years, lead counsel responsibilities were shared by Shanon Carson Their legal work in an extraordinarily complex case was exemplary, their tireless commitment to seeking justice for their clients was unparalleled and their conduct as officers of the court was beyond reproach."

Employees Committed for Justice v. Eastman Kodak, (W.D.N.Y. 2010) (\$21.4 million settlement).

Other Cases

From **Stephen M. Feiler, Ph.D.**, Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA *on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania*:

"On behalf of the Supreme Court of Pennsylvania and AOPC's Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with*

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Complexities in Civil Litigation symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years.”

About the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

EXHIBIT 3



Philadelphia – Minneapolis – San Francisco – San Diego –
Toronto – Chicago – Washington DC

bergermontague.com

E. Michelle Drake – Executive Shareholder, Berger Montague PC¹

E. Michelle Drake is an Executive Shareholder at Berger Montague, one of the nation's oldest and largest class action litigation firms, employing over 100 attorneys in seven offices in the United States and Canada.

Ms. Drake founded and leads the firm's second-largest office, located in Minneapolis, Minnesota. Since she joined the firm in 2016, she has grown the Minneapolis office to employ over twenty employees, including nine full-time attorneys. Ms. Drake chairs the firm's Credit Reporting and Background Checks Practice Group and co-chairs the firm's Consumer Protection and Technology, Privacy and Data Breach Practice Groups. She is a member of Berger Montague's Executive Committee and, in addition to managing the Minneapolis office, also supervises several attorneys in Philadelphia and San Diego.

Ms. Drake focuses her practice primarily on financial services, consumer privacy, and improper credit reporting class actions. She has practiced law since 2001 and holds degrees from Harvard College, Harvard Law School, and Oxford University. Ms. Drake began the practice of law by defending high stakes criminal cases as a public defender in Atlanta, Georgia, and has also represented people facing the death penalty, including at trial. She has never lost her desire to litigate on the side of the "little guy." Possessing a rare combination of a strong academic pedigree and real-world trial skills, Ms. Drake has successfully gone toe-to-toe with some of the world's most powerful corporations.

Ms. Drake has extensive experience representing consumers in MDL proceedings and class actions. In total, Ms. Drake has served as lead or co-lead class counsel in over fifty class actions and has achieved relief for consumers valued in the billions of dollars.

Ms. Drake has earned the respect of her peers. She is consistently named to the annual lists of The Best Lawyers of America, Top 50 Women Minnesota Super Lawyers, and Super Lawyers. Ms. Drake is routinely invited to present at continuing legal education seminars, and has presented at dozens of national conferences. She has been quoted in the New York Times, the Wall Street Journal and the National Law Journal, and her cases have been named as "Lawsuits of the Year" by Minnesota Law & Politics.

Ms. Drake is also dedicated to public service. She serves on the Board of Directors of Public Justice and is President-elect of the Board of Directors of the Southern Center for Human Rights.

Ms. Drake's Leadership Experience in Consumer Protection MDLs and Class Actions

- *In re Target Corp. Customer Data Security Breach Litigation*, No. 14-2522 (D. Minn.) (Ms. Drake was appointed liaison counsel and helped achieve a settlement on behalf of a class of approximately 100 million consumers upheld by the Eighth Circuit)
- *In Re: Change Healthcare, Inc. Customer Data Security Breach Litigation*, No. 24-md-03108 (D. Minn) (Ms. Drake was appointed co-lead counsel representing healthcare providers in a class action alleging that the defendants' post-security breach service shutdown caused healthcare providers to suffer billions of dollars in damages)
- *In re MOVEit Customer Data Security Breach Litigation*, 1:23-md-03083 (D. Mass.) (Ms. Drake was appointed co-lead counsel in one of the largest data breach MDLs in history, a case involving 200 defendants and over 60 million individuals)
- *In re: MGM Resorts International Data Breach Litigation*, No.: 2:20-cv-00376 (D. Nev.) (Ms. Drake was appointed co-lead counsel in this data breach class action affecting tens of millions of consumers, and which recently achieved preliminary approval of a \$45 million settlement)
- *Fernandez v. CoreLogic Credco, LLC*, No. 20-cv-1262 (S.D. Cal.) (FCRA class action, alleging violations by consumer reporting agency related to reporting possible matches to the OFAC List, resulting in historic \$58.5 million gross settlement, the second-largest class action FCRA settlement, achieved and led by Ms. Drake, with Berger Montague as the only plaintiff's counsel)
- *In re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, No. 3:19-md-02913-WHO (N.D. Cal.) (Ms. Drake was appointed to the Plaintiffs' Steering Committee and chaired the consumer class action committee, achieving an overall MDL settlement of approximately \$1.2 billion, and a consumer class settlement of \$255 million)
- *Clark v. Trans Union, LLC*, No. 3:15-cv-00391 (E.D. Va.) (Ms. Drake was appointed co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 81 million consumers)
- *Clark v. Experian Info. Sols., Inc.*, No. 3:16-cv- 00032 (E.D. Va.) (Ms. Drake served as co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 50 million consumers)
- *Thomas v. Equifax Info. Services, LLC*, No. 3:18-cv-00684 (E.D. Va.) (Ms. Drake served as co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 69 million consumers)
- *In re TransUnion Rental Screening Solutions, Inc. FCRA Litigation*, No. 1:20-md-02933 (N.D. Ga.) (Ms. Drake served as lead counsel in this consolidated MDL, achieving over \$11 million in monetary relief, as well as injunctive relief, on behalf of hundreds of thousands of individual

consumers)

- *In re: Capital One Customer Data Security Breach Litigation*, No. 1:19-MD-02915 (E.D. Va.) (Berger Montague assisted lead counsel in class action for data breach impacting 98 million individuals, ultimately resolved for \$190 million)
- *Shackelford et al. v. Regents of the University of Minnesota*, No. 27-cv-23-14071 (Minn. 4th Jud. Dist.) (Ms. Drake served as leadership counsel in a class action for a data breach involving over 7 million individuals)
- *In re Consulting Radiologists Data Incident Litigation*, No. 27-CV-24-9850 (Henn. Cnty.) (Ms. Drake appointed co-lead counsel in data breach consolidated class action involving Minnesota consumers)
- *In re: MNGI Digestive Health, PA*, No. 27-CV-10788 (Henn. Cnty.) (Ms. Drake appointed class counsel in data breach consolidated class action involving Minnesota consumers)
- *Lurry v. Pharmerica Corp.*, No. 3:23-cv-00297 (W.D. Ky.) (Ms. Drake was appointed co-lead counsel in class action for data breach involving over 5.8 million individuals)
- *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.*, No. 19-md-02904 (D.N.J.) (Ms. Drake was appointed to the Plaintiff's Steering Committee in the Quest Diagnostics track, which is the largest track in the coordinated MDL proceedings in this class action for a data breach impacting over 20 million patients of various medical labs)
- *In re GEICO Customer Data Breach Litigation*, No. 21-cv-2210 (E.D.N.Y.) (Ms. Drake was appointed co-lead counsel in privacy class action alleging GEICO voluntarily disclosed millions of consumers' drivers' license numbers on its website in violation of the federal Drivers' Privacy Protection Act)
- *In re MAPFRE Data Disclosure Litigation*, No. 1:23-cv-12059 (D. Mass.) (Ms. Drake was appointed co-lead counsel in privacy class action alleging MAPFRE voluntarily disclosed millions of consumers' drivers' license numbers on its website in violation of the federal Drivers' Privacy Protection Act)
- *Beckett v. Aetna, Inc.*, No. 17-cv-03864 (E.D. Pa.) (Berger Montage was appointed co-lead counsel in case involving public disclosure of patient HIV information, which settled in a non-reversionary \$17 million fund. Each class member received an automatic payment of \$500 without being required to fill out a claim form, and class members were also allowed to submit claims for up to \$20,000 for financial or non-financial harm)
- *Rodriguez v. National Credit Center, LLC*, No. A-23-869000-B (Clark Cnty.) (FCRA class action, alleging violations by consumer reporting agency related to reporting of inaccurate matches to the OFAC List, resulting in class action settlement of \$30 million gross settlement for consumers, achieved and led by Ms. Drake, with Berger Montague acting as lead counsel)
- *Vakilzadeh v. The Trustees of the California State University*, No. 20STCV23134 (Los Angeles Super. Ct.) (Berger Montague appointed to Plaintiffs' Consensus Committee in class action for lost tuition due to COVID closures at California State University)

- *Knights v. Publix Super Markets, Inc.*, No. 14-cv-720 (M.D. Tenn.) (FCRA class action, alleging violations by employer, resulting in a \$6.75 million settlement, led by Ms. Drake)
- *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803 (E.D. Mich.) (FCRA class action, alleging violations by employer, resulting in a \$6.749 million settlement, led by Ms. Drake)
- *Ernst v. DISH Network, LLC & Sterling Infosystems, Inc.*, No. 12-cv-8794 (S.D.N.Y.) (FCRA class action, alleging violations by employer and consumer reporting agency, resulting in a \$4.75 million settlement with consumer reporting agency, and a \$1.75 million settlement with employer, led by Ms. Drake)
- *Hill-Green v. Experian Info. Sols., Inc.*, No. 3:19-cv-00708-MHL (E.D. Va.) (firm served as co-lead class counsel in credit reporting case involving allegations related to credit bureau's data analysis relating to fraud alert reporting, achieving injunctive relief settlement as well as monetary relief settlement of \$23 million)
- *Stewart v. LexisNexis Risk Data Retrieval Services, LLC*, No. 3:20-cv-00903-JGA (E.D. Va.) (firm served as part of class counsel in credit reporting case involving inaccurate reporting of tax liens and judgments, resulting in injunctive relief and monetary relief of \$24 million for the classes)
- *Saylor v. RealPage, Inc.*, No. 1:22-cv-00053-AJT-IDD (E.D. Va.) (firm served as class counsel in credit reporting case regarding inaccurate reporting of consumers as sex offenders, achieving settlement for \$9.7 million)
- *Bingollu v. One Source Technology, LLC d/b/a Asurint*, No. 0:22-cv-00077-DTS (D. Minn.). (firm served as class counsel in class action involving allegations that consumer reporting agency inaccurately reported consumers' Social Security Numbers as being "not verified" or "unable to validate," achieving a \$2.4 million common fund settlement for the class)
- *Howell v. Checkr, Inc.*, No. 3:17-cv-04305 (N.D. Cal.) (firm was class counsel on this class action brought under 15 U.S.C. § 1681c, alleging consumer reporting agency reported adverse non-conviction information older than seven years, achieving class relief that established a settlement fund of \$4,460,000 for 96,040 class members and injunctive relief in terms of practice changes)
- *Douglas v. Dice.com*, No. 18CV331732 (Cal. Super. Ct., Santa Clara Cnty.) (firm was co-lead class counsel on class action alleging website aggregated information from the web into "Open Web Profiles" it sold to employers and recruiters which violated the FCRA by providing access to these consumer reports to those who did not have any legal right to access, failing to provide copies of consumer reports to consumers upon request, and failing to ensure the information in the reports was maximally accurate, ultimately achieving a settlement which provided practice changes to website in form of updated Terms of Use, and a \$1,000,000 common fund from which 20,290 class members could make claims)

- *Taylor v. Inflection Risk Solutions, LLC*, No. 20-cv-2266 (D. Minn.) (firm was co-lead class counsel on class action involving claims that consumer reporting agency mischaracterized criminal convictions and certain offenses in its reports on consumers, achieving \$4 million common fund settlement)
- *Walker v. Inflection Risk Solutions, LLC*, No. 22-CIV-02954 (San Mateo Super. Ct.) (firm was appointed settlement class counsel on class action involving claims that consumer reporting agency inaccurately reported consumers as sex offender or with inaccurate criminal histories on its reports, achieving preliminarily approved settlement that provides \$1.765 million common fund settlement)
- *Legrand v. IntelliCorp Records, Inc.*, No. 1:15-cv-02091 (N.D. Ohio) (firm was class counsel on class action under 15 U.S.C. § 1681e(b), alleging consumer reporting agency inaccurately reported information in the “Government Sanctions” section of its reports due to matching procedures that inaccurately matched consumers with individuals on the Department of Health and Human Services’ List of Excluded Individuals and Entities, achieving a settlement for \$1,100,000 common fund for 4,791 class members, as well as injunctive relief in the form of free consumer reports to class members)
- *Heaton v. Social Finance, Inc.*, No. 14-cv-05191-TEH (N.D. Cal.) (firm was co-lead class counsel in case involving impermissible access to consumer credit files, achieving injunctive relief to change the hard inquiries to soft credit inquiries on class members’ credit, and a \$2,500,000 common fund)
- *Grissom v. Sterling Infosystems, Inc.*, No. 1:20-cv-07948-VSB (S.D.N.Y.) (firm was approved as class counsel on class action involving allegations that consumer reporting agency included records developed through a SSN trace on consumers’ reports that did not match that consumers’ full names, achieving settlement that provides \$2.5 million common fund for the class)
- *Halvorson v. TalentBin, Inc.*, No. 3:15-cv-5166 (N.D. Cal.) (firm was co-lead class counsel on class action alleging consumer reporting agency failed to provide full files to consumers upon request, failed to provide required documentation regarding rights and responsibilities under the FCRA, and failed to obtain certifications from end-users, achieving a settlement which provided a common fund of \$1,150,000 for 72,676 class members)
- *Rubio-Delgado & Moore v. Aerotek, Inc.*, Nos. 2:15-cv-2701, 2:16-cv-1066 (S.D. Ohio) (Ms. Drake was one of lead class counsel and helped achieve \$15 million settlement on behalf of a nationwide class of employees and applicants for violations of § 1681b(b)(2) of the Fair Credit Reporting Act, which at the time was the largest settlement of its kind)
- *Gambles v. Sterling Infosystems, Inc.*, No. 15-cv-9746 (S.D.N.Y.) (FCRA class action, alleging violations by consumer reporting agency, resulting in a gross settlement of \$15 million, one of the largest FCRA settlements to date at the time, led by Ms. Drake)

- *In re Capital One Financial Corporation, Affiliate Marketing Litigation*, No. 1:25-cv-00023 (E.D. Va.) (Ms. Drake appointed co-lead counsel in consolidated class action representing affiliate marketers in allegations of cookie-stuffing by Capital One)
- *Riley v. MoneyMutual, LLC*, No. 16-cv-4001 (D. Minn.) (consumer class action, court certified a litigation class of over 20,000 Minnesota consumers alleging that MoneyMutual violated Minnesota payday lending regulations, resulting in \$2,000,000 settlement with notable injunctive relief, led by Ms. Drake and team from Berger Montague)

In addition to the foregoing cases in which Ms. Drake was directly involved, Berger Montague has served as lead or co-lead counsel in some of the largest class action settlements in U.S. history, including but not limited to the following:

- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 05-MD-1720 (E.D.N.Y.) (Berger Montague served as co-lead counsel in antitrust class action in which it obtained a \$5.6 billion antitrust settlement for a national class of direct purchasers)
- *In re MF Global Holdings Ltd. Investment Litigation*, No. 11-cv-07866 (S.D.N.Y.) (Berger Montague served as co-lead counsel and helped return approximately \$1.6 billion to thousands of commodities account holders who were victims to massive theft and misappropriation of client funds at the former global commodities brokerage firm)
- *Connecticut v. Phillip Morris, Inc. et al.*, No. 18133 (Sup. Ct. Conn.) (Berger Montague was co-lead counsel for the State of Connecticut and helped it recover approximately \$3.6 billion from manufacturers of tobacco products)
- *In re Namenda Direct Purchaser Antitrust Litigation*, No. 15-cv-7488 (S.D.N.Y.) (Berger Montague served as co-lead counsel and obtained a \$750 million settlement on behalf of a class of direct purchasers of branded and/or generic drugs)

Ms. Drake's Recent Speaking Engagements

"The Facts Make the Case: How to Find and Use Data To Win Your Case," Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.

"Data-Driven Class Actions," Class Action Symposium at the Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.

"Wrongly Accused of Terrorism and Drug Trafficking: A Case Study of One U.S. Navy Official's Battle," Harvard Plaintiffs' Law Association, October 2024.

"National FCRA Landscape," National Association of Consumer Advocates Spring Training, May 2022.

"Sealing, Expungement and FCRA: Criminal Records Reporting in a New Era," Equal Justice Conference, May 2022.

“Evidentiary Challenges in Certifying Class Actions,” Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, December 2021.

“COVID and Post-COVID Issues in FCRA Litigation,” National Association of Consumer Advocates Spring Training, Virtual, April 2021.

“Consumer Law: Overview of the Fair Credit Reporting Act,” Minnesota Continuing Legal Education, Virtual, December 2020.

“The Role of the Lawyer in Class Actions,” Panel Chair, Global Class Actions Symposium 2020, Virtual, November 2020.

“Hunting the Snark: Finding & Effectively Using Data to Certify Classes,” Class Action Symposium, National Consumer Law Center Consumer Rights Litigation Conference, Virtual, November 2020.

“Specialty CRAs Part 1: Conviction Histories, Expungement, and FCRA: Keeping up with Developments in a Changing Legal Landscape,” National Consumer Law Center Consumer Rights Litigation Conference, Virtual, November 2020.

“Conducting Financial & Criminal Background Checks – Applicant Rights & Employer Best Practices,” Minnesota Continuing Legal Education, Minneapolis, MN, October 2020.

Judicial Praise for Ms. Drake

From Judge Paul A. Magnuson, United States District Court, D. Minn.:

[T]he class representatives and their counsel more than adequately protected the class’s interests. ... [T]he comprehensive nature of the settlement in turn, reflects the adequacy, indeed the superiority, of the representation the class received from its named Plaintiffs and from class counsel.

May 17, 2017, Mem. & Order on Mtn. to Certify Class, *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 14-2522.

From Judge Richard H. Kyle, United States District Court, D. Minn.:

Well, I think you did a great job on this. I mean, I really do. ... it seems to me you folks have gotten it done the right way.

Jan. 6, 2014, Prelim. Approval Hearing, *Bible v. General Revenue Corp.*, No. 12-cv-1236.

From Judge Susan M. Robiner, Minnesota District Court, Henn. Cnty.:

Plaintiffs’ counsel are adequate legal representatives for the class. They have done work identifying and investigating potential claims, have handled class actions in the past, know the applicable law, and have the resources necessary to represent the class. The class will be fairly and adequately represented.

Oct. 16, 2012, Order Granting Mtn. for Class Cert., *Spar v. Cedar Towing & Auction, Inc.*, No. 27-CV-411-24993.

From Judge Paul A. Engelmayer, United States District Court, Southern District of New York:

I know the diligence of counsel and dedication of counsel to the class...Thank you, Ms. Drake. As always I appreciate the—your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It's a pleasure always to have you before me...Class counsel [] generated this case on their own initiative and at their own risk. Counsel's enterprise and ingenuity merits significant compensation...Counsel here are justifiably proud of the important result that they achieved.

Sept. 22, 2020, Final Approval Hearing, *Gambles v. Sterling Info., Inc.*, No. 15-cv-9746.

From Judge Harold E. Kahn, Dep't 302, Superior Court of Cal., San Fran. Cnty.:

You're very articulate on this issue. ... Obviously, you're very thoughtful and you have given it a great deal of thought. ... And I appreciate your ability to respond to my questions off the cuff. ... It shows that you have given these issues a lot of thought ... I have to say that your thoughtfulness this morning has somewhat diminished my concerns [regarding high multiplier on attorney fees]... You're demonstrating credibility by a mile as you go....You are extraordinarily impressive. And I thank you for being here, and for your candid, noninvasive [sic] response to every question I have. I was extremely skeptical at the outset this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects... And I congratulate you on your excellent work.

Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146.

From Judge Laurie J. Michelson, United States District Court, E.D. Mich.:

Counsel's quality of work in this case was high. The Court has been impressed with counsel's in-court arguments. And counsel has provided the Court with quality briefing as well.

Aug. 11, 2017, Opinion & Order on Mtn. for Atty. Fees, and Mtn. for Final Approval, *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803.

From Magistrate Judge Terence P. Kemp, United States District Court, S.D. Ohio:

The parties in this case are represented by counsel with substantial experience in class action litigation, and FCRA cases in particular. ... Class Counsel are experienced and knowledgeable in FCRA litigation, are skilled, and are in good standing.

June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066.

From Judge Paul A. Engelmayer, United States District Court, S.D.N.Y.:

The high quality of [plaintiffs' counsel]'s representation strongly supports approval of the requested fees. The Court has previously commended counsel for their excellent lawyering. ... The point is worth reiterating here. [Plaintiffs' counsel] was energetic, effective, and creative throughout this long litigation. The Court found [Plaintiffs' counsel]'s briefs and arguments first-rate. And the documents and deposition transcripts which the Court reviewed in the course of resolving motions revealed the firm's far-sighted and strategic approach to discovery. ... Further, unlike in many class actions, plaintiffs' counsel did not build their case by piggybacking on regulatory investigation or settlement. ... The lawyers [] can genuinely claim to have been the authors of their clients' success.

Sept. 22, 2015, Final Approval Order, *Hart v. RCI Hospitality Holdings, Inc.*, No. 09-cv-3043.

From Magistrate Judge Laurel Beeler, United States District Court, N.D. Cal.:

Counsel have worked vigorously to identify and investigate the claims in this case, and, as this litigation has revealed, understand the applicable law and have represented their clients vigorously and effectively.

June 13, 2014, Order Granting Mtn. for Class Cert., *Ellsworth v. U.S. Bank, N.A.*, No. 12-cv-2506.

From Judge Deborah Chasanow, United States District Court, D. Md.:

[Plaintiffs' counsel] are qualified, experienced, and competent, as evidenced by their background in litigating class-action cases involving FCRA violations. ... As noted above, Plaintiffs' attorneys are experienced and skilled consumer class action litigators who achieved a favorable result for the Settlement Classes.

Oct. 2, 2013, Final Approval Order, *Singleton v. Domino's Pizza, LLC*, No. 11-cv1823.

From Judge Lorna G. Schofield, United States District Court, S.D.N.Y.:

[Plaintiffs' Counsel] has demonstrated it is able fairly and adequately to represent the interests of the putative class.

July 23, 2013, Order Appointing Interim Lead Counsel, *Ernst v. DISH Network, LLC*, No. 12-cv-8794.

Ms. Drake's Bar Admissions

- United States Supreme Court, 2017
- State Bar of Georgia, 2001
- Georgia Supreme Court, 2006
- Minnesota Supreme Court, 2007

- U.S. Court of Appeals for the Eighth Circuit, 2010
- U.S. Court of Appeals for the First Circuit, 2011
- U.S. Court of Appeals for the Seventh Circuit, 2014
- U.S. Court of Appeals for the Ninth Circuit, 2015
- U.S. Court of Appeals for the Tenth Circuit, 2018
- U.S. Court of Appeals for the Third Circuit, 2019
- U.S. Court of Appeals for the Fourth Circuit, 2022
- U.S. Court of Appeals for the Sixth Circuit, 2023
- U.S. District Court for the Northern District of Georgia, 2007
- U.S. District Court for the District of Minnesota, 2007
- U.S. District Court for the Eastern District of Wisconsin, 2011
- U.S. District Court for the Western District of Texas, 2011
- U.S. District Court for the Western District of Wisconsin, 2015
- U.S. District Court for the Eastern District of Michigan, 2015
- U.S. District Court for the Central District of Illinois, 2016
- U.S. District Court for the Southern District of Texas, 2017
- U.S. District Court for the Western District of New York, 2017
- U.S. District Court for the Western District of Michigan, 2018
- U.S. District Court for the Northern District of Illinois, 2020
- U.S. District Court for the Middle District of Georgia, 2023

Ms. Drake's Public Service

- Board of Directors, Southern Center for Human Rights (President-elect)
- Partner's Council Member, National Consumer Law Center

- Board of Directors, Public Justice
- Consumer Litigation Section for the Minnesota State Bar Association (former co-chair)
- Board Member Emeritus, National Association of Consumer Advocates
- Member, Federal Practice Committee for the U.S. District Court for the District of Minnesota (2010)

Ms. Drake's Professional Awards

- Named as a Super Lawyer (2013-2024)
- Named as a Rising Star (2011-2012)
- LawDragon 500 Leading Plaintiff Financial Lawyers List (2019-2024)
- Elite Woman of the Plaintiffs' Bar, National Law Journal (2020)
- Quoted in the New York Times and the National Law Journal
- Prior cases named as "Lawsuits of the Year" by Minnesota Law & Politics (2008, 2009)

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

KIMBERLY BOTTOMS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

BLOCK, INC. (F/K/A, SQUARE, INC.)
(D/B/A, CASH APP),

Defendant.

NO. 2:23-cv-01969-MJP

**DECLARATION OF BRANDON
SCHWARTZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

I, Brandon Schwartz, declare as follows:

1. I am a Director of Notice with Eisner Advisory Group, LLC ("EAG"). EAG has been selected by the parties to act as the Settlement Administrator in this case after a competitive bidding process. I am fully familiar with the facts contained in this declaration based upon my personal knowledge, and if called as a witness, could and would testify competently to them.

2. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Settlement to describe my experience and EAG's experience with settlement administration, the proposed notice plan ("Notice Plan") designed for this settlement, and why I believe it will be effective and constitute the best notice practicable under the circumstances of this settlement, pursuant to Fed. R. Civ. P. 23(c)(2)(B) ("Rule 23").

EXPERIENCE

3. Drawing upon over 15 years of extensive expertise in class action, advertising, media, and marketing, I have designed and implemented comprehensive notice solutions

DECLARATION OF BRANDON SCHWARTZ IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT -

CASE NO. 2:23-cv-01969-MJP

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www.terrellmarshall.com

encompassing all facets of class action certification and settlement notice programs. My proficiency includes an understanding of email and postal distribution methodologies, reach and frequency analysis, strategic media generation, meticulous demographic research, media plan design, effective media development and procurement, commercial and video production creation, and the adept application of best practices for effective social media outreach. A description of my experience is attached as E .

4. Since 1999¹, EAG's Settlement Administration Services team has successfully administered numerous class action, mass tort, and mass arbitration programs and settlements in state and federal court (including multidistrict litigation). Our team has processed and reviewed claims and managed distributions for settlements involving billions of dollars in settlement funds. Recent cases in which EAG was appointed Settlement Administrator include:

, No. 19-cv-04659 (C.D. Cal.);
 No. 19-cv-00250 (E.D. Wash.); , No.
 19-2-26674-1 SEA (King County Superior Court);
 No. 2:15-cv-05145 (C.D. Cal.);
 No. 1:17-cv-01307 (N.D. Ill.); No. 2:14-
 cv-02422 (E.D. Cal.); , No. 2:21-cv-04066
 (W.D. MO); , No. 2019-CH-00990 (Circuit Court of Cook County,
 IL); and No. 2:18-cv-00381 (E.D.
 Wash.).

¹ As of May 21, 2023, the Directors & employees of Postlethwaite & Netterville (P&N), APAC joined EisnerAmper LLP. "EisnerAmper" is the brand name under which EisnerAmper LLP and Eisner Advisory Group LLC provide professional services. EisnerAmper LLP and Eisner Advisory Group LLC are independently owned firms that practice in an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable law, regulations and professional standards. EisnerAmper LLP is a licensed CPA firm that provides attest services, and Eisner Advisory Group LLC and its subsidiary entities provide tax and business consulting services. Eisner Advisory Group LLC and its subsidiary entities are not licensed CPA firms.

5. A profile of EAG's background and capabilities, including representative case and client lists, is attached as **E**

6. EAG has numerous control systems and procedures in place to assume the secure handling of Class members' data that we believe meet or exceed relevant industry standards. A summary of those procedures is attached as **E**.

7. EAG accepts responsibility for security of Class members' data; accurate calculation of claims pursuant to the terms of the Settlement Agreement between the parties; and accurate distribution of funds pursuant to the Settlement Agreement and Orders of this Court. EAG maintains adequate insurance for our industry in the case of errors, which includes (a) professional liability errors and omissions insurance coverage; (b) a fidelity bond for employee dishonesty losses (plus additional computer fraud and wire transfer communication fraud coverages); and (c) network and information security liability coverage.

8. EAG affirms that data provided to it by the parties and Class members for the purposes of providing notice and administering the settlement will be used solely for those purposes.

NOTICE PLAN OVERVIEW

9. In compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, within ten days of motion for preliminary approval being filed with the Court, EAG will send the required CAFA notice to the U.S. Attorney General, the Attorneys General of each state and the District of Columbia, the Attorneys General of the recognized U.S. Territories, and any other applicable federal authorities.

10. The proposed Notice Plan includes individual, direct notice using a combination of mail and email that is expected to reach at least 70% of the Class. The Notice Plan also includes a targeted digital media campaign to supplement direct notice efforts.

11. Prior to effectuating direct notice, EAG will perform reverse directory searches on Settlement Class Members' phone numbers provided by the Parties to attempt to obtain an email

DECLARATION OF BRANDON SCHWARTZ IN
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CASE NO. 2:23-cv-01969-MJP

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1 and postal mailing address for each Class member. This is an industry-standard method of
 2 obtaining contact information for class members.

3 12. On or before the Notice date, EAG will send email notice to all Settlement Class
 4 Members with a known, valid email address. The emailed notice will provide a hyperlink to the
 5 Claim Form and to a portal that allows claims to be submitted on the Settlement Website. A
 6 more detailed long-form notice will be available on the Settlement Website. EAG will use
 7 several techniques and strategies to maximize email deliverability and avoid SPAM and junk
 8 email filters. These strategies include: validating email addresses prior to initiating notice;
 9 omitting certain words and phrases known to trigger SPAM or junk filters; not including
 10 attachments; and sending the emails in staggered waves over several days or weeks (depending
 11 on volume).

12 13. EAG will send reminder email notices to Settlement Class Members whose email
 13 notices were deliverable and who have not filed a claim at least thirty days prior to the claims
 14 deadline.

15 14. For Settlement Class Members with a known mailing address and either no
 16 known email address, an invalid email address, or whose email notice was undeliverable, EAG
 17 will send notice by U.S. Mail. The postcard notice will include a detachable Claim Form. Prior to
 18 mailing notice, EAG will process all mailing addresses through the United States Postal
 19 Service's National Change of Address database ("NCOA"). Mailed notices will be sent to the
 20 updated mailing addresses where available. EAG will perform skip tracing searches for any
 21 postcard notices returned as undeliverable and will remail notice to any updated addresses
 22 obtained through skip tracing.

23 15. EAG will design and implement a digital media campaign consisting of banner
 24 ads to be displayed on websites included in the Google Display Network and on Facebook and
 25 Instagram. EAG will use data matching to target known Class Members with the digital ads.
 26 EAG will also implement a supplemental digital media campaign aimed at current and former
 27 Washington residents, if needed to increase notice reach.

DECLARATION OF BRANDON SCHWARTZ IN
 SUPPORT OF PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF CLASS SETTLEMENT -

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CASE NO. 2:23-cv-01969-MJP

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EBSITE AND TELEPHONE

16. EAG will establish a case-specific toll-free phone number and website to assist Settlement Class Members in understanding the terms of the Settlement and their rights.

17. The toll-free number will appear in the notices and will be equipped with an automated interactive voice response (“IVR”) system. The IVR system will present callers with a series of choices to hear prerecorded information regarding the settlement.

18. The Settlement Website address will appear on the notices and will provide a summary of the case, functionality for Class Members to submit their claims online, all relevant case documents including a printable Claim Form, important dates and deadlines, and any pertinent updates concerning the litigation or the settlement process.

EXCLUSION PROCESSING

19. The notice will provide that Class Members may request exclusion from the settlement by sending a written request to the Settlement Administrator. EAG will receive and process all requests for exclusion. EAG will also promptly circulate copies of all such requests to the parties, and provide a report that tracks each request and whether the required information was included.

CLAIMS

20. To be eligible to receive a payment from the Settlement, Class Members are required to submit a Claim Form by mail or online through the Settlement website. The Claim Form seeks information necessary to validate and process Class Members’ claims, such as their full name, mailing address, current telephone number, the telephone number that they claim they received allegedly unlawful text messages, as well as their signature as verification that all information provided on the Claim Form is accurate. If a claim is denied due to lack of signature or other required information, the Class Member will be notified and provided with an opportunity to correct the claim.

21. EAG also will implement precautionary measures designed to prevent fraudulent claims. These measures include a three-tiered defense strategy that combines industry-leading

DECLARATION OF BRANDON SCHWARTZ IN
SUPPORT OF PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT -

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CASE NO. 2:23-cv-01969-MJP

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1 technology with human oversight. EAG's first line of defense is a machine learning-supported
 2 Web Application Firewall, updated in real time using global network insights to block emerging
 3 threats. The second tier uses AI algorithms to detect and prevent bot traffic and scripted browser
 4 activity, identifying patterns and bad actors across all active case sites. Our third tier is a team of
 5 fraud prevention specialists who apply proprietary tools, including fuzzy matching, digital
 6 fingerprinting, and IP monitoring.

7 22. The Net Settlement Fund will ultimately be distributed to Class Members who
 8 submit a valid and timely filed claim in accordance with the Settlement Agreement and the
 9 Orders of this Court.

10 FEES AND EXPENSES

11 23. Based on EAG's experience with similar settlements, we estimate that
 12 administering the settlement notice, claims processing, and settlement distribution aspects of this
 13 proposed settlement will generate professional services fees and expenses of between \$590,000
 14 and \$610,000 and, assuming Block's assumptions regarding its data are substantially accurate,
 15 EAG has agreed to not exceed \$619,500 in fees and expenses.

16 24. In my opinion, the Notice Plan proposed for this case is consistent with other
 17 effective settlement notice programs. It is the best notice practicable and provides the necessary
 18 reach and frequency evidence that Courts have approved, consistent with the guidelines set forth
 19 in Rule 23.

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

22 EXECUTED this 30th day of June, 2025.

23
 24 By: _____
 25 Brandon Schwart

26
 27
 DECLARATION OF BRANDON SCHWART IN
 SUPPORT OF PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF CLASS SETTLEMENT -

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 CASE NO. 2:23-cv-01969-MJP

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Exhibit 1: CV of Brandon Schwartz



Brandon Schwartz



Brandon Schwartz is the Director of Notice for Eisner Advisory Group LLC ("EAG"), where he leads the strategy and execution of innovative legal notice programs for complex class actions and claims administration. With over 15 years of industry experience, he brings deep expertise in crafting effective, compliant, and results-driven notice solutions tailored to the unique demands of each case.

Brandon is widely recognized for his command of modern notice tactics, including cutting-edge digital and social media campaigns, email and direct mail distribution, demographic targeting, and reach and frequency analysis. His deep understanding of Fed R. Civ 23 ensures that notice plans meet the highest standards of compliance while maximizing reach and effectiveness.

A published author on topics related to legal notice, Brandon has led the design and delivery of notice campaigns in hundreds of matters spanning antitrust, consumer, privacy, securities litigation, and more. Prior to joining EAG, Brandon was the Director of Notice and Media for a large claims administrator where he oversaw high-profile national campaigns and built a reputation for precision, creativity, and reliability in legal notice.

EDUCATION & CREDENTIALS

Bachelor of Science, Marketing, University of Illinois at Chicago
 Bachelor of Science, Management, University of Illinois at Chicago
 Legal Notice Expert

ARTICLES

Case Study: Effective Notice Leads to High Claims Rate
 Legal Notice and Social Media: How to Win the Internet
 Rule 23 Changes: Avoid Delays in Class Settlement Approval
 Rule 23 Changes: How Electronic Notice Can Save Money
 Tackling Digital Class Notice with Rule 23 Changes
 What to Expect: California's Northern District Procedural Guidance Changes

SPEAKING ENGAGEMENTS

Class Action Law Forum: The Increase of Fraud in Class Actions and Mass Torts, Plus Ethics of Third-Party Filers, San Diego, March 13, 2024
 Class Action Law Forum: Notice and Administration: Fraud and Third-Party Filers, San Diego, CA, March 18, 2023
 Class Action Law Forum: Settlement and Notice & Claims Trends, San Diego, CA, March 18, 2022
 Class Action Law Forum: Consumer Class Actions, San Diego, CA, March 5, 2020
 Class Action Mastery: Best Practices in Claims Settlement Administration, HB Litigation Conference, San Diego, CA, January 17, 2019
 Class Action Mastery: Communication with the Class, HB Litigation Conference, New York, NY, May 10, 2018

SAMPLE JUDICIAL COMMENTS

Milan, et al. v. Clif Bar and Company, Case No. 1:18-cv-02354 (N.D. Cal.), Judge James Donato ruled on March 21, 2025:

The distribution of the Class Notice pursuant to the Class Notice Program constituted the best notice practicable under the circumstances, and fully satisfies the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process.

Meholic, et al. v. Seattle Arena Company, Case No. 24-2-06283-1 (Wash. Super. Ct.), Judge Lindsey M. Teppner ruled on January 3, 2025:

The Court finds that the Notice Program provided for in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably calculated to provide, and did provide due and sufficient notice to the Settlement Class regarding the existence and nature of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and the rights of Settlement Class Members to exclude themselves from the settlement, to object and appear at the Final Fairness Hearing, and to receive benefits under the Settlement Agreement; and (iii) satisfied the requirements of the Washington Rules of Civil Procedure, the United States Constitution, and all other applicable law.

Kandel, et al. v. Dr. Dennis Gross Skincare, LLC, Case No. 1:23-cv-01967 (S.D.N.Y.), Judge Edgardo Ramos ruled on October 31, 2024:

The Court finds that distribution of the Notice constituted the best notice practicable under the circumstances, and constituted valid, due, and sufficient notice to all members of the Settlement Class. The Court finds that such notice complies fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable laws...The Court finds and determines that the notice procedure carried out by EAG Gulf Coast LLC afforded adequate protections to Settlement Class members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Settlement Class members. The Court finds and determines that the Notice was the best notice practicable, and has satisfied the requirements of law and due process.

Andrade-Heymsfield v. NextFoods, Inc., Case No. 3:21-cv-1446 (S.D. Cal.), Judge Barry T. Moskowitz ruled on April 8, 2024:

The Court previously approved the parties' proposed notice procedures. (ECF No. 56). In the motion for final approval, Plaintiff represents that the approved notice plan was executed. (ECF No. 59 at 9). "Notice was provided to Class Members via newspaper, a press release, and various digital means," including "display banner advertising, keyword search online advertising, and social media advertising through Facebook, Instagram, TikTok and YouTube, delivering over 120 million targeted impressions." (Id.)...In light of these actions and the Court's prior order granting preliminary approval, the Court finds that the parties have provided sufficient notice to the class members.



Hymes v. Earl Enterprises Holdings, Case No. 6:19-cv-00644 (M.D. Fla.), Judge A. James Craner ruled on February 20, 2024:

The Court finds that the form content, and method of giving notice to the Settlement Class as described in Article VII of the Settlement Agreement (including the exhibits thereto): (a) was the best practicable notice to the Settlement Class; (b) was reasonably calculated to apprise Settlement Class Members of the pendency of the action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) was reasonable and constituted due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and (d) met all applicable requirements of law, including the Florida Rules of Civil Procedure, and met the Due Process Clause(s) of the United States Constitution. The Court further finds that the Notice was written in plain language, used simple terminology, and was designed to be readily understandable by Class Members.

Tucker v. Marietta Area Health Care Inc., Case No. 2:22-cv-00184 (S.D. Ohio), Judge Sarah D. Morrison ruled on December 7, 2023:

The Court's Preliminary Approval Order approved the Short Form Settlement Notice, Long Form Notice, and Claim Form, and found the mailing, distribution, and publishing of the various notices as proposed met the requirements of Fed. R. Civ. P. 23 and due process, and was the best notice practicable under the circumstances, constituting due and sufficient notice to all persons entitled to notice. The roughly 6.2% claims rate supports a finding that the Notice Program was sufficient...The Court finds that the distribution of the Notices has been achieved pursuant to the Preliminary Approval Order and the Settlement Agreement, and that the Notice to Class Members complied with Fed. R. Civ. P. 23 and due process.

Easter v Sound Generations, Case No. 21-2-16953-4 (Wash. Super.), Judge James E. Rogers on July 14, 2023:

The Court has determined that the Notice given to the Settlement Class Members in accordance with the Preliminary Approval Order fully and accurately informed Settlement Class Members of all material terms of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Civil Rule 23, applicable law, and the due process clauses of both the U.S. and Washington Constitutions.

Hezi v. Celsius Holdings, Inc., Case No. 1:21-CV-09892-VM (S.D.N.Y.), Judge Jennifer H. Rearden on April 5, 2023:

The Court finds and determines that the notice procedure carried out by Claims Administrator Postlethwaite & Netterville, APAC ("P&N") afforded adequate protections to Class Members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Class Members. The Court finds and determines that the Notice was the best notice practicable, and has satisfied the requirements of law and due process.



Gilmore, et al. v. Monsanto Company, et al., Case No. 3:21-CV-8159 (N.D. Cal.), Judge Vince Chhabria on March 31, 2023:

The Court finds that Class Notice has been disseminated to the Class in compliance with the Court's Preliminary Approval Order and the Notice Plan. The Court further finds that this provided the best notice to the Class practicable under the circumstances, fully satisfied due process, met the requirements of Rule 23 of the Federal Rules of Civil Procedure, and complied with all other applicable law.

John Doe, et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc., Case No. 2021L00026 (Ill. Cir. Ct., 15th Jud. Cir.), on March 28, 2023:

The Court has determined that the notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

In re Forefront Data Breach Litigation, Case No. 1:21-cv-00887-LA (E.D. Wis.), Judge Lynn Adelman on March 22, 2023:

The Court finds that the dissemination of Notice to Settlement Class Members: (a) was implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of (i) the pendency of the Action; (ii) their right to submit a claim (where applicable) by submitting a Claim Form; (iii) their right to exclude themselves from the Settlement Class; (iv) the effect of the proposed Settlement (including the releases to be provided thereunder); (v) Class Counsel's motion for a Fee Award and Costs and for Service Awards to the Class Representatives; (vi) their right to object to any aspect of the Settlement, and/or Class Counsel's motion for Service Awards to the Class Representatives and for a Fee Award and Costs; and (vii) their right to appear at the Final Approval Hearing; (d) constituted due, adequate, and sufficient notice to all natural persons entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States (including the Due Process Clause), and all other applicable laws and rules.

Sanders, et al. v. Ibex Global Solutions, Inc., et al., Case No. 1:22-CV-00591 (D.D.C.), Judge Trevor N. McFadden on March 10, 2023:

An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).



Pagan, et al. v. Faneuil, Inc., Case No. 3:22-CV-297 (E.D. Va), Judge Robert E. Payne on February 16, 2023:

The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.

LaPrairie v. Presidio, Inc., et al., Case No. 1:21-CV-08795-JFK (S.D.N.Y.), Judge Andrew L. Carter, Jr. on December 12, 2022:

The Court hereby fully, finally and unconditionally approves the Settlement embodied in the Settlement Agreement as being a fair, reasonable and adequate settlement and compromise of the claims asserted in the Action. The Class Members have been given proper and adequate notice of the Settlement, fairness hearing, Class Counsel's application for attorneys' fees, and the service award to the Settlement Class Representative. An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

Nelson v. Bansley & Kiener, LLP, Case No. 2021-CH-06274 (Circuit Court of Cook County, IL), Judge Sophia H. Hall on November 30, 2022:

The court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with requirements of 735 ILCS 5/2-801, et seq.

Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al., Case No. 21-2-03929-1-SEA (Superior Court King County, WA), Judge Douglass A. North on September 30, 2022:

Pursuant to the Court's Preliminary Approval Order, Postcard Notice was distributed to the Class by First Class mail and Email Notice was distributed to all Class Members for whom the Settlement Administrator had a valid email address. The Court hereby finds and concludes that Postcard and Email Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the Postcard and Email Notice, and the distribution procedures set forth in the Settlement fully satisfy CR 23(c)(2) and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, provided an opportunity for the Class Members to object or exclude themselves from the Settlement,



and support the Court's exercise of jurisdiction over the Settlement Class Members as contemplated in the Settlement and this Final Approval Order.

Rivera, et al. v. Google LLC, Case No. 2019-CH-00990 (Cir. Ct. Cook Cnty., Ill.), Judge Anna M. Loftus on September 28, 2022:

Pursuant to this Court's Order granting preliminary approval of the Settlement, Postlethwaite & Netterville, APAC ("P&N") served as Settlement Administrator. This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement.

The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

Patricia Davidson, et al. v. Healthgrades Operating Company, Inc., Case No. 21-cv-01250-RBJ (D. Colo), Judge R. Brooke Jackson on August 22, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

Hosch, et al. v. Drybar Holdings LLC, Case No. 2021-CH-01976 (Circuit Court of Cook County, IL), Judge Pamela M. Meyerson on June 27, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

Baldwin, et al. v. National Western Life Insurance Company, 2:21-cv-04066-WJE (W.D. MO), Judge Willie J. Epps, Jr. on June 16, 2022:

The Court finds that such Notice as therein ordered, constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).



Chapman, et al. v. voestalpine Texas Holding LLC, Case No. 2:17-cv-174 (S.D. Tex.), Judge Nelva Gonzales Ramos on June 15, 2022:

The Class and Collective Notice provided pursuant to the Agreement and the Order Granting Preliminary Approval of Class Settlement:

- (a) *Constituted the best practicable notice, under the circumstances;*
- (b) *Constituted notice that was reasonably calculated to apprise the Class Members of the pendency of this lawsuit, their right to object or exclude themselves from the proposed settlement, and to appear at the Fairness Hearing;*
- (c) *Was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and*
- (d) *Met all applicable requirements of the Federal Rules of Civil Procedure and the Due Process Clause of the United States Constitution because it stated in plain, easily understood language the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through an attorney if the member so desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on members under Rule 23(c)(3).*

Hanson v. Welch Foods Inc., Case No. 3:20-cv-02011 (N.D. Cal.), Judge Joseph C. Spero on April 15, 2022:

The Class Notice and claims submission procedures set forth in Sections 5 and 9 of the Settlement Agreement, and the Notice Plan detailed in the Declaration of Brandon Schwartz filed on October 1, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

McMorrow, et al. v. Mondelez International, Inc., No. 17-cv-02327 (S.D. Cal.), Judge Cynthia Bashant on April 8, 2022:

Notice was administered nationwide and achieved an overwhelmingly positive outcome, surpassing estimates from the Claims Administrator both in the predicted reach of the notice (72.94% as compared to 70%) as well as in participation from the class (80% more claims submitted than expected). (Schwartz Decl. ¶ 14, ECF No. 206-1; Final App. Mot. 3.) Only 46 potential Class Members submitted exclusions (Schwartz Decl. ¶ 21), and only one submitted an objection—however the objection opposes the distribution of fees and costs rather than the settlement itself. (Obj. 3.) The Court agrees with Plaintiffs that the strong claims rate, single fee-related objection, and low opt-out rate weigh in favor of final approval.

Hadley, et al. v. Kellogg Sales Company, No. 16-cv-04955 (N.D. Cal.), Judge Lucy H. Koh on November 23, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement, and the Notice Plan filed on March 10, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all



Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

Miracle-Pond, et al. v. Shutterfly, Inc., No. 2019-CH-07050 (Cir. Ct. Cook Cnty., Ill.), Judge Raymond W. Mitchell on September 9, 2021:

This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement. The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

In re: Interior Molded Doors Indirect Purchasers Antitrust Litigation, No. 3:18-cv-00850 (E.D. Va.), Judge John A. Gibney on July 27, 2021:

The notice given to the Settlement Class of the settlement set forth in the Settlement Agreement and the other matters set forth herein was the best notice practicable under the circumstances. Said notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons and entities entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e) and the requirements of due process.

Krommenhock, et al. v. Post Foods, LLC, No. 16-cv-04958 (N.D. Cal.), Judge William H. Orrick on June 25, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement and the Notice Plan filed on January 18, 2021 fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

Lisa Jones, et al. v. Monsanto Company, et al., No. 4:19-cv-00102-BP (W.D. Mo.), Chief Judge Beth Phillips on May 13, 2021:

The Court also notes that there has been only one objection filed, and even the Objector has not suggested that the amount of the settlement is inadequate or that the notice or the method of disseminating the notice was inadequate to satisfy the requirements of the Due Process Clause or was otherwise infirm...However, with respect to the Rule 23(e)



factors, the Court finds that the process used to identify and pay class members and the amount paid to class members are fair and reasonable for settlement purposes.

Winters, et al. v. Two Towns Ciderhouse Inc., No. 3:20-cv-00468-BAS-BGS (S.D. Cal.), Judge Cynthia Bashant on May 11, 2021:

The settlement administrator, Postlethwaite and Netterville, APAC ("P&N") completed notice as directed by the Court in its Order Granting Preliminary Approval of the Class Action Settlement. (Decl. of Brandon Schwartz Re: Notice Plan Implementation and Settlement Administration ("Schwartz Decl.") ¶¶ 4–14, ECF No. 24-5.)...Notice via social media resulted in 30,633,610 impressions. (Schwartz Decl. ¶4.) Radio notice via Spotify resulted in 394,054 impressions. (Id. ¶ 5.) The settlement website received 155,636 hits, and the toll-free number received 51 calls. (Id. ¶¶ 9, 14.). Thus, the Court finds the Notice complies with due process.

Siddle, et al. v. The Duracell Company, et al., No. 4:19-cv-00568 (N.D. Cal.), Judge James Donato on April 19, 2021:

The Court finds that the Class Notice and Claims Administration procedures set forth in the Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided due and sufficient individual notice to all persons in the Settlement Class who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Agreement and this Final Approval Order.

Fabricant v. Amerisave Mortgage Corporation, No. 19-cv-04659-AB-AS (C.D. Cal.), Judge Andre Birotte, Jr. on November 25, 2020:

The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The notice fully satisfied the requirements of Due Process. No Settlement Class Members have objected to the terms of the Settlement.

Edward Makaron, et al. v. Enagic USA, Inc., 2:15-cv-05145 (C.D. Cal.), Judge Dean D. Pregerson on January 16, 2020:

The Court makes the following findings and conclusions regarding notice to the Class:

a. The Class Notice was disseminated to persons in the Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;

b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and



sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

John Karpilovsky and Jimmie Criollo, Jr., et al. v. All Web Leads, Inc., 1:17-cv-01307 (N.D. Ill.), Judge Harry D. Leinenweber on August 8, 2019:

The Court hereby finds and concludes that Class Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement Agreement and that Class Notice and its dissemination were in compliance with this Court's Preliminary Approval Order.

The Court further finds and concludes that the Class Notice and claims submission procedures set forth in the Settlement Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement and this Order.

Hartig Drug Company Inc. v. Senju Pharmaceutical LTD. and Allergan, Inc., 1:14-cv-00719 (D. Del.), Judge Joseph F. Bataillon on May 3, 2018:

The Court approves the proposed notice program, including the Mail Notice and the Publication Notice, attached as Exhibits A and B to the Declaration of Brandon Schwartz of Garden City Group in support of Plaintiff's Unopposed Motion to Distribute Notice to the Settlement Class ("Schwartz Declaration"). The Court further approves the claim form attached as Exhibit C to the Schwartz Declaration. The Court finds that the manner of notice proposed constitutes the best practicable notice under the circumstances as well as valid, due, and sufficient notice to all persons entitled thereto and complies fully with the requirements of the Federal Rule of Civil Procedure 23...

Gordon v. Hain Celestial Group, et al., 1:16-cv-06526 (S.D.N.Y.), Judge Katherine B. Forrest on September 22, 2017:

The form, content, and method of dissemination of the Class Notice given to Settlement Class Members - as previously approved by the Court in its Preliminary Approval Order - were adequate and reasonable, constituted the best notice practicable under the circumstances, and satisfied the requirements of Rule 23 (c) and (e) and Due Process.

In re: Sony PS3 "Other OS" Litigation, 4:10-cv-01811 (N.D. Cal.), Judge Yvonne Gonzalez Rogers on June 8, 2018:

The Court finds that the program for disseminating notice to the Class provided for in the Settlement, and previously approved and directed by the Court (the "Notice Program"), has been implemented by the Settlement Administrator and the Parties, and that such Notice Program, including the approved forms of notice, constitutes the best notice practicable under the circumstances and fully satisfied due process, the requirements of Rule 23 of the Federal Rules of Civil Procedure and all other applicable laws.



In re: Ductile Iron Pipe Fittings ("DIPF") Indirect Purchaser Antitrust Litigation, 3:12-cv-00169 (D.N.J.), Judge Anne E. Thompson on June 8, 2016:

Notice of the Settlement Agreements to the Settlement Classes required by Rule 23(e) of the Federal Rules of Civil Procedure, including the additional forms of notice as approved by the Court, has been provided in accordance with the Court's orders granting preliminary approval of these Settlements and notice of the Settlements, and such Notice has been given in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances; and satisfies Federal Rules of Civil Procedure 23(c)(2)(B) and due process.



LEGAL NOTICE CASES

<i>Lewis v. Lytx Inc.</i> , Case No. 3:22-CV-00046 (S.D. Ill.)
<i>Doe, et al. v. San Diego Fertility Center Medical Group, Inc., et al.</i> , Case No. 37-2024-00006118 (Cal. Super. Ct.)
<i>Tapia-Rendon, et al. v. Workeasy Software, LLC</i> , Case No. 1:21-cv-3400 (N.D. Ill.)
<i>Meholic, et al. v. Seattle Arena Company</i> , Case No. 24-2-06283-1 (Wash. Super. Ct.)
<i>Cadena, et al. v. American Honda Motor Co., Inc.</i> , Case No. CV 18-4007 (C.D. Cal.)
<i>In Re: Hapy Bear Surgery Center Data Security Incident Litigation</i> , Case No. VCU307987 (Cal. Super. Ct.)
<i>Brim, et al. v. Prestige Care, Inc.</i> , Case No. 3:24-CV-05133 (W.D. Wash.)
<i>Doe, et al. v. Virginia Mason Medical Center, et al.</i> , Case No. 19-2-26674-1 SEA (Wash. Super. Ct.)
<i>Velasco v. Belmont Groceries, LLC</i> , Case No. 2023-CH-01077 (Cir. Ct. Cook Cnty., Ill.)
<i>Newman, et al. v. Audienceview Ticketing Corporation, et al.</i> , Case No. 1:23-cv-03764 (S.D.N.Y.)
<i>Severa, et al. v. Solvay Specialty Polymers USA, LLC, et al.</i> , Case No. 1:20-CV-06906 (D.N.J.)
<i>In Re Christie's Data Breach Litigation</i> , Case No. 1:24-cv-4221 (S.D.N.Y.)
<i>Reardon, et al. v. Suncoast Skin Solutions, Inc.</i> , Case No. 23-CA-000317 (Fla. 13th Jud. Cir.)
<i>Kandel, et al. v. Dr. Dennis Gross Skincare LLC</i> , Case No. 1:23-cv-01967-ER (S.D.N.Y.)
<i>Haggerty, et al. v. Consumer Safety Technology, LLC</i> , Case No. 22-cv-01414 (Cal. Super. Ct.)
<i>Guzman, et al. v. Polaris Industries, Inc. et al.</i> , Case No. 8:19-cv-01543 (C.D. Cal.)
<i>Coleman v. USAA</i> , Case No. 3:21-cv-217 (N.D. Cal.)
<i>Knott, et al. v. United Water System, Inc., et al.</i> , Case No. 6:23-CV-00401 (W.D. La.)
<i>Jweinat v. loanDepot.com, LLC</i> , Case No. CGC-23-605149 (Cal. Super. Ct.)
<i>Tracey, et al. v. Elekta, Inc., et al.</i> , Case No. 1:21-cv-02851 (N.D. Ga.)
<i>Coleman, et al. v. United Services Automobile Association, et al.</i> , Case No. 3:21-cv-00217 (S.D. Cal.)
<i>Ralph Milan, et al. v. Clif Bar & Company</i> , Case No. 18-cv-02354-JD (N.D. Cal.)
<i>In re: Valsartan N-Nitrosodimethylamine (NDMA) Products Liability Litigation</i> (non-settlement), Case No. 19-md-2875 (D.N.J.)
<i>Ayala v. Commonwealth Health Physician Network, et al.</i> , Case No. 2023-cv-3008 (Lackawanna Cnty. Ct. Com. Pl.)
<i>Andrade-Heymsfield v. NextFoods, Inc.</i> , Case No. 21-cv-1446 (S.D. Cal.)
<i>In Re: Novant Health, Inc.</i> , Case No. 1:22-cv-00697 (M.D.N.C.)
<i>White v. General Motors, LLC</i> , Case No. 1:21-cv-00410 (D. Colo.)
<i>Gunaratna v. Dennis Gross Skincare, LLC, et al.</i> , Case No. 2:20-cv-02311 (C.D. Cal.)
<i>Hymes v. Earl Enterprises Holdings</i> , Case No. 6:19-cv-00644 (M.D. Fla.)
<i>Rivera, et al. v. Google LLC</i> , Case No. 19-CH-00990 (Cir. Ct. Cook Cnty., Ill.)
<i>Hezi v Celsius Holdings, Inc</i> , Case No. 1:21-cv-09892 (S.D.N.Y.)
<i>M.S. v. Med-Data, Inc.</i> , Case No. 4:22-cv-00187 (S.D. Tex.)
<i>Ictech-Bendeck, et al. v. Progressive Waste Solutions of LA, Inc, et al.</i> , Case No. 2:18-cv-7889 (E.D. La.)
<i>Quackenbush, et al. v American Honda Motor Company, Inc., et al.</i> , Case No. 3:20-cv-05599 (N.D. Cal.)
<i>McFadden v. Nationstar</i> , Case No. 1:20-cv-00166 (D.D.C.)
<i>Sanders, et al. v. Ibex Global Solutions, Inc., et al.</i> , Case No. 1:22-cv-00591 (D.D.C.)



<i>In re: Cathode Ray Tube (CRT) Antitrust Litigation</i> , Case No. 4:07-cv-05944 (N.D. Cal.)
<i>John Doe, et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc.</i> , Case No. 2021L00026 (15th Jud. Cir. Ct. Lee Cnty., Ill.)
<i>Gonshorowski v. Spencer Gifts, LLC</i> , Case No. ATL-L-000311-22 (N.J. Super. Ct.)
<i>In re Forefront Data Breach Litigation</i> , Case No. 1:21-cv-00887-LA (E.D. Wis.)
<i>Stewart, et al. v. Albertsons Cos., Inc.</i> , Case No. 16CV15125 (Mult. Cty. Cir. Ct.)
<i>Simmons v. Assistcare Home Health Services, LLC, d/b/a Preferred Home Health Care of New York/Preferred Gold</i> , Case No. 511490/2021 (N.Y. Sup. Ct. Kings Cnty.)
<i>Terry Fabricant v. Top Flite Financial, Inc.</i> , Case No. 20STCV13837 (Cal. Super.)
<i>Riley v. Centerstone of America</i> , Case No. 3:22-cv-00662 (M.D. Tenn.)
<i>Bae v. Pacific City Bank</i> , Case No. 21STCV45922 (Cal. Super.)
<i>Tucker v. Marietta Area Health Care Inc.</i> , Case No. 2:22-cv-00184 (S.D. Ohio)
<i>Acaley v. Vimeo.com, Inc</i> , Case No. 19-CH-10873 (Cir. Ct. Cook Cnty., Ill.)
<i>Easter v Sound Generations</i> , Case No. 21-2-16953-4 (Wash. Super.)
<i>GPM v City of Los Angeles</i> , Case No. 21STCV11054 (Cal. Super.)
<i>Pagan v. Faneuil, Inc</i> , Case No. 3:22-cv-297 (E.D. Va.)
<i>Estes v. Dean Innovations, Inc.</i> , Case No. 20-CV-22946 (Mult. Cty. Cir. Ct.)
<i>Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al.</i> , Case No. 21-2-03929-1 (Wash. Super.)
<i>Gilmore, et al. v. Monsanto Company, et al.</i> , Case No. 3:21-cv-8159 (N.D. Cal.)
<i>Copley v. Bactolac Pharmaceutical, Inc., et al.</i> , Case No. 2:18-cv-00575 (E.D.N.Y.)
<i>James v. CohnReznick LLP</i> , Case No. 1:21-cv-06544 (S.D.N.Y.)
<i>Doe v. Virginia Mason</i> , Case No. 19-2-26674-1 (Wash. Super.)
<i>LaPrairie v. Presidio, Inc., et al</i> , Case No. 1:21-cv-08795 (S.D.N.Y.)
<i>Richardson v. Overlake Hospital Medical Center, et al.</i> , Case No. 20-2-07460-8 (Wash. Super.)
<i>Weidman, et al. v. Ford Motor Company</i> , Case No. 2:18-cv-12719 (E.D. Mich.)
<i>Siqueiros, et al. v. General Motors, LLC</i> , Case No. 3:16-cv-07244 (N.D. Cal.)
<i>Vaccaro v. Delta Drugs, II. Inc.</i> , Case No. 20STCV28871 (Cal. Super.)
<i>Hosch v. Drybar Holdings LLC</i> , Case No. 2021-CH-01976 (Cir. Ct. Cook Cnty., Ill.)
<i>Davidson v. Healthgrades Operating Company, Inc.</i> , Case No. 21-cv-01250 (D. Colo.)
<i>Baldwin, et al. v. National Western Life Insurance Co.</i> , Case No. 2:21-cv-04066 (W.D. Mo.)
<i>Deien v. Seattle City Light</i> , Case No. 19-2-21999-8 (Wash. Super.)
<i>Blake Chapman, et al. v. voestalpine Texas, LLC, et al</i> , Case No. 2:17-cv-00174 (S.D. Tex.)
<i>Hanson v. Welch Foods Inc.</i> , Case No. 3:20-cv-02011 (N.D. Cal.)
<i>McMorrow v. Mondelez International, Inc.</i> , Case No. 3:17-cv-02327 (S.D. Cal.)
<i>Hadley, et al. v. Kellogg Sales Company</i> , Case No. 5:16-cv-04955 (N.D. Cal.)
<i>Miracle-Pond, et al. v. Shutterfly, Inc.</i> , Case No. 16-cv-10984 (Cir. Ct. Cook Cnty., Ill.)
<i>In Re: Sonic Corp. Customer Data Breach Litigation</i> , Case No. 1:17-md-02807 (N.D. Ohio)
<i>In re: Interior Molded Doors Indirect Purchaser Antitrust Litigation</i> , Case No. 3:18-cv-00850 (E.D. Va.)
<i>Krommenhock, et al. v. Post Foods, LLC</i> , Case No. 3:16-cv-04958 (N.D. Cal.)
<i>Daley, et al. v. Greystar Management Services LP, et al.</i> , Case No. 2:18-cv-00381 (E.D. Wash.)
<i>Brianna Morris v. FPI Management Inc.</i> , Case No. 2:19-cv-0128 (E.D. Wash.)



<i>Kirilose Mansour v. Bumble Trading Inc.</i> , Case No. RIC1810011 (Cal. Super.)
<i>Clopp et. al. v. Pacific Market Research, LLC et. al.</i> , Case No. 21-2-08738-4 (Wash. Super.)
<i>Lisa T. Leblanc, et al. v. Texas Brine Company, LLC, et al.</i> , Case No. 58410 (E.D. La.)
<i>Jackson-Battle v. Navicent Health, Inc.</i> , Case No. 2020-cv-072287 (Ga Super.)
<i>Fabricant v. Amerisave Mortgage Corp.</i> , Case No. 2:19-cv-04659 (C.D. Cal.)
<i>Jammeh v. HNN Assoc.</i> , Case No. 2:19-cv-00620 (W.D. Wash.)
<i>Farruggio, et al. v. 918 James Receiver, LLC, et al.</i> , Case No. 3831/2017 (N.Y. Sup Ct)
<i>Winters, et al. v. Two Towns Ciderhouse Inc.</i> , Case No. 3:20-cv-00468 (S.D. Cal.)
<i>Siddle, et al. v. The Duracell Company, et al.</i> , Case No. 4:19-cv-00568 (N.D. Cal.)
<i>Lisa Jones, et al. v. Monsanto Company</i> , Case No. 4:19-cv-00102 (W.D. Mo.)
<i>Makaron v. Enagic USA, Inc.</i> , Case No. 2:15-cv-05145 (C.D. Cal.)
<i>John Karpilovsky, et al. v. All Web Leads, Inc.</i> , Case No. 1:17-cv-01307 (N.D. Ill.)
<i>Hughes, et al. v. AutoZone Parts Inc., et al.</i> , Case No. BC631080 (Cal. Super.)
<i>Secaucus Investors LLC and Health Care Grower, LLC v. Harmony Foundation of New Jersey, Inc., et al.</i> , Case No. BER-C-275-21 (N.J. Sup Ct.)
<i>Miller, et al. v. P.S.C., Inc. d/b/a Puget Sound Collections</i> , Case No. 3:17-cv-0586 (W.D. Wash.)
<i>Aaron Van Fleet, et al. v. Trion Worlds Inc.</i> , Case No. 535340 (Cal. Super.)
<i>Wilmington Trust TCPA (Snyder, et al. v. U.S. Bank, N.A., et al.)</i> , Case No. 1:16-cv-11675 (N.D. Ill.)
<i>Deutsche Bank National Trust TCPA (Snyder, et al. v. U.S. Bank, N.A., et al.)</i> , Case No. 1:16-cv-11675 (N.D. Ill.)
<i>Adriana Garcia, et al. v. Sun West Mortgage Company, Inc.</i> , Case No. BC652939 (Cal. Super.)
<i>Cajuns for Clean Water, LLC, et al. v. Cecilia Water Corporation, et al.</i> , Case No. 82253 (La. Dist.)
<i>In re: Sony PS3 "Other OS" Litigation</i> , Case No. 4:10-cv-01811 (N.D. Cal.)
<i>In re: Ductile Iron Pipe Fittings Indirect Purchaser Antitrust Litigation</i> , Case No. 3:12-cv-00169 (D.N.J.)
<i>In re: Ductile Iron Pipe Fittings Direct Purchaser Antitrust Litigation</i> , Case No. 3:12-cv-00711 (D.N.J.)
<i>Hartig Drug Company Inc., v. Senju Pharmaceutical et. al.</i> , Case No. 1:14-cv-00719 (D. Del.)
<i>Gordon v. The Hain Celestial Group, et al.</i> , Case No. 1:16-cv-06526 (S.D.N.Y.)
<i>In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico – Economic and Property Damages Settlement</i> , MDL No. 2179 (E.D. La.)
<i>In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico –Medical Benefits Settlement</i> , MDL No. 2179 (E.D. La.)
<i>In re: Google Inc. Cookie Placement Consumer Privacy Litigation</i> , MDL No. 2358 (D. Del.)
<i>In re: Pool Products Distribution Market Antitrust Litigation</i> , MDL No. 2128 (E.D. La.)
<i>In re: Polyurethane Foam Antitrust Litigation</i> , MDL No. 2196 (N.D. Ohio)
<i>In re: Processed Egg Products Antitrust Litigation</i> , MDL No. 2002 (E.D. Pa.)
<i>In re: The Flintkote Company and Flintkote Mines Limited</i> , Case No. 1:04-bk-11300 (Bankr. D. Del.)
<i>In re: Prograf (Tacrolimus) Antitrust Litigation</i> , MDL No. 2242 (D. Mass.)
<i>Markos v. Wells Fargo Bank, N.A.</i> , Case No. 1:15-cv-01156 (N.D. Ga.)
<i>Cross v. Wells Fargo Bank, N.A.</i> , Case No. 1:15-cv-01270 (N.D. Ga.)
<i>Ferrick v. Spotify USA Inc.</i> , Case No. 1:16-cv-08412 (S.D.N.Y.)
<i>In re: Parmalat Securities Litigation</i> , MDL No. 1653 (S.D.N.Y.)
<i>Smith v. Floor and Décor Outlets of America, Inc.</i> , Case No. 1:15-cv-04316 (N.D. Ga.)




<i>Schwartz v. Intimacy in New York, LLC</i> , Case No. 1:13-cv-05735 (S.D.N.Y.)
<i>In re: TRS Recovery Services, Inc., Fair Debt Collection Practices Act Litigation</i> , MDL No. 2426 (D. Me.)
<i>Young v. Wells Fargo & Co</i> , Case No. 4:08-cv-00507 (S.D. Iowa)
<i>In re: Credit Default Swaps Antitrust Litigation</i> , MDL No. 2476 (S.D.N.Y.)
<i>Anthony Frank Lasseeter et. al. v. Rite-Aid</i> , Case No. 09-cv-2013-900031 (Ala. Cir. Ct.)
<i>Khoday v. Symantec Corp.</i> , Case No. 0:11-cv-00180 (D. Minn.)
<i>MacKinnon, Jr v. IMVU</i> , Case No. 1-11-cv-193767 (Cal. Super.)
<i>Ebarle, et al.. v. LifeLock, Inc.</i> , Case No. 3:15-cv-00258 (N.D. Cal.)
<i>Sanchez v. Kambousi Restaurant Partners ("Royal Coach Diner")</i> , Case No. 1:15-cv-05880 (S.D.N.Y.)
<i>Schwartz v. Avis Rent A Car System</i> , Case No. 2:11-cv-04052 (D.N.J.)
<i>Klein v. Budget Rent A Car System</i> , Case No. 2:12-cv-07300 (D.N.J.)
<i>Pietrantonio v. Kmart Corporation</i> , Case No. 15-5292 (Mass. Cmmw.)
<i>Cox, et al. v. Community Loans of America, Inc., et al.</i> , Case No. 4:11-cv-00177 (M.D. Ga.)
<i>Vodenichar. et al. v. Halcón Energy Properties, Inc., et al.</i> , Case No. 2013-512 (Pa. Com. Pleas)
<i>State of Oregon, ex. rel. Ellen F. Rosenblum, Attorney General v. AU Optronics Corporation, et al.</i> , Case No. 1208 10246 (Or. Cir.)
<i>Barr v. The Harvard Drug Group, LLC, d/b/a Expert-Med</i> , Case No. 0:13-cv-62019 (S.D. Fla.)
<i>Splater, et al. v. Thermal Ease Hydronic Systems, Inc., et al.</i> , Case No. 03-2-33553-3 (Wash. Super.)
<i>Phillips v. Bank of America</i> , Case No. 15-cv-00598 (Cal. Super.)
<i>Ziwczyzn v. Regions Bank and American Security Insurance Co.</i> , Case No. 1:15-cv-24558 (S.D. Fla)
<i>Dorado vs. Bank of America, N.A.</i> , Case No. 1:16-cv-21147 (S.D. Fla)
<i>Glass v. Black Warrior Electric</i> , Case No. cv-2014-900163 (Ala. Cir.)
<i>Beck v. Harbor Freight Tools USA, Inc.</i> , Case No. 15-cv-00598 (Ohio Com. Pleas)
<i>Ligon v. City of New York, et al.</i> , Case No. 12-cv-2274 (S.D.N.Y.)
<i>Abdellahi, et al., vs. River Metals Recycling, LLC</i> , Case No. 13-CI00095 (Ky. Cir.)
<i>Alegre v. XPO Last Mile, Inc.</i> , Case No. 2:15-cv-02342 (D.N.J.)
<i>Jack Leach, et al. v. E.I. du Pont de Nemours and Co.</i> , Case No. 01-C-608 (W. Va. Cir.)
<i>Hayes, et al. v. Citizens Financial Group Inc., et al</i> , Case No. 1:16-cv-10671 (D. Mass.)
<i>In re: Foreign Exchange Benchmark Rates Antitrust Litigation</i> , Case No. 1:13-cv-07789 (S.D.N.Y.)
<i>Flo & Eddie, Inc. v. Sirius XM Radio, Inc.</i> , Case No. 2:13-cv-05693 (C.D. Cal.)
<i>Cozzitorto vs. American Automobile Association of Northern California, Nevada & Utah</i> , Case No. C13-02656 (Cal. Super.)
<i>Filannino-Restifo, et al. v. TD Bank, N.A.</i> , Case No. 0:18-cv-01159 (D.N.J.)
<i>United States v. Takata Corporation</i> , Case No. 2:16-cv-20810 (E.D. Mich.)
<i>Free Range Content, Inc. v. Google Inc.</i> , Case No. 5:14-cv-02329 (N.D. Cal.)
<i>Bautista v. Valero Marketing and Supply Company</i> , Case No. 3:15-cv-05557 (N.D. Cal.)
<i>Devin Forbes and Steve Lagace -and- Toyota Canada Inc.</i> , Case No. cv-16-70667 (Ont. Super. Ct.)
<i>Thierry Muraton -and- Toyota Canada Inc.</i> , Case No. 500-06-000825-162 (Que. Super. Ct.)
<i>In re: Residential Schools Class Action Litigation</i> , Case No. 00-cv-192059 (Ont. Super. Ct.)
<i>In re: Tricor Antitrust Litigation</i> , Case No. 05-340 (D. Del.)
<i>Masztal v. City of Miami</i> , Case No. 3D06-1259 (Fla. Dist. App.)
<i>In re: Tribune Company, et al.</i> , Case No. 08-13141 (D. Del.)



<i>Marian Perez v. Tween Brands Inc.</i> , Case No. 14-cv-001119 (Ohio Com. Pleas)
<i>Ferguson v. Safeco</i> , Case No. DV 04-628B (Mont. Dist.)
<i>Williams v. Duke Energy</i> , Case No. 1:08-cv-00046 (S.D. Ohio)
<i>Boone v. City of Philadelphia</i> , Case No. 2:05-cv-01851 (E.D. Pa.)
<i>In re: Lehman Brothers Inc.</i> , Case No. 08-13555, 08-01420 (Bankr. S.D.N.Y.)
<i>In re: Department of Veterans Affairs (VA) Data Theft Litigation</i> , MDL No. 1796 (D.D.C.)
<i>In re: Countrywide Customer Data Breach Litigation</i> , MDL No. 1998 (W.D. Ky.)
<i>In re: Checking Account Overdraft Litigation</i> , MDL No. 2036 (S.D. Fla.)
<i>In re: Heartland Data Security Breach Litigation</i> , MDL No. 2046 (S.D. Tex.)
<i>Schulte v. Fifth Third Bank</i> , Case No. 1:09-cv-06655 (N.D. Ill.)
<i>Mathena v. Webster Bank, N.A.</i> , Case No. 3:10-cv-01448 (D. Conn.)
<i>Delandro v. County of Allegheny</i> , Case No. 2:06-cv-00927 (W.D. Pa.)
<i>Trombley v. National City Bank</i> , Case No. 1:10-cv-00232 (D.D.C.)
<i>Fontaine v. Attorney General of Canada</i> , Case No. 00-cv-192059 CP (Ont. Super. Ct.)
<i>Marolda v. Symantec Corp.</i> , Case No. 3:08-cv-05701 (N.D. Cal.)



Exhibit 2: CV of EisnerAmper



Class & Mass Action Settlement Administration

Our Approach

EisnerAmper provides pre-settlement consulting and post-settlement administration services in connection with lawsuits pending in state and federal courts nationwide. Since 1999, EisnerAmper professionals have processed more than \$14 billion dollars in settlement claims. Our innovative team successfully administers a wide variety of settlements, and our industry-leading technology enables us to develop customizable administration solutions for class and mass action litigations.

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Sample Case Experience*



Environmental/Toxic Torts

- In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico (MDL 2179)
- Aqueous Film-Forming Foam (AFFF) Product Liability Litigation (MDL 2873) - Public Water System Settlement
- In re: FEMA Trailer Formaldehyde Products Liability Litigation (MDL 1873)
- Sanchez et al v. Texas Brine, LLC et al.
- Burmaster et al. v. Plaquemines Parish Government, et al.
- Cajuns for Clean Water, LLC et al. v. Cecilia Water Corporation, et al.
- Cooper, et al. v. Louisiana Department of Public Works
- Maturin v. Bayou Teche Water Works
- Chevron Richmond Refinery Fire Settlement
- Chapman et al. v. voestalpine Texas LLC, et al.



Consumer

- Jones et al. v. Monsanto Co.
- Hadley, et al. v. Kellogg Sales Co.
- McMorrow, et al. v. Mondelez International, Inc
- Krommenhock, et al. v. Post Foods, LLC
- Hanson v. Welch Foods Inc.
- Siddle et al. v. The Duracell Co. et al.
- Copley, et al. v. Bactolac Pharmaceutical, Inc.
- Hughes et al. v. AutoZone Parts Inc. et al.
- Winters v. Two Towns Ciderhouse, Inc.
- Burford et al. v. Cargill, Incorporated
- Fabricant v. AmeriSave Mortgage Corp. (TCPA)
- Makaron v. Enagic USA, Inc. (TCPA)
- Prescod et al. v. Celsius Holdings, Inc.
- Gilmore v. Monsanto Co.



Antitrust

- In re: Cathode Ray Tube (CRT) Antitrust Litigation (MDL 1917)⁴
- In re: Interior Molded Doors Antitrust Litigation (Indirect)



Mass Torts

- In re: E.I. du Pont de Nemours and Company C8 Personal Injury Litigation (MDL 2433)¹
- In re: Testosterone Replacement Therapy Products Liability Litigation (MDL 2545)¹
- In re: Paraquat Products Liability Litigation (MDL 3004)¹
- In re: Paragard Products Liability Litigation (MDL 2974)
- In re: Roundup Products Liability Litigation (MDL 2741)²
- Essure Product Liability Settlement³
- Porter Ranch (JCCP 4861)



Data Breach/Privacy

- Miracle-Pond, et al. v. Shutterfly
- Baldwin et al. v. National Western Life Insurance Co.
- Jackson-Battle, et al. v. Navicent Health, Inc.
- Bailey, et al. v. Grays Harbor County Public Hospital No. 2
- In re: Forefront Data Breach Litigation
- Easter et al. v. Sound Generations
- Rivera, et al. v. Google LLC
- Acaley v. Vimeo, Inc.



Mass Arbitration

- T-Mobile
- Uber
- Postmates
- Instacart
- Intuit



Other Notable Cases

- Brown, et al. v. State of New Jersey DOC (Civil Rights)
- Slade v. Progressive (Insurance)

**Work performed as Postlethwaite & Netterville, APAC (P&N)*

¹Services provided in cooperation with the Court-Appointed Special Master

²Appointed As Common Benefit Trustee

³Inventory Settlement

"EisnerAmper" is the brand name under which EisnerAmper LLP and Eisner Advisory Group LLC and its subsidiary entities provide professional services. EisnerAmper LLP and Eisner Advisory Group LLC practice as an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable law, regulations and professional standards. EisnerAmper LLP is a licensed independent CPA firm that provides attest services to its clients, and Eisner Advisory Group LLC and its subsidiary entities provide tax and business consulting services to their clients. Eisner Advisory Group LLC and its subsidiary entities are not licensed CPA firms. The entities falling under the EisnerAmper brand are independently owned and are not liable for the services provided by any other entity providing services under the EisnerAmper brand. Our use of the terms "our firm" and "we" and "us" and terms of similar import, denote the alternative practice structure conducted by EisnerAmper LLP and Eisner Advisory Group LLC.

EAG Claims Administration Experience

SAMPLE JUDICIAL COMMENTS

- **Hezi v. Celsius Holdings, Inc.**, No. 1:21-CV-09892-VM (S.D.N.Y.), Judge Jennifer H. Rearden on April 5, 2023:

The Court finds and determines that the notice procedure carried out by Claims Administrator Postlethwaite & Netterville, APAC ("P&N") afforded adequate protections to Class Members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Class Members. The Court finds and determines that the Notice was the best notice practicable, and has satisfied the requirements of law and due process .

- **Scott Gilmore et al. v. Monsanto Company, et al.**, No. 3:21-CV-8159 (N.D. Cal.), Judge Vince Chhabria on March 31, 2023:

The Court finds that Class Notice has been disseminated to the Class in compliance with the Court's Preliminary Approval Order and the Notice Plan. The Court further finds that this provided the best notice to the Class practicable under the circumstances, fully satisfied due process, met the requirements of Rule 23 of the Federal Rules of Civil Procedure, and complied with all other applicable law.

- **John Doe et al. v. Katherine Shaw Bethea Hospital and KSB Medical Group, Inc.**, No. 2021L00026 (Fifteenth Judicial Circuit of Illinois, Lee County), on March 28, 2023:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Sanders et al. v. Ibex Global Solutions, Inc. et al.**, No. 1:22-CV-00591 (D.D.C.), Judge Trevor N. McFadden on March 10, 2023:

An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Vaccaro v. Super Care, Inc.**, No. 20STCV03833 (Cal. Superior Court), Judge David S. Cunningham on March 10, 2023:

The Class Notice provided to the Settlement Class conforms with the requirements of California Code of Civil Procedure § 382, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Class Members. The notice fully satisfied the requirements of Due Process.

- **Gonshorowski v. Spencer Gifts, LLC**, No. ATL-L-000311-22 (N.J. Super. Ct.), Judge Danielle Walcoff on March 3, 2023:

The Court finds that the Notice issued to the Settlement Class, as ordered in the Amended Preliminary Approval Order, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with New Jersey Court Rules 4:32-2(b)(2) and (e)(1)(B) and due process.

- **Vaccaro v. Delta Drugs II, Inc.**, No. 20STCV28871 (Cal. Superior Court), Judge Elihu M. Berle on March 2, 2023:

The Class Notice provided to the Settlement Class conforms with the requirements of California Code of Civil Procedure § 382, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Class Members. The notice fully satisfied the requirements of Due Process.

- **Pagan, et al. v. Faneuil, Inc.**, No. 3:22-CV-297 (E.D. Va), Judge Robert E. Payne on February 16, 2023:

The Court finds that the Notice Program, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and their right to object and to appear at the final approval hearing or to exclude themselves from the Settlement Agreement, and satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.



- **LaPrairie v. Presidio, Inc., et al.**, No. 1:21-CV-08795-JFK (S.D.N.Y.), Judge Andrew L. Carter, Jr. on December 12, 2022:

The Court hereby fully, finally and unconditionally approves the Settlement embodied in the Settlement Agreement as being a fair, reasonable and adequate settlement and compromise of the claims asserted in the Action. The Class Members have been given proper and adequate notice of the Settlement, fairness hearing, Class Counsel's application for attorneys' fees, and the service award to the Settlement Class Representative. An affidavit or declaration of the Settlement Administrator's compliance with the Notice process has been filed with the Court. The Notice process as set forth in the Settlement Agreement and ordered in the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Class Members in accordance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Nelson v. Bansley & Kiener, LLP**, No. 2021-CH-06274 (Circuit Court of Cook County, IL), Judge Sophia H. Hall on November 30, 2022:

The court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with requirements of 735 ILCS 5/2-801, et seq.

- **Buck, et al. v. Northwest Commercial Real Estate Investments, LLC, et al.**, No. 21-2-03929-1-SEA (Superior Court King County, WA), Judge Douglass A. North on September 30, 2022:

Pursuant to the Court's Preliminary Approval Order, Postcard Notice was distributed to the Class by First Class mail and Email Notice was distributed to all Class Members for whom the Settlement Administrator had a valid email address. The Court hereby finds and concludes that Postcard and Email Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the Postcard and Email Notice, and the distribution procedures set forth in the Settlement fully satisfy CR 23(c)(2) and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, provided an opportunity for the Class Members to object or exclude themselves from the Settlement, and support the Court's exercise of jurisdiction over the Settlement Class Members as contemplated in the Settlement and this Final Approval Order.



- **Rivera, et al. v. Google LLC**, No. 2019-CH-00990 (Circuit Court of Cook County, IL), Judge Anna M. Loftus on September 28, 2022:

Pursuant to this Court's Order granting preliminary approval of the Settlement, Postlethwaite & Netterville, APAC ("P&N") served as Settlement Administrator. This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement.

The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **Davonna James, individually and on behalf of all others similarly situated v. CohnReznick LLP**, No. 1:21-cv-06544 (S.D.N.Y.), Judge Lewis J. Liman on September 21, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Patricia Davidson, et al. v. Healthgrades Operating Company, Inc.**, No. 21-cv-01250-RBJ (D. Colo), Judge R. Brooke Jackson on August 22, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2).

- **Hosch et al. v. Drybar Holdings LLC**, No. 2021-CH-01976 (Circuit Court of Cook County, IL), Judge Pamela M. Meyerson on June 27, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed



Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Baldwin et al. v. National Western Life Insurance Company**, No. 2:21-cv-04066-WJE (W.D. MO), Judge Willie J. Epps, Jr. on June 16, 2022:

The Court finds that such Notice as therein ordered, constituted the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

- **Chapman et al. v. voestalpine Texas Holding LLC**, No. 2:17-cv-174 (S.D. Tex.), Judge Nelva Gonzales Ramos on June 15, 2022:

The Class and Collective Notice provided pursuant to the Agreement and the Order Granting Preliminary Approval of Class Settlement:

- (a) *Constituted the best practicable notice, under the circumstances;*
- (b) *Constituted notice that was reasonably calculated to apprise the Class Members of the pendency of this lawsuit, their right to object or exclude themselves from the proposed settlement, and to appear at the Fairness Hearing;*
- (c) *Was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and*
- (d) *Met all applicable requirements of the Federal Rules of Civil Procedure and the Due Process Clause of the United States Constitution because it stated in plain, easily understood language the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through an attorney if the member so desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on members under Rule 23(c)(3).*

- **Clopp et al. v. Pacific Market Research LLC**, No. 21-2-08738-4 (Superior Court King County, WA), Judge Kristin Richardson on May 27, 2022:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Washington Civil Rule 23(c)(2).



- **Whitlock v. Christian Homes, Inc., et al**, No. 2020L6 (Circuit Court of Logan County, IL), Judge Jonathan Wright on May 6, 2022:

The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

- **Hanson v. Welch Foods Inc.**, No. 3:20-cv-02011-JCS (N.D. Cal.), Judge Joseph C. Spero on April 15, 2022:

The Class Notice and claims submission procedures set forth in Sections 5 and 9 of the Settlement Agreement, and the Notice Plan detailed in the Declaration of Brandon Schwartz filed on October 1, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Dein v. Seattle City Light**, No. 19-2-21999-8 SEA (Superior Court King County, WA), Judge Kristin Richardson on April 15, 2022:

The Court hereby finds and concludes that the notice was disseminated to Settlement Class Members in accordance with the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval Order. The Court further finds and concludes that the notice fully satisfies CR 23(c)(2) and the requirements of due process, was the best notice practicable under the circumstances, provided individual notice to all members of the Class who could be identified through reasonable effort, and provided an opportunity for the Class Members to object to or exclude themselves from the Settlement.

- **Frank v. Cannabis & Glass, LLC, et al**, No. 19-cv-00250 (E.D. Wash.), Judge Stanley A. Bastian on April 11, 2022:

Postlethwaite & Netterville, APAC, ("P&N"), the Settlement Administrator approved by the Court, completed the delivery of Class Notice according to the terms of the Agreement. The Class Text Message Notice given by the Settlement Administrator to the Settlement Class, which set forth the principal terms of the Agreement and other matters, was the best practicable notice under the circumstances, including



individual notice to all Settlement Class Members who could be identified through reasonable effort.

- **McMorrow, et al. v. Mondelez International, Inc.**, No. 17-cv-02327 (S.D. Cal.), Judge Cynthia Bashant on April 8, 2022:

Notice was administered nationwide and achieved an overwhelmingly positive outcome, surpassing estimates from the Claims Administrator both in the predicted reach of the notice (72.94% as compared to 70%) as well as in participation from the class (80% more claims submitted than expected). (Schwartz Decl. ¶ 14, ECF No. 206-1; Final App. Mot. 3.) Only 46 potential Class Members submitted exclusions (Schwartz Decl. ¶ 21), and only one submitted an objection—however the objection opposes the distribution of fees and costs rather than the settlement itself. (Obj. 3.) The Court agrees with Plaintiffs that the strong claims rate, single fee-related objection, and low opt-out rate weigh in favor of final approval.

- **Daley, et al. v. Greystar Management Services LP, et al.**, No. 2:18-cv-00381 (E.D. Wash.), Judge Salvador Mendoz, Jr. on February 1, 2022:

The Settlement Administrator completed the delivery of Class Notice according to the terms of the Agreement. The Class Notice given by the Settlement Administrator to the Settlement Class....was the best practicable notice under the circumstances. The Class Notice program....was reasonable and provided due and adequate notice of these proceedings and of the matters set forth therein, including the terms of the Agreement, to all parties entitled to such notice. The Class Notice given to the Settlement Class Members satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of constitutional due process. The Class Notice was reasonably calculated under the circumstances to apprise Settlement Class Members of the pendency of this Action....

- **Mansour, et al. v. Bumble Trading, Inc.**, No. RIC1810011 (Cal. Super.), Judge Sunshine Sykes on January 27, 2022:

The Court finds that the Class Notice and the manner of its dissemination constituted the best practicable notice under the circumstances and was reasonably calculated, under all the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the Agreement, and their right to object to or exclude themselves from the Settlement Class. The Court finds that the notice was reasonable, that it constituted due, adequate and sufficient notice to all persons entitled to receive notice, and that it met the requirements of due process, Rules of Court 3.766 and 3.769(f), and any other applicable laws.



- **Hadley, et al. v. Kellogg Sales Company**, No. 16-cv-04955 (N.D. Cal.), Judge Lucy H. Koh on November 23, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement, and the Notice Plan filed on March 10, 2021, fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Miracle-Pond, et al. v. Shutterfly, Inc.**, No. 2019-CH-07050 (Circuit Court of Cook County, IL), Judge Raymond W. Mitchell on September 9, 2021:

This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement. The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

- **Jackson-Battle, et al. v. Navicent Health, Inc.**, No. 2020-CV-072287 (Ga Super.), Judge Jeffery O. Monroe on August 4, 2021:

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of O.C.G.A. §§ 9-11-23(c)(2).

- **In re: Interior Molded Doors Indirect Purchasers Antitrust Litigation**, No. 3:18-cv-00850 (E.D. Va.), Judge John A. Gibney on July 27, 2021:

The notice given to the Settlement Class of the settlement set forth in the Settlement Agreement and the other matters set forth herein was the best notice practicable



under the circumstances. Said notice provided due and adequate notice of the proceedings an of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons and entities entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e) and the requirements of due process.

- **Krommenhock, et al. v. Post Foods, LLC**, No. 16-cv-04958 (N.D. Cal.), Judge William H. Orrick on June 25, 2021:

The Class Notice and claims submission procedures set forth in Sections 4 and 6 of the Settlement Agreement and the Notice Plan filed on January 18, 2021 fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Classes as contemplated in the Settlement Agreement and this Order. See Fed. R. Civ. P. 23(e)(2)(C)(ii).

- **Winters, et al. v. Two Towns Ciderhouse, Inc.**, No. 20-cv-00468 (S.D. Cal.), Judge Cynthia Bashant on May 11, 2021:

The settlement administrator, Postlethwaite and Netterville, APAC ("P&N") completed notice as directed by the Court in its Order Granting Preliminary Approval of the Class Action Settlement. (Decl. of Brandon Schwartz Re: Notice Plan Implementation and Settlement Administration ("Schwartz Decl.") ¶¶ 4–14, ECF No. 24-5.)...Thus, the Court finds the Notice complies with due process....With respect to the reaction of the class, it appears the class members' response has been overwhelmingly positive.

- **Siddle, et al. v. The Duracell Company, et al.**, No. 4:19-cv-00568 (N.D. Cal.), Judge James Donato on April 19, 2021:

The Court finds that the Class Notice and Claims Administration procedures set forth in the Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided due and sufficient individual notice to all persons in the Settlement Class who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Agreement and this Final Approval Order.



- ***Fabricant v. Amerisave Mortgage Corporation***, No. 19-cv-04659-AB-AS (C.D. Cal.), Judge Andre Birotte, Jr. on November 25, 2020:

The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The notice fully satisfied the requirements of Due Process. No Settlement Class Members have objected to the terms of the Settlement.

- ***Snyder, et al. v. U.S. Bank, N.A., et al.***, No. 1:16-CV-11675 (N.D. Ill), Judge Matthew F. Kennelly on June 18, 2020:

The Court makes the following findings and conclusions regarding notice to the Settlement Class:

a. The Class Notice was disseminated to persons in the Settlement Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;
b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Settlement Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Consolidated Litigation, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

- ***Edward Makaron et al. v. Enagic USA, Inc.***, No. 2:15-cv-05145 (C.D. Cal.), Judge Dean D. Pregerson on January 16, 2020:

The Court makes the following findings and conclusions regarding notice to the Class:

a. The Class Notice was disseminated to persons in the Class in accordance with the terms of the Settlement Agreement and the Class Notice and its dissemination were in compliance with the Court's Preliminary Approval Order;

b. The Class Notice: (i) constituted the best practicable notice under the circumstances to potential Class Members, (ii) constituted notice that was reasonably



calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient individual notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

- **Kimberly Miller et al. v. P.S.C, Inc., d/b/a Puget Sound Collections**, No. 3:17-cv-05864 (W. D. Wash.), Judge Ronald B. Leighton on January 10, 2020:

The Court finds that the notice given to Class Members pursuant to the terms of the Agreement fully and accurately informed Class Members of all material elements of the settlement and constituted valid, sufficient, and due notice to all Class Members. The notice fully complied with due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law.

- **John Karpilovsky and Jimmie Criollo, Jr. et al. v. All Web Leads, Inc.**, No. 1:17-cv-01307 (N.D. Ill), Judge Harry D. Leinenweber on August 8, 2019:

The Court hereby finds and concludes that Class Notice was disseminated to members of the Settlement Class in accordance with the terms set forth in the Settlement Agreement and that Class Notice and its dissemination were in compliance with this Court's Preliminary Approval Order.

The Court further finds and concludes that the Class Notice and claims submission procedures set forth in the Settlement Agreement fully satisfy Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, were the best notice practicable under the circumstances, provided individual notice to all Settlement Class Members who could be identified through reasonable effort, and support the Court's exercise of jurisdiction over the Settlement Class as contemplated in the Settlement and this Order.

- **Paul Story v. Mammoth Mountain Ski Area, LLC**, No. 2:14-cv-02422 (E.D. Cal.), Judge John A. Mendez on March 13, 2018:

The Court finds that the Settlement Administrator delivered the Class Notice to the Class following the procedures set forth in the Settlement Agreement; that the Class Notice and the procedures followed by the Settlement Administrator constituted the best notice practicable under the circumstances; and that the Class Notice and the procedures contemplated by the Settlement Agreement were in full compliance with the laws of the United States and the requirements of due process. These findings support final approval of the Settlement Agreement.



- **John Burford, et al. v. Cargill, Incorporated**, No. 05-0283 (W.D. La.), Judge S. Maurice Hicks, Jr. on November 8, 2012:

Considering the aforementioned Declarations of Carpenter and Mire as well as the additional arguments made in the Joint Motion and during the Fairness Hearing, the Court finds that the notice procedures employed in this case satisfied all of the Rule 23 requirements and due process.

- **In RE: FEMA Trailer Formaldehyde Product Liability Litigation**, MDL No. 1873, (E.D La.), Judge Kurt D. Engelhardt on September 27, 2012:

After completing the necessary rigorous analysis, including careful consideration of Mr. Henderson's Declaration and Mr. Balhoff's Declaration, along with the Declaration of Justin I. Woods, the Court finds that the first-class mail notice to the List of Potential Class Members (or to their attorneys, if known by the PSC), Publication Notice and distribution of the notice in accordance with the Settlement Notice Plan, the terms of the Settlement Agreement, and this Court's Preliminary Approval Order:

- (a) constituted the best practicable notice to Class Members under the circumstances;*
- (b) provided Class Members with adequate instructions and a variety of means to obtain information pertaining to their rights and obligations under the settlement so that a full opportunity has been afforded to Class Members and all other persons wishing to be heard;*
- (c) was reasonably calculated, under the circumstances, to apprise Class Members of: (i) the pendency of this proposed class action settlement, (ii) their right to exclude themselves from the Class and the proposed settlement, (iii) their right to object to any aspect of the proposed settlement (including final certification of the settlement class, the fairness, reasonableness or adequacy of the proposed settlement, the adequacy of representation by Plaintiffs or the PSC, and/or the award of attorneys' fees), (iv) their right to appear at the Fairness Hearing - either on their own or through counsel hired at their own expense - if they did not exclude themselves from the Class, and (v) the binding effect of the Preliminary Approval Order and Final Order and Judgment in this action, whether favorable or unfavorable, on all persons who do not timely request exclusion from the Class;*
- (d) was calculated to reach a large number of Class Members, and the prepared notice documents adequately informed Class Members of the class action, properly described their rights, and clearly conformed to the high standards for modern notice programs;*
- (e) focused on the effective communication of information about the class action. The notices prepared were couched in plain and easily understood language and were written and designed to the highest communication standards;*



- (f) afforded sufficient notice and time to Class Members to receive notice and decide whether to request exclusion or to object to the settlement.;*
- (g) was reasonable and constituted due, adequate, effective, and sufficient notice to all persons entitled to be provided with notice; and*
- (h) fully satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, including the Due Process Clause, and any other applicable law.*



Exhibit 3: Data Management Practices and Security Protocols

Data Management Practices and Security Protocols

Confidentiality is Paramount for Our Profession

Confidentiality is of the utmost importance to our client relationships. At EisnerAmper, we are committed to keeping client data secure, which is why we have designed engagement tools and policies to help ensure information security and privacy.

EisnerAmper employs professionals that maintain numerous information technology and data security certifications as well as a Service Organization Control (SOC) services team that has substantial experience in performing SOC engagements for service organizations in a variety of industries. Our SOC services team includes personnel with specialized internal control training and backgrounds. Our professionals have completed the AICPA's SOC School and hold relevant industry certifications. Our professionals help ensure that service organizations receive the highest level of assurance over the effectiveness of their internal controls.



EisnerAmper professionals maintain the following certifications related to information technology, data security, internal controls, and compliance:

CISA (Certified Information Systems Auditor)	CIA (Certified Internal Auditor)
CISSP (Certified Info Systems Security Professional)	CITP (Certified Information Technology Professional)
CIPP/US (Certified Information Privacy Professional/United States)	CRISC (Certified in Risk & Information Systems Control)
CIPM (Certified Information Privacy Manager)	Certified HITRUST Practitioner
JNCIS (Juniper Networks Cert. Internet Specialist)	VCP5 (VMware Certified Professional v5)
RSA/CSE (Certified Security Engineer)	VCP6 (VMware Certified Professional v6)
Checkpoint Certified Security Admin	MCITP (Microsoft Certified IT Professional)
MCITP & MCSE - Messaging	MCSE (Microsoft Certified System Engineer)
CCSP (Cisco Certified Security Professional)	CCVP (Cisco Certified Voice Professional)
CCNA (Cisco Certified Network Associate)	CCNP (Cisco Certified Network Professional)
JNCIA (Juniper Networks Certified Associate)	CCDA (Cisco Certified Design Associate)


MCNE (Master Certified Novell Engineer)
BCFP (Brocade Fiber Channel Professional)**BCSD (Brocade Certified SAN Designer)****EnCE (Encase Certified Forensic Examiner)****DOSD (Dell On Site Diagnostics)****AccessData Certified Forensic Examiner**

Our security processes follow industry accepted standards such as NIST, HITRUST, CIS Controls; any required elements from regulatory bodies/legislation such as AICPA, HIPAA, HITECH, FFIEC, CUNA, various state requirements; and vendor best practices (i.e. Microsoft, Cisco, VMWare, etc.) We apply the same requirements delivered through our client engagements to our internal processes. Our work product for client engagements have been reviewed, tested, and ultimately accepted by regulatory bodies and government entities such as OCR, FFIEC, and CUNA.

The EisnerAmper Team served as an expert in an Office for Civil Rights (OCR) investigation for a HIPAA breach at a large, national covered entity. OCR recognized the EisnerAmper Team as “HIPAA Experts” in their final report.

Overview of General Security Practices

Eisner Advisory Group LLC, EisnerAmper LLP and all applicable subsidiaries maintain their network environment with a managed data center provider with locations exclusively in the U.S. The environment is protected at the perimeter with:

- ▲ ***Next-generation firewalls***
- ▲ ***DMZ***
- ▲ ***24/7 Intrusion Detection & Prevention services***

On the interior, activities are monitored with:

- ▲ ***Web Application Firewalls***
- ▲ ***Inbound/outbound Internet and Email filtering***
- ▲ ***Data Loss Prevention***
- ▲ ***Endpoint Detection & Response systems on every endpoint and server***

System patching and vulnerability remediation are fully automated. All internal data is encrypted using TLS 1.3 in transit and multi-factor-authentication is used for authentication. EisnerAmper

employees receive mandatory Information Security and Social Engineering training on an annual basis.

Client Data Hosting & Security

We utilize data hosting and security services of DartPoints, who maintains certified data centers that adhere to the most rigid standards and meet compliance regulations like PCI, HIPAA, FINRA, Sarbanes-Oxley, and Gramm-Leach-Bliley.



DartPoints Operating Company, LLC. undergoes an annual System and Organizational Controls 2 (SOC 2), Type II exam covering the Security, Confidentiality, Availability, and Processing Integrity Trust Services Categories. EisnerAmper has reviewed the most recent independent auditor report and attest that the scope addressed the current SOC 2, Type II trust services criteria for the in scope categories and the audit opinion was unmodified ("clean" opinion), in all material respects. Based on EisnerAmper's ongoing vendor monitoring procedures, DartPoints SOC 2, Type II exams have consistently included an unmodified opinion.

Web Application Firewall (WAF)

EisnerAmper utilizes Cloudflare's Web Application Firewall (WAF) to provide robust protection of websites by leveraging advanced threat intelligence and machine learning. Cloudflare blocks the latest attacks, including zero-day exploits, by processing millions of HTTP requests per second. The WAF uses managed and custom rulesets to prevent common threats like SQL injection, cross-site scripting, and credential stuffing. Additionally, you can define challenges or block certain traffic based on the IP address's geographical location. With fast deployment and easy management, Cloudflare's WAF integrates seamlessly with the firm's other security measures.



Two-Factor Authentication

Our proprietary claims management applications utilize two-factor authentication provided by Duo Security (<https://duo.com>) for all system users. As described by Duo, *"two-factor authentication adds a second layer of security to your online accounts. Verifying your identity using a second factor (like your mobile phone or other mobile device) prevents anyone but you from logging in, even if they know your password."*



Mass Data Transmission Through Secure Web Portal

In our efforts to use technology to make our client relationships more effective and efficient, EisnerAmper can establish a secure web portal for data transfer on an as-needed basis. Simply put, a secure web portal is a password protected area on our servers that allows users to securely transfer and retrieve information. When transferring a large volume of documents, using a secure web portal is a more efficient practice than traditional methods.

Limited Access to Information and Data Encryption

EisnerAmper makes every reasonable effort to limit access to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request of information resources. Data is protected in transit using TLS 1.3. To further enhance the security of sensitive data at rest, EisnerAmper employs advanced techniques such as column-level encryption and symmetric key encryption. Column-level encryption allows specific columns within a database to be encrypted, ensuring that even if unauthorized access occurs, the sensitive data remains unreadable without the appropriate decryption keys. Symmetric key encryption, on the other hand, uses a single key to both encrypt and decrypt data, providing a fast and efficient method to secure sensitive information. This method ensures that only authorized parties with the correct key can access the data, adding an additional layer of security to protect personal identifiable information (PII), and other sensitive data.

Employee Security Protocols Training and Testing

All firm employees are required to complete annual security awareness training. This is a web-based interactive training using common traps, live demonstration videos, short tests and the new scenario-based Danger Zone exercises. The training specializes in making sure employees understand the importance of protecting information like PII and mechanisms of spam, phishing, spear phishing, malware, ransomware and social engineering, and are able to apply this knowledge in their day-to-day jobs.

Insurance and Limitations of Liability

EisnerAmper maintains insurance coverages appropriate for its size and industry, including cyber and professional liability insurance. More detailed information will be provided on request.

EisnerAmper standard contract language limits liability to the fees paid for the service of work product giving rise to liability. Such limitation does not apply where damages are judicially determined to have been caused by EA's gross negligence or willful misconduct.

Quality Control

Our claims administration teams include professionals trained and certified in, among others, the following areas: project management (PMP), accounting (CPA), internal controls and risk (CIA), information systems controls (CISA), fraud examination (CFE), information systems security (CISSP), and legal analysis (JD).

Our project initiation phase includes an identification of critical focus areas and implementation of a plan that covers the following key components of quality control in the context of claims administration service delivery.

Resource Consistency & Training: Because we maintain a large, diverse professional workforce, our team is scalable without the need for temporary employees for every major project. This organic scalability is important in terms of retained process knowledge as well as consistency of execution and deliverables.

Data Validation: EA implements proactive data validation measures into our online claims platform to minimize claim deficiencies, duplication, and anomalies that require dedication of resources and expenses throughout the claims process.

Segregation of Duties: Segregation of duties is important for risk mitigation and internal control – particularly in the accounting function for large fund projects. The diversity and scalability of our workforce would allow each high risk component of the claims life cycle to be performed by a team member that specializes in the relevant professional area (rather than a single project manager or assigned resource).

Technology & Software Analysis Tools: EA utilizes various software tools to assist in the execution of quality control procedures and identification of suspicious activity. Our systems include “fuzzy” matching logic which allows us to detect and address duplicate claim submissions. We also maintain service subscriptions for technology programs that allow us to research potential fraudulent claim submissions and enables us to report our findings to the parties and Court as appropriate.

Internal Controls: For high risk projects and data sets, our team is able to utilize our Certified Internal Audit (CIA) and other control and risk advisory professionals to design data management and processing protocols that ensure proper internal controls are established.

Fraud, Waste, and Abuse Detection and Prevention

We believe that effective claims administration protocols include fraud detection and prevention but also include mechanisms that combat waste and abuse from legitimate, non-fraudulent sources. EA uses a variety of techniques to prevent and deter fraud as well as monitor areas that are at high risk for wasteful and abusive claims activity. The following sections outline various methods that we employ to fight fraud, waste, and abuse (FWA) in our claims programs.

Data Validation: One mechanism that helps prevent abuse of the claims process, particularly in a claims process that requires minimal documentation (or no claim support), is to implement a maximum number of “units” that can be claimed without supporting documentation. Enforcing a process in which “high volume” claims follow a particular protocol allows us to easily identify high risk claims and implement particular audit or verification procedures focused on that subset of claim submissions.


It may also be reasonable to establish claim filing rules that help proactively prevent duplicative claim submissions. For example, it may be reasonable to limit claims to one-per-user or one-per-household basis. In this situation, the online claims filing platform may be programmed to reject the submission of claims if a previous claim exists that includes the same attributes such as email address, mailing address, or other information such as serial/model number, etc.

Duplicate Claim Identification: Of course, data validation methods are effective only to the extent that the claim submission rules do not become a barrier to participation. Therefore, it is also necessary to utilize techniques to ensure that duplicate claims are identified after they are submitted.

To meet this need, EA utilizes technology that includes “fuzzy” matching logic which allows us to detect and address duplicate claim submissions by going beyond exact matches and analyzing claims that have similar characteristics across a number of fields. For example, we may compare claims that have a combination of 90% commonality amongst the claimant name and 95% match for mailing address (and vice versa). Using these techniques across different claimant attributes has allowed us to identify thousands of duplicative claims that otherwise do not appear suspicious.

Data Analytics: Another method that helps to identify potential FWA activity is the use of data analysis. Our business intelligence professionals utilize custom reporting to identify anomalies in large claims datasets and assess those outliers. We utilize exception reporting to capture scenarios that exist within the data (but should not reasonably be possible) so that we can take appropriate corrective action as needed.

Research Tools: EA maintains service subscriptions for technology programs that allow us to research potential fraudulent claim submissions and enables us to either confirm the legitimacy



of claim information or document findings so that we can report to the parties and Court as appropriate.

The following examples illustrate our experiencing in employing fraud detection and prevention tools and processes in the class action settlement environment:

CRT Antitrust Litigation

EA helped establish various thresholds for claims audit procedures as well as executed many different claims analysis processes to identify high risk or suspicious claims activity.

To date, EA's efforts have resulted in a recovery of over \$100 Million in settlement fund value. We have achieved significant results related to (a) ineligible claim withdrawals, (b) duplicate claim identification, (c) adjustments resulting from completed claim audits, and (d) FWA procedures. The value of the recovery is determined by the total per-unit dollar value increase of all units which remain in the settlement program as a result of the claims review process.

Deepwater Horizon Economic Claims Center (DHECC)

EA provided personnel to help create the fraud, waste and abuse (FWA) team for this program. This team managed and oversaw the investigative review process of potentially fraudulent Business Economic Loss and Seafood claims.

Engineering the Process – EA created the investigative work plans, consistency guidelines and a quality checklist to drive uniformity of each investigation. The guidelines documented standard language, management decisions, investigation requirements, scope and best practices.

Predictive Analysis (Statistical Analysis Software, or SAS) – Our analysts recommended data points and metrics for predictive modeling and anomaly detection within the data analytics software used to automate the way in which potentially fraudulent claims were identified. Our team tested the weighted business rules used to score claims based on where they fell on a spectrum, which allowed for the prioritization of claims with a higher likelihood of fraud.

Investigation & Reporting – EA's FWA team performed a thorough investigation of the financial records for claims identified by SAS in addition to internal and external referrals as having indicia of fraud. Investigations included review of documentation germane to claim, identification and investigation of red flags, and outreach to claimants or third parties, as necessary. The fraud team created a summary of fraud findings for each claim utilizing analysis and state and federal databases. Analysts prepared detailed court documents for appeals panelists in the event claimants appealed the initial findings, and circulated internal reports of possible organized fraud schemes.