

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, et al.,

Plaintiffs,

v.

VISA INC., et al.,

Defendants.

Civil Action No. 1:11-cv-1831-RJL
Assign Date: 8/4/2015
Description: Antitrust – Class Action

**MACKMIN CONSUMER PLAINTIFFS' NOTICE OF MOTION AND MOTION
FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS FOR CLASS REPRESENTATIVES**

Pursuant to Federal Rules of Civil Procedure 23(h) and 54(d)(2), the *Mackmin* Consumer Plaintiffs hereby move the Court for (1) an award of attorneys' fees in the amount of \$59.25 million, (2) reimbursement of reasonably incurred litigation expenses in the amount of \$4,322,524, and (3) service awards of \$10,000 for each of the two named representatives of the *Mackmin* Consumer Class. This motion is based on this notice of motion and motion, the accompanying memorandum of points and authorities, the declarations in support of the motion, any papers filed in reply, such oral and documentary evidence as may be presented at any hearing of this motion, and all papers and records on file in this matter.

Dated November 8, 2024

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MACKMIN
CONSUMER PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS'
FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

TABLE OF CONTENTS

	<u>Page</u>
I. PRELIMINARY STATEMENT	1
II. BACKGROUND	3
A. The Network Settlement Was the Product of More than a Decade of Determined Litigation by Class Counsel	3
1. Early victories in the D.C. Circuit and the Supreme Court made the settlement possible.	3
2. Class Counsel engaged in substantial written discovery.	4
3. Class Counsel took and defended more than 35 fact and expert depositions and took a lead role in case management.	6
4. Class Counsel and their experts engaged in extensive expert discovery and analysis that was critical to prosecuting this complex action.	6
5. Class Counsel completed thorough class certification briefing, obtained class certification, and successfully defended that result on appeal.....	8
B. Arm’s-Length Settlement Negotiations Resulted in a Settlement That Delivers Assured and Significant Monetary Relief to the Class.....	10
1. Plaintiffs engaged in extensive settlement negotiations with the Network Defendants.	10
2. The Network Settlement delivers substantial relief to the Class.....	11
C. Further Proceedings and the Current State of Play.....	12
III. ARGUMENT	12
A. Class Counsel’s Fee Request Is Fair and Reasonable.....	13
1. A fee award of 30% of the settlement fund is within the benchmark range and supported by all applicable criteria.....	14
a. The fee request is well within the range of awards in similar cases, as well as the fees awarded previously in this case.....	15

b.	The size of the common fund and number of persons benefitted supports the fee request.	17
c.	Class Counsel demonstrated skill and efficiency in obtaining the Settlement, further supporting the fee request.	18
d.	The complexity and duration of this litigation supports the requested fee award.	21
e.	Class Counsel have demonstrated devotion to this longstanding litigation, despite a serious risk of nonpayment.	22
f.	No objection to the Network Settlement has been filed to date.	24
g.	A lodestar cross-check, though not required, confirms the reasonableness of the fee request.	24
B.	Class Counsel Should Be Reimbursed for the Remainder of the Reasonable Litigation Expenses They Incurred, and for Which They Did Not Previously Seek Reimbursement	26
C.	Class Representatives Deserve Reasonable Service Awards for Their Dedication to This Case	29
IV.	CONCLUSION.....	30

TABLE OF AUTHORITIES

Page(s)

CASES

In re Aetna Inc. Sec. Litig.,
2001 WL 20928 (E.D. Pa. Jan. 4, 2001).....22

In re Ampicillin Antitrust Litig.,
526 F. Supp. 494 (D.D.C. 1981).....15

In re AremisSoft Corp. Secs. Litig.,
210 F.R.D. 109 (D.N.J. 2002).....26

In re Auto. Refinishing Paint Antitrust Litig.,
617 F. Supp. 2d 336 (E.D. Pa. 2007)21

In re Baan Co. Secs. Litig.,
288 F. Supp. 2d 14 (D.D.C. 2003).....24

Bebchick v. Wash. Metro. Area Transit Comm’n,
805 F.2d 396 (D.C. Cir. 1986).....13

Beckman v. KeyBank, N.A.,
293 F.R.D. 467 (S.D.N.Y. 2013)26

Behrens v. Wometco Enters., Inc.,
118 F.R.D. 534 (S.D. Fla. 1988), *aff’d*, 899 F.2d 21 (11th Cir. 1990).....22

In re Black Farmers Discrimination Litig.,
856 F. Supp. 2d 1 (D.D.C. 2011).....13

In re Black Farmers Discrimination Litig.,
953 F. Supp. 2d 82 (D.D.C. 2013).....24

Boeing Co. v. Van Gemert,
444 U.S. 472 (1980).....13

Bradburn Parent Teacher Store, Inc. v. 3M,
513 F. Supp. 2d 322 (E.D. Pa. 2007)16

Bynum v. D.C.,
412 F. Supp. 2d 73 (D.D.C. 2006).....15

In re Cardinal Health Inc. Sec. Litig.,
528 F. Supp. 2d 752 (S.D. Ohio 2007)23

In re Cathode Ray Tube (CRT) Antitrust Litig.,
See 2016 WL 3648478 (N.D. Cal. July 7, 2016)18

In re Corel Corp., Inc. Secs. Litig.,
293 F. Supp. 2d 484 (E.D. Pa. 2003)18

In re Crazy Eddie Secs. Litig.,
824 F. Supp. 320 (E.D.N.Y. 1993)18

Cullen v. Whitman Med. Corp.,
197 F.R.D. 136 (E.D. Pa. 2000).....18

Dyer v. Wells Fargo Bank, N.A.,
303 F.R.D. 326 (N.D. Cal. 2014).....26

In re Fannie Mae Sec., Derivative, & “ERISA” Litig.,
4 F. Supp. 3d 94 (D.D.C. 2013) (Leon, J.)..... *passim*

In re Gen. Instrument Secs. Litig.,
209 F. Supp. 2d 423 (E.D. Pa. 2001)18

Goldberger v. Integrated Res., Inc.,
209 F.3d 43 (2d Cir. 2000).....22

Gunter v. Ridgewood Energy Corp.,
223 F.3d 190 (3d Cir. 2000).....23

Hensley v. Eckerhart,
461 U.S. 424 (1983).....13, 17

In re Ikon Off. Sols., Inc., Sec. Litig.,
194 F.R.D. 166 (E.D. Pa. 2000).....16

In re Iowa Ready-Mix Concrete Antitrust Litig.,
2011 WL 5547159 (N.D. Iowa Nov. 9, 2011)16

King Drug Co. of Florence v. Cephalon, Inc. (Provigil),
2015 WL 12843830 (E.D. Pa. Oct. 15, 2015).....26

Levine v. Am. Psych. Ass’n (In re APA Assessment Fee Litig.),
311 F.R.D. 8 (D.D.C. 2015).....15

In re Linerboard Antitrust Litig.,
2004 WL 1221350 (E.D. Pa. June 2, 2004)16, 21

In re Lithium Ion Batteries Antitrust Litig.,
2020 WL 7264559 (N.D. Cal. Dec. 10, 2020).....18

Little v. Wash. Metro. Area Transit Auth.,
313 F. Supp. 3d 27 (D.D.C. 2018)29

In re Lorazepam & Clorazepate Antitrust Litig.,
2003 WL 22037741 (D.D.C. June 16, 2003)..... *passim*

In re Med. X-Ray Film Antitrust Litig.,
1998 WL 661515 (E.D.N.Y. Aug. 7, 1998).....18

Meijer, Inc. v. Warner Chilcott Holdings Co. III,
565 F. Supp. 2d 49 (D.D.C. 2008).....23

Murray v. Weinberger,
741 F.2d 1423 (D.C. Cir. 1984).....25

In re Newbridge Networks Sec. Litig.,
1998 WL 765724 (D.D.C. Oct. 22, 1998)23

In re Nifedipine Antitrust Litig.,
2011 WL 13392312 (D.D.C. Jan. 31, 2011) (Leon, J.)25

In re Omnivision Techs.,
559 F. Supp. 2d 1036 (N.D. Cal. 2007)18

Osborn v. Visa Inc.,
797 F.3d 1057 (D.C. Cir. 2015).....3

Perez v. Rash Curtis & Assocs.,
2021 WL 4503314 (N.D. Cal. Oct. 1, 2021).....26

In re Polyurethane Foam Antitrust Litig.,
2015 WL 1639269 (N.D. Ohio Feb. 26, 2015).....16

Rosenbaum v. MacAllister,
64 F.3d 1439 (10th Cir. 1995)23

In re S.E. Milk Antitrust Litig.,
2013 WL 2155387 (E.D. Tenn. May 17, 2013).....16

Spano v. Boeing Co.,
2016 WL 3791123 (S.D. Ill. Mar. 31, 2016)25

In re Static Random Access Memory (SRAM) Antitrust Litig.,
No. 07-md-1819-CW (N.D. Cal. Oct. 14, 2011), ECF Nos. 1407, 1375.....18

Std. Iron Works v. Arcelormittal (In re Steel Antitrust Litig.),
2014 WL 7781572 (N.D. Ill. Oct. 22, 2014).....16

Steiner v. Am. Broad. Co., Inc.,
248 F. App'x 780 (9th Cir. 2007)26

Steinfeld v. Discover Fin. Servs.,
2014 WL 1309692 (N.D. Cal. Mar. 31, 2014).....26

Swedish Hosp. Corp. v. Shalala,
1 F.3d 1261 (D.C. Cir. 1993).....13

In re Trans Union Corp. Privacy Litig.,
629 F.3d 741 (7th Cir. 2011)23

In re Transpacific Passenger Air Transp. Antitrust Litig.,
2015 WL 3396829 (N.D. Cal. May 26, 2015).....16

Trombley v. Nat’l City Bank,
826 F. Supp. 2d 179 (D.D.C. 2011).....24

Visa Inc. v. Osborn,
580 U.S. 993 (2016).....4

Vista Healthplan, Inc., v. Warner Holdings Co. III, Ltd.,
246 F.R.D. 349 (D.D.C. 2007).....26

In re Vitamins Antitrust Litig.,
2001 WL 34312839 (D.D.C. July 16, 2001)..... *passim*

Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.,
396 F.3d 96 (2d Cir. 2005).....14

Wells v. Allstate Ins. Co.,
557 F. Supp. 2d 1 (D.D.C. 2008).....24

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60 Fla. L. Rev. 349 (2008).....16

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GLOSSARY OF TERMS

Term	Description
Bank of America	Defendants Bank of America, National Association, NB Holdings Corporation, and Bank of America Association.
Bank Defendants	Bank of America, Chase, and Wells Fargo.
Carlton Decl.	Declaration of Dennis W. Carlton, concurrently filed herewith.
Chase	Defendants Chase Bank USA, N.A., JPMorgan Chase & Co., and JPMorgan Chase Bank, N.A.
Class Counsel	Hagens Berman, Quinn Emanuel, and Mehri & Skalet.
Defendants	Bank Defendants and Network Defendants.
Dkt.	All “Dkt.” citations in this brief refer to docket entries in <i>Mackmin et al. v. Visa, Inc. et al.</i> , No. 1:11-cv-1831-RJL (D.D.C.), unless otherwise noted.
Frankel Decl.	Declaration of Alan S. Frankel, concurrently submitted herewith.
Hagens Berman	Hagens Berman Sobol Shapiro LLP.
Joint Decl.	Joint Declaration of Steve W. Berman and Adam B. Wolfson in Support of <i>Mackmin</i> Consumer Plaintiffs’ Notice of Motion and Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards For Class Representatives, concurrently submitted herewith.
MasterCard	Defendants Mastercard Inc. and Mastercard International Inc. d/b/a Mastercard Worldwide.
Mehri & Skalet	Mehri & Skalet, PLLC.
Network Defendants	Defendants Visa and MasterCard.
Quinn Emanuel	Quinn Emanuel Urquhart & Sullivan, LLP.
Plaintiffs or <i>Mackmin</i> Consumer Plaintiffs	Plaintiffs in <i>Mackmin et al. v. Visa, Inc. et al.</i> , No. 1:11-cv-1831-RJL (D.D.C.).
Skalet Decl.	Declaration of Steven A. Skalet, concurrently filed herewith.
Wells Fargo	Defendants Wells Fargo & Company and Wells Fargo Bank, N.A.
Visa	Defendants Visa Inc., Visa U.S.A. Inc., Visa International Service Association, and Plus System, Inc.

I. PRELIMINARY STATEMENT

After more than a decade of hard-fought litigation, Court-appointed Co-Lead Counsel (“Class Counsel”) for the *Mackmin* Consumer Plaintiffs (“Plaintiffs”) secured a settlement totaling \$197.5 million from the Mastercard Defendants and the Visa Defendants (collectively, the “Network Defendants”). That \$197.5 million, coupled with the \$66.74 million Plaintiffs secured under previously approved settlements with the Bank Defendants (namely Chase, Wells Fargo, and Bank of America), will result in a total recovery of \$264.24 million for the Settlement Class. In light of the substantial risks and complex issues in this litigation, as well as the substantial common fund created for the Settlement Class, Plaintiffs respectfully request (1) an award of \$59.25 million in attorneys’ fees—equal to 30 percent of the \$197.5 million common fund; (2) reimbursement of \$4,322,524 to cover the remainder of the \$14,322,524 in out-of-pocket litigation expenses Class Counsel incurred in connection with prosecuting this litigation and not requested after the Bank Defendants settlements; and (3) service awards of \$10,000 for each of the two class representatives.

The Settlement, negotiated at arms-length before one of the nation’s preeminent mediators (Hon. Layn Phillips), is an excellent result for the Settlement Class. Depending on which of Plaintiffs’ different damages scenarios one applies, the \$197.5 million in cash payments from *only* the Network Defendants represents between 17.3 and 28.5 percent of the single damages the Settlement Class could secure if it prevailed at trial. And the Settlement Class’s total recovery (including from the Bank Defendants) of \$264.24 million—which is the best measure of the results Class Counsel achieved in this case for the Class—represents between 23.1 and 38.2 percent of single damages. This is an exceptional rate of recovery, particularly for antitrust class actions. These strong results indicate that the requested fee award is fair and reasonable. That is particularly so in light of the significant challenges faced by Plaintiffs

throughout this lengthy action, and the effective and efficient work of Class Counsel, who litigated this case on a purely contingent basis in this Court, and during appeals before the D.C. Circuit Court of Appeals and the Supreme Court.

The requested 30-percent fee award is also the same percentage that this Court awarded to Class Counsel after the Bank Defendant settlements and is reasonable when compared to awards in antitrust class actions in this district. *See, e.g., In re Vitamins Antitrust Litig.*, 2001 WL 34312839, at *9 (D.D.C. July 16, 2001) (awarding attorneys' fees equal to 33.7% of the \$365 million common fund); *In re Lorazepam & Clorazepate Antitrust Litig.*, 2003 WL 22037741, at *3, *9 (D.D.C. June 16, 2003) (in antitrust class action, awarding fees equal to 30 percent of \$35 million settlement fund).

Although not required in this Circuit, the reasonableness of the requested award is further confirmed by a "lodestar cross-check." Based on Class Counsel's lodestar of \$29,062,798 (which reflects a five-percent across-the-board reduction for billing judgment), the requested award would lead to a multiplier of 2.73. That multiplier is well within the range of multipliers granted in similar cases, and lower than many.

Beyond fees, the expenses incurred were all critical to the representation of the Class. Most importantly, the largest category of expenses—the amount spent on economic experts, which constitutes nearly 93 percent of the total costs—was essential to collecting the large amount of data needed for the experts' analyses, organizing that complex data into a usable database, and then analyzing the massive database and other documents presented in Professor Dennis Carlton's class certification reports. Even compared to other antitrust class actions, this litigation required an atypically high amount of expert work, as Professor Carlton and Dr. Alan Frankel explain in their declarations submitted concurrently with this Motion. Previously, in

connection with the Bank Settlements, Class Counsel sought (and were awarded) \$10 million in expense reimbursements, even though they had incurred more than \$13.24 million in expenses up to that date. Class Counsel now respectfully request \$4,322,524.93, which is the sum of the balance of those expenses, plus the reasonable expenses incurred since then in connection with this litigation (in total, Class Counsel has expended \$14,322,524 in this case).

Additionally, the requested \$10,000 service award to each of the two class representatives is reasonable given their significant commitment to the Class and investment of time to this case. Plaintiffs respectfully request that their Motion be granted.

II. BACKGROUND

A. The Network Settlement Was the Product of More than a Decade of Determined Litigation by Class Counsel

1. Early victories in the D.C. Circuit and the Supreme Court made the settlement possible.

In October 2011, over thirteen years ago, Plaintiffs filed this action on behalf of themselves and a putative class of consumers who overpaid for surcharges levied on “off-us” transactions throughout the nation at bank ATMs. *See* Dkt. 1. The Defendants moved to dismiss the case, which Class Counsel, on Plaintiffs’ behalf, briefed and argued. The judge previously assigned to this case granted that motion (Dkt. 55) and denied Plaintiffs’ subsequent motion to amend their complaint (Dkt. 71).

Class Counsel appealed that order and briefed and argued the issue in the D.C. Circuit Court of Appeals. Those efforts resulted in a complete reversal of the dismissal order, with a published decision finding that Plaintiffs plausibly stated all elements of their antitrust claims against Defendants. *See Osborn v. Visa Inc.*, 797 F.3d 1057 (D.C. Cir. 2015).

Defendants then petitioned for *certiorari* to the Supreme Court, which the Court granted. In the subsequent merits briefing, Class Counsel explained that, “[a]fter having persuaded [the

Supreme Court] to grant certiorari” on a specific, narrow issue, Defendants chose instead “to rely on a different argument” to seek to overturn the D.C. Circuit Court of Appeal’s decision. The Supreme Court agreed that Defendants overstepped and subsequently dismissed the appeal on the basis that the writ of *certiorari* had been improvidently granted. *See Visa Inc. v. Osborn*, 580 U.S. 993 (2016) (Mem.). As this history shows, Class Counsel had to brief complex and unique legal issues before three sets of courts before even proceeding with discovery on behalf of Plaintiffs. Without investing substantial resources in these early efforts, no recovery would have been possible.

2. Class Counsel engaged in substantial written discovery.

After remand to this Court, Class Counsel aggressively pursued discovery to develop Plaintiffs’ claims. Before the Supreme Court had even granted *certiorari*, the parties undertook negotiations on a comprehensive case management order and pre-trial schedule. This resulted in a Joint Report on Scheduling Matters (Dkt. 99) in which Plaintiffs agreed to coordinate all three cases for discovery purposes to maximize efficiencies. Joint Decl. ¶ 13. Following an initial status conference, in which this Court encouraged the parties to work collaboratively (Dkt. 113), Class Counsel took the lead role in negotiating a protective order (Dkt. 112), ESI protocol (Dkt. 121), and expert discovery protocols (Dkt. 130). *Id.*

These extensively negotiated protocols set the stage for substantial, yet targeted, written and other discovery, which Class Counsel again took the lead role in pursuing and negotiating. Plaintiffs propounded 38 document requests and 8 interrogatories to both Network Defendants (Visa and MasterCard), along with 39 document requests and 6 interrogatories to each Bank Defendant (Bank of America, Chase, and Wells Fargo). Joint Decl. ¶ 14.

After multiple rounds of in-person, telephonic, and written meet-and-confer negotiations spanning the better part of a year, Defendants ultimately produced more than 239,422

documents, totaling 2,419,934 pages. As this is an antitrust case focusing on alleged overcharges, data productions were of particular importance, and following negotiations, Defendants ultimately produced an enormous transactional dataset. With the assistance of their experts, Plaintiffs cleaned and processed this dataset so that it could be analyzed for purposes of class certification and merits analyses. *Id.* ¶ 15.

Third-party discovery was also essential in this case, because a single ATM transaction involves several different entities. Members of the Class transacted at ATMs operated by banks other than the Bank Defendants, over ATM networks other than those operated by the Network Defendants, and, at times, those transactions were routed through various payment processing entities. None of these entities were parties to the case. Accordingly, both Plaintiffs and Defendants subpoenaed numerous third parties for records and data. As part of this effort, Class Counsel served 24 third-party subpoenas on ATM networks and ATM processors. Ultimately, Plaintiffs obtained more than 205,444 documents (constituting 677,299 pages) and substantial data productions, which Plaintiffs and their experts used to develop the case. *Id.* ¶ 16. In total, Plaintiffs' experts processed and analyzed over 3.6 terabytes of raw data from Defendants and third parties. Carlton Decl. ¶ 7.

Not all third-party materials were produced voluntarily. Class Counsel brought three motions to compel documents against four third parties. One of these motions was withdrawn after the subpoenaed party agreed to produce requested material. The remaining motions were briefed extensively, and argued, before they were transferred to this Court, where they were

granted in full.¹ Joint Decl., ¶ 17. All told, these motions to compel yielded more than 200,000 documents and 600,000 pages of discovery material. *Id.*

3. Class Counsel took and defended more than 35 fact and expert depositions and took a lead role in case management.

To progress discovery in this matter, the Court convened regular “Gang of 8” conferences with counsel for all parties. Class Counsel participated in and helped lead every conference for the plaintiff side and worked extensively with the parties in advance to narrow the issues presented to the Court. Through Class Counsel’s efforts, this process moved discovery forward on multiple fronts and, among other things, also resulted in briefing parameters for class certification that facilitated a fulsome showing from Plaintiffs. Joint Decl. ¶ 18.

Depositions proceeded apace. All told, Class Counsel took and participated in over 35 depositions. *Id.* ¶ 19. Class Counsel deposed the executives most involved in Defendants’ ATM businesses, as well as multiple Rule 30(b)(6) designees. In expert discovery, Class Counsel also deposed an economic expert and an industry expert who supplied reports opposing class certification. Class Counsel also prepared extensively for, and defended, the depositions of the named Plaintiff class representatives (Andrew Mackmin and Sam Osborn), as well as Plaintiffs’ economic expert, Professor Carlton. *Id.*

4. Class Counsel and their experts engaged in extensive expert discovery and analysis that was critical to prosecuting this complex action.

From the very start, expert analysis was essential to this litigation. The existence of the “non-discrimination” pricing rules (“NDRs”) Plaintiffs challenge was never in dispute; rather, the question has always been whether the rules have anticompetitive effects and cause classwide impact. These are questions that cannot fully be answered without sustained economic expert

¹ See Minute Order, *Mackmin et al. v. NYCE Payments Network, LLC*, 19-mc-00002 (D.D.C. June 5, 2019); Minute Order, *Mackmin et al. v. Visa, Inc.*, 19-mc-00018 (D.D.C. June 5, 2019).

analysis. All parties in this litigation, both plaintiffs and defendants, have retained one or more seasoned economic experts, given this reality. *Id.* ¶ 20.

Class Counsel retained multiple experts, some of which acted in a consulting role and one of which, Professor Carlton, provided testimony. To provide industry analysis and data support, Plaintiffs retained Dr. Alan Frankel, founder and chair of Coherent Economics, as well as a team of Coherent economists to assist in his work. Plaintiffs also retained Sam Ditzion, CEO of Tremont Capital Group, to consult on the ATMs industry. As their testifying and class certification expert, Plaintiffs retained Professor Dennis Carlton of Compass Lexecon. Plaintiffs split the expert work to maximize efficiencies. Dr. Frankel and his team, along with Mr. Ditzion, provided invaluable insight into the ATM industry, along with data analysis. This foreground work allowed Professor Carlton to focus on liability, class certification, and damages issues, which required an enormous amount of data-specific analysis, along with a broader review of the case documents and economic literature. *Id.* ¶ 21.

Overall, this litigation required an atypically high amount of expert work, particularly due to the large amount and nature of data bearing on Plaintiffs' claims. As noted above, it was not enough just to obtain Defendants' documents and data, a task that would have been labor-intensive in its own right. Both Plaintiffs and Defendants also subpoenaed data and documents from two dozen third parties, which magnified the amount of work exponentially. While this data was essential to Professor Carlton's damages analysis, stitching it together required an incredible amount of hands-on analysis. *Id.* ¶ 22; *see* Carlton Decl. ¶¶ 6-9; Frankel Decl. ¶¶ 6-9.

All of this work culminated in Professor Carlton's report supporting Plaintiffs' motion for class certification. The report covered the waterfront of liability and damages issues and concluded that all could be established with common proof. To estimate damages, Professor

Carlton constructed a regression model to estimate the relationship between net-interchange and surcharges. He then applied the output of that model to the extensive data Plaintiffs collected to estimate classwide damages. Joint Decl. ¶ 23. Following affirmance of class certification, he also updated his damages analysis and was in the process of preparing merits reports when the Network Defendants finally settled with Plaintiffs. *Id.*

5. Class Counsel completed thorough class certification briefing, obtained class certification, and successfully defended that result on appeal.

On September 20, 2019, following extensive discovery, Plaintiffs filed their motion for class certification, supported by the Carlton expert report discussed above. *See* Dkt. 177-13, 177-113. In their class certification motion, Plaintiffs showed, among other things, that Defendants' adoption of the NDRs reduced price competition and increased costs to ATM operators across the ATM industry. Professor Carlton demonstrated that this industry-wide elevation in marginal costs resulted in an industry-wide elevation in surcharges (*i.e.*, consumer prices), which all or virtually all Class members paid and suffered injury as a result. *See* Dkt. 177-13 at 29-45 (discussing Professor Carlton's conclusions). Joint Decl. ¶ 24.

On February 18, 2020, the Network Defendants filed their opposition to Plaintiffs' motion for class certification. Dkt. 203. The Bank Defendants did not join this opposition because just prior to its filing, they agreed in principle to settlements with Plaintiffs (though the negotiations leading to the final settlement agreements continued until August 2020). *See* Section II.B.1, *infra*. Defendants' opposition to class certification was supported by Professor Glenn Hubbard, as well as by industry expert, Anthony Hayes. Dkt. 203. After deposing Professor Hubbard and Mr. Hayes, Plaintiffs filed their class certification reply brief, supported by the rebuttal report of Professor Carlton, wherein he refuted the criticisms of Professor Hubbard and reconstructed more than 100 regressions Professor Hubbard had supplied to show that, properly

specified using all available data, they actually *supported* the propriety of certifying the proposed class. Dkt. 217, 248. Joint Decl. ¶ 25.

Unlike in most cases where the reply memorandum ends the class certification briefing, that was not the case here. Unsatisfied by the state of play after Plaintiffs' reply brief and Professor Carlton's rebuttal report, on September 24, 2020, Network Defendants filed a motion for leave to file a sur-reply alongside a proposed sur-reply brief and a 278-page sur-rebuttal report by Professor Hubbard. Dkt. 220. Class Counsel then filed an opposition to Defendants' motion for leave to file a sur-reply, explaining that Visa and MasterCard identified nothing "new" in Professor Carlton's reply warranting a sur-reply; rather, they simply sought to (unsuccessfully) rehabilitate Professor Hubbard's analysis that Professor Carlton's showed was flawed and actually supported class certification. Dkt. 221. After this October 1, 2020 brief, the class certification briefing closed. Joint Decl. ¶ 26.

On August 4, 2021, this Court issued an Order and Memorandum Opinion granting Plaintiffs' motion for class certification, as well as granting the class certification motions of the two related putative classes with claims against Visa and MasterCard. Dkt. 234, 235.² On October 1, 2021, the D.C. Circuit Court of Appeals granted Visa and MasterCard's petition for permission to file an interlocutory appeal from the class certification orders pursuant to Fed. R. Civ. P. 23(f). Dkt. 245. Following extensive briefing by all parties, and oral argument, the D.C. Circuit affirmed class certification by Judgment dated July 25, 2023. Dkt. 269. The Network Defendants petitioned the Supreme Court for certiorari, which was denied on April 15, 2024, after briefing from both sides. Joint Decl. ¶ 26.

² The Court subsequently issued an Amended Order granting class certification that superseded its prior certification order. Dkt. 238. The Amended Order also appointed Co-Lead Class Counsel and Class Representatives for the litigation class. *Id.*

Meanwhile, in early 2024, the Network Defendants supplemented their data productions. This allowed Plaintiffs to update their damages estimates, which included three different analyses: a low, mid-range, and high estimate of single damages. *See* Dkt. 288-2 ¶ 10. In addition to incorporating additional data, Plaintiffs' updated calculations included certain corrections in response to arguments the Network Defendants and their economic expert had made during the class certification process. The updated calculations increased the amount of the "low" damages model (due to the extra years of damages included in the supplemental productions), modestly reduced the "mid-range" estimate, and incrementally raised the "high" estimate. *See id.*

B. Arm's-Length Settlement Negotiations Resulted in a Settlement That Delivers Assured and Significant Monetary Relief to the Class

1. Plaintiffs engaged in extensive settlement negotiations with the Network Defendants.

Co-Lead Class Counsel and counsel for the Network Defendants first discussed potential settlement in December 2017, involving all then-Defendants. Subsequently, settlement was only reached with the Bank Defendants. Those settlements were preliminary approved on November 12, 2021, and, following notice to the Settlement Class, finally approved by Order dated August 8, 2022. Dkt. 261. In approving the Bank Defendant settlements, the Court found the settlement relief "fair, reasonable, and adequate to the Settlement Class" and that the Settlement Administrator had delivered the "best notice practicable." *Id.* at 2, 3. There was only one objection to the Bank Defendant settlements, which the Court concluded was "without merit." *Id.* 3. Joint Decl. ¶ 27.

Settlement discussions with Network Defendants began again in May 2020, after the Bank Defendants' settlement had been announced, in mediations before the Hon. Layn Phillips (Ret.), one of the nation's foremost mediators. At those times, the parties were unable to reach

resolution. *See* Dkt. 288-2, ¶ 8. Then, in early 2024, after class certification had been granted and the D.C. Circuit Court of Appeals affirmed this Court’s order, and while the Network Defendants’ petition for certiorari was pending before the Supreme Court, Plaintiffs and the Network Defendants began to discuss settlement again. *Id.* This culminated in a full-day mediation with Judge Phillips in March 2024. Throughout, the Network Defendants’ counsel, who are highly experienced and capable, vigorously advocated their clients’ positions. *Id.*, ¶ 9. Co-Lead Class Counsel, who were well-informed of the facts and issues concerning liability and damages and the relative strengths and weaknesses of each side’s litigation position, vigorously advocated Plaintiffs’ positions. *Id.* The mediation session resulted in a settlement which was memorialized in a binding term sheet agreement. *Id.* Plaintiffs and the Network Defendants proceeded to negotiate a long-form Settlement Agreement, which was entered into on May 2, 2024. *See* Dkt. 288-2, Ex. A at 1.

2. The Network Settlement delivers substantial relief to the Class.

Pursuant to the Settlement Agreement, the Network Defendants will collectively make cash payments of \$197.5 million. The Network Defendants also agreed to “exercise their reasonable best effort to accomplish the terms of this Settlement Agreement,” including by “serving notice on those entities required to receive notice pursuant to 28 U.S.C. § 1715.” Dkt. 288-2, Ex. A at 12.

In exchange for the consideration described above, members of the proposed Settlement Class will release the respective Network Defendants from claims that were or could have been alleged in this Action. *Id.* ¶ 9.³

³ The full text of the proposed release, including the limitations thereof, is set forth in the Settlement Agreement. Dkt. 288-2, Ex. A.

C. Further Proceedings and the Current State of Play

On May 29, 2024, Plaintiffs moved for preliminary approval of the settlement with the Network Defendants and to direct notice to the Settlement Class. Dkt. 288. Plaintiffs' motion was granted on July 26, 2024. Dkt. 292. Notice to the class commenced on August 23, 2024. Joint Decl. ¶ 36. This case was stayed on July 26, 2024. Dkt. 292. Joint Decl. ¶¶ 34-37.

III. ARGUMENT

The *Mackmin* Consumer Plaintiffs respectfully request an award of \$59.25 million in attorneys' fees—equal to 30 percent of the \$197.5 million common fund obtained by the Network Settlement. Although the D.C. Circuit does not require it, if this Court applies a lodestar crosscheck, the total fee award for the case—including the requested fees here and the \$20.022 million awarded in connection with the Bank Defendant settlements—would result in a 2.73 multiplier of Class Counsel's lodestar of \$29,062,798,⁴ which is well within the range of multipliers granted in similar cases, and lower than many, and does not include any fees Plaintiffs will incur through final approval, settlement distribution, and appeals. Plaintiffs also request reimbursement of the remainder of the expenses they have incurred in connection with this litigation, after subtracting the \$10 million Plaintiffs were reimbursed after the Bank Defendant settlements. Specifically, Plaintiffs seek reimbursement of the remaining \$4.32 million of the more than \$14.32 million they have incurred litigating this case to completion. Finally, Plaintiffs request that this Court grant service awards of \$10,000 to each of the two class representatives.

⁴ In order to offer as conservative a number as possible, for this Motion, Class Counsel have preemptively reduced their total lodestar across-the-board by 5%.

A. Class Counsel’s Fee Request Is Fair and Reasonable

The Network Settlement at issue is a common fund, non-reversionary settlement. A court’s ultimate duty when determining attorneys’ fees in common fund litigation is to ensure that the request is reasonable in light of the overall facts of the case. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1265 (D.C. Cir. 1993). In class actions, the common fund doctrine “allows a party who creates, preserves, or increases the value of a fund in which others have an ownership interest to be reimbursed from that fund for litigation expenses incurred, including counsel fees.” *Swedish Hosp.*, 1 F.3d at 1265; *see also In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 39 (D.D.C. 2011). As the Supreme Court has recognized, the doctrine is based on the concept that “persons who obtain the benefit of a lawsuit without contributing to its cost are unjustly enriched at the successful litigant’s expense.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). The doctrine is “designed to spread the costs of litigation among all the beneficiaries of an identifiable fund.” *Bebchick v. Wash. Metro. Area Transit Comm’n*, 805 F.2d 396, 402 (D.C. Cir. 1986).

The D.C. Circuit has joined other circuits in “concluding that a percentage-of-the-fund method is the appropriate mechanism for determining the attorney fees award in common fund cases.” *Swedish Hosp.*, 1 F.3d at 1271; *accord In re Fannie Mae Sec., Derivative, & “ERISA” Litig.*, 4 F. Supp. 3d 94, 110 (D.D.C. 2013) (Leon, J.); *In re Vitamins Antitrust Litig.*, 2001 WL 34312839, at *2 (“[T]his Circuit requires the percentage of the recovery method in common fund cases . . .”).

Courts do so because the percentage-of-recovery method “directly aligns the interests of the Class and its counsel and it provides a powerful incentive for the efficient prosecution and early resolution of litigation, which clearly benefits both litigants and the judicial system.” *In re Lorazepam*, 2003 WL 22037741, at *7 (citation and internal quotation marks omitted). This is as

opposed to the “lodestar method” which, in contrast, “create[s] an unanticipated disincentive to early settlements, tempt[s] lawyers to run up their hours, and compel[s] district courts to engage in a gimlet-eyed review of line-item fee audits.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (alterations in original).

As demonstrated below in Section III.A.1.a-f, Plaintiffs’ fee request of \$59.25 million is reasonable under the percentage-of-the-fund analysis utilized in this Circuit. Additionally, as explained *infra* in Section III.A.1.g, a lodestar cross-check, though not required, confirms the reasonableness of the fee request.

1. A fee award of 30% of the settlement fund is within the benchmark range and supported by all applicable criteria.

Plaintiffs respectfully submit that a fee award of \$59.25 million, equal to 30 percent of the common settlement fund, is a reasonable award under the criteria considered in this Circuit. As this Court has observed, the D.C. Circuit “has not yet developed a formal list of factors to be considered in evaluating fee requests under the percentage-of-recovery method.” *In re Fannie Mae*, 4 F. Supp. 3d at 110-11 (quoting *In re Lorazepam*, 2003 WL 22037741, at *8).

Nevertheless, courts in this district “often consider[] the following seven factors: (1) the size of the fund created and the number of persons benefited, (2) the presence or absence of substantial objections by class members to the settlement terms or fees requested by counsel, (3) the skill and efficiency of the attorneys involved, (4) the complexity and duration of litigation, (5) the risk of nonpayment, (6) the time devoted to the case by plaintiffs’ counsel, and (7) awards in similar cases.” *Id.*

All of these criteria support the fee request here.

a. The fee request is well within the range of awards in similar cases, as well as the fees awarded previously in this case.

To provide appropriate context for the application of these factors to their fee request, Plaintiffs begin by describing the range of awards in similar cases. This court in its 2013 decision in *In re Fannie Fae* explained that “[b]oth nationally in our Circuit, a majority of common fund class action fee awards fall between twenty and thirty percent.” *See* 4 F. Supp. 3d at 111 (citation and internal quotation marks omitted); *see also id.* (quoting 4 William B. Rubenstein, Alba Conte & Herbert B. Newberg, *Newberg On Class Actions* § 14:6 (4th ed. 2002) for the following proposition: “In the normal range of common fund recoveries in securities and antitrust suits, common fee awards fall in the 20 to 33 per cent range.”); In connection with the Bank Defendants Settlements, this Court awarded Class Counsel fees equivalent to 30 percent of the common fund created by those settlements. *See* Dkt. 256 at 1; 260. And that was before this Court granted Plaintiffs’ motion for class certification, which Class Counsel successfully defended on appeal.

Indeed, Class Counsel’s request for an award of 30 percent of the Settlement Fund is in line with, if not lower than, attorneys’ fees awarded in several other antitrust and complex class actions in this district. *See, e.g., In re Vitamins*, 2001 WL 34312839, at *9 (awarding attorneys’ fees equal to 33.7% of \$365 million settlement fund in complex antitrust class action); *Bynum v. D.C.*, 412 F. Supp. 2d 73, 81 (D.D.C. 2006) (awarding 1/3 (33.3%) of settlement funds in attorneys’ fees to class counsel); *In re Lorazepam*, 2003 WL 22037741, at *3, *9 (in antitrust class action, awarding fees equal to 30 percent of \$35 million settlement fund); *Levine v. Am. Psych. Ass’n (In re APA Assessment Fee Litig.)*, 311 F.R.D. 8, 22 (D.D.C. 2015) (awarding 30 percent of settlement fund to counsel); *In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 498

(D.D.C. 1981) (noting that several courts have awarded more than 40 percent of the settlement fund in antitrust cases).⁵

Furthermore, the requested 30 percent fee award is less than the norm in the private marketplace, where attorneys negotiate typical contingent arrangements in excess of 30 percent. *In re Vitamins*, 2001 WL 34312839, at *12 (“[P]ercentage of recovery method is meant to simulate awards that would otherwise prevail in the market . . .”). Attorneys regularly contract for contingent fees between 30 and 40 percent with their clients in non-class, commercial litigation. *Id.* (one-third is a common percentage of recovery in private contingency fee cases); *In re Ikon Off. Sols., Inc., Sec. Litig.*, 194 F.R.D. 166, 194 (E.D. Pa. 2000) (“[I]n private contingency fee cases, particularly in tort matters, plaintiffs’ counsel routinely negotiate agreements providing for between thirty and forty percent of any recovery.”); F. Patrick Hubbard, *Substantive Due Process Limits on Punitive Damages Awards: “Morals Without Technique”?*, 60 Fla. L. Rev. 349, 383 (2008) (discussing “the usual 33-40 percent contingent fee” (quoting *Mathias v. Accor Econ. Lodging, Inc.*, 347 F.3d 672, 677 (7th Cir. 2003))).⁶

⁵ See also *In re S.E. Milk Antitrust Litig.*, 2013 WL 2155387, at *3 (E.D. Tenn. May 17, 2013) (awarding one-third of \$158 million settlement fund); *In re Iowa Ready-Mix Concrete Antitrust Litig.*, 2011 WL 5547159, at *3 (N.D. Iowa Nov. 9, 2011) (awarding 36 percent of \$18.5 million settlement fund); *In re Polyurethane Foam Antitrust Litig.*, 2015 WL 1639269, at *7 (N.D. Ohio Feb. 26, 2015) (awarding 30 percent of \$147.8 million settlement fund); *In re Transpacific Passenger Air Transp. Antitrust Litig.*, 2015 WL 3396829, at *2 (N.D. Cal. May 26, 2015) (awarding 30 percent of settlement fund due to substantial litigation); *Std. Iron Works v. Arcelormittal (In re Steel Antitrust Litig.)*, 2014 WL 7781572, at *3 (N.D. Ill. Oct. 22, 2014) (awarding 33 percent of \$163.9 million settlement fund); *Bradburn Parent Teacher Store, Inc. v. 3M*, 513 F. Supp. 2d 322, 340 (E.D. Pa. 2007) (awarding 35 percent of \$39.75 million settlement fund); *In re Linerboard Antitrust Litig.*, 2004 WL 1221350, at *19 (E.D. Pa. June 2, 2004) (awarding 30 percent of \$202 million settlement fund).

⁶ See also Herbert M. Kritzer, *The Wages of Risk: The Returns of Contingency Fee Legal Practice*, 47 DePaul L. Rev. 267, 286 (1998) (reporting the results of a survey of Wisconsin lawyers, which found that “[o]f the cases with a [fee calculated as a] fixed percentage [of the recovery], a contingency fee of 33% was by far the most common, accounting for 92% of those cases”).

In sum, Class Counsel's 30 percent fee request is well within the range of fee percentages granted in similar common fund cases, and it is in line with, if not lower than, contingent arrangements in the private marketplace. The fee request is particularly reasonable in the circumstances of this case, as further discussed below.

b. The size of the common fund and number of persons benefitted supports the fee request.

One of the most important factors in assessing the reasonableness of a fee request is the result achieved for the Settlement Class. *See Hensley*, 461 U.S. at 436 (“[T]he most critical factor is the degree of success obtained.”). Here, Class Counsel have secured valuable benefits for a nationwide Settlement Class, which weighs heavily in favor of the fee request.

Plaintiffs' damages expert, Professor Dennis Carlton, presented at class certification three potential measures of single damages. *See* Dkt. 222-2, ¶ 15. In the lead up to the mediation, Plaintiffs disclosed to the Network Defendants that Professor Carlton had revised those numbers based on more recent data and analyses. Professor Carlton's updated damages calculations increased the “low” estimate, slightly reduced the “middle-range” estimate, and only incrementally increased the “high” estimate. Specifically, as updated, Professor Carlton's three potential measures of damages were \$691.9 million, \$858.8 million, and \$1.142.0 billion. *See* Dkt. 288-2, ¶ 10.

The \$197.5 million in cash payments provided by the Network Defendant Settlement *alone* represents 28.5% of that lower bound, and 17.3% of the upper of these revised damages estimates. *See id.* ¶ 11. And critically, the Settlement does not represent the Settlement Class's entire recovery, which also includes the \$66.74 million recovered under the Bank Defendant settlements. Combined, the Network and Bank Defendant Settlements deliver \$264.24 million in cash payments to the Settlement Class. That represents 38.2% of the minimum damages figure

Professor Carlton estimated, and 23.1% of the maximum. In *In re Cathode Ray Tube (CRT) Antitrust Litigation*, the court cited a survey of 71 settled antitrust cases which showed a weighted mean recovery of 19% of single damages, demonstrating the strength of a total recovery of *at least* 23.1% of the Settlement Class's potential singles damages. See 2016 WL 3648478, at *7 & n.19 (N.D. Cal. July 7, 2016). Indeed, decisions across the country, including in antitrust class actions, have awarded 33 percent or more in fees where class members recovered 20 percent or less of possible damages in complex and risky actions.⁷

c. Class Counsel demonstrated skill and efficiency in obtaining the Settlement, further supporting the fee request.

The skill and efficiency of Class Counsel also weighs in favor of the requested fee. Class Counsel's vigorous prosecution of this case and the substantial resources they have dedicated to it demonstrate the reasonableness of the fee request. Class Counsel faced a substantial risk of never proceeding past the pleadings stage. After the case was initially dismissed by the original

⁷ See, e.g., *In re Lithium Ion Batteries Antitrust Litig.*, 2020 WL 7264559, at *19-20, *23 (N.D. Cal. Dec. 10, 2020) (describing recovery of 11.7% of possible single damages as an "excellent" result and awarding Class Counsel just under 30% of the settlement fund); Order Granting Award of Attys.' Fees, Reimb. of Expenses & Incentive Payments, *In re Static Random Access Memory (SRAM) Antitrust Litig.*, No. 07-md-1819-CW (N.D. Cal. Oct. 14, 2011), ECF No. 1407 (33 percent awarded to IPP counsel); *Id.* at ECF No. 1375 (showing that 33 percent awarded, \$41.322 million, was 15% of possible damages estimated by IPPs' expert in *SRAM*); *In re Corel Corp., Inc. Secs. Litig.*, 293 F. Supp. 2d 484, 489-90, 498 (E.D. Pa. 2003) (one-third fee awarded from settlement fund that comprised about 15% of damages); *In re Gen. Instrument Secs. Litig.*, 209 F. Supp. 2d 423, 431, 434 (E.D. Pa. 2001) (one-third fee awarded from \$48 million settlement fund that was 11% of the plaintiffs' estimated damages); *Cullen v. Whitman Med. Corp.*, 197 F.R.D. 136, 148 (E.D. Pa. 2000) (one-third awarded in fees from settlement of class consisting of defrauded vocational students that was 17% of the tuition the class members paid); *In re Med. X-Ray Film Antitrust Litig.*, 1998 WL 661515, at *7-*8 (E.D.N.Y. Aug. 7, 1998) (court increased 25% benchmark to 33.3% where plaintiffs recovered 17% of damages); *In re Crazy Eddie Secs. Litig.*, 824 F. Supp. 320, 326 (E.D.N.Y. 1993) (court increased 25% benchmark to 33.8% where plaintiffs recovered 10% of damages); see also *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2007) ("[A] total award of approximately 9% of the possible damages ... weighs in favor of granting the requested 28% fee.").

judge assigned to the case, Class Counsel's skill in drafting comprehensive appellate briefs and arguing the case before the D.C. Circuit Court of Appeals led to a complete reversal in a published appellate decision. And then, after Defendants persuaded the Supreme Court to grant *certiorari* on a narrow issue, Class Counsel successfully argued in its merits briefing that Defendants chose instead "to rely on a different argument." The Supreme Court agreed with Plaintiffs, dismissing the case on the basis that the writ of *certiorari* had been improvidently granted.

After ultimately prevailing at the Supreme Court, Class Counsel turned their attention to discovery. As discussed in the Background, Class Counsel engaged in substantial written discovery, took or participated in more than thirty-five depositions, and undertook critical expert discovery. *See supra*, Sections II.A.2-4. Class Counsel showed skill, foresight, and efficiency in completing this discovery, which required not only obtaining documents and information from Defendants, but also subpoenaing numerous third parties. As part of this effort, Class Counsel served 24 third-party subpoenas on ATM networks and ATM processors, and when some key ones refused to comply, Class Counsel brought multiple successful motions to compel in different jurisdictions. *See supra*, Sections II.A.2-3. Next, Class Counsel's skill in prosecuting this case is demonstrated by the comprehensive motion for class certification that they brought against the Defendants, and then their ability to not only defend the order granting class certification on appeal, but also convincing the Supreme Court that this was not a case worth granting *certiorari*. All of this likely, in large part, convinced the Network Defendants to settle.

Thus, from the very beginning of the case through the end, Class Counsel had to brief complex and unique legal issues before three sets of courts. Their initial victory at the Supreme Court allowed them to proceed with discovery on behalf of Plaintiffs, and then counsel engaged

in substantial discovery, class certification briefing, and then additional appellate briefing after class certification was granted. Without investing substantial resources into these efforts, no recovery would have been possible.

Moreover, this Court has already held that Rules 23(c)(1)(B) and 23(g) were satisfied in appointing Hagens Berman, Quinn Emanuel, and Mehri & Skalet as Class Counsel for the litigation class. Dkt. 238. These firms have extensive experience prosecuting antitrust class actions and have litigated some of the largest class actions in history, and they continue to do so today. All three firms have been recognized in courts throughout the U.S. for their abilities, skills, and experience in handling major class litigation efficiently and obtaining outstanding results for their clients. *See* Joint Decl. ¶¶ 71-84, Exs. 11, 12; Skalet Decl. ¶¶ 2-3, 10, Ex. B. Class Counsel are therefore well-acquainted with this type of litigation and have been well-positioned to litigate this complex action and to weigh its relative strengths and risks in reaching the settlement.

The performance and quality of opposing counsel likewise weigh in favor of the requested fee. Courts consider the skill and experience of counsel on both sides of the litigation in determining a reasonable fee award. *In re Vitamins*, 2001 WL 34312839, at *11; *In re Lorazepam*, 2003 WL 22037741, at *8-9 (approving fee award of 30 percent of settlement fund where class counsel were “experienced antitrust litigators” and defendants mounted an “aggressive and vigorous defense”). Here, Visa and Mastercard were primarily represented by Arnold & Porter Kaye Scholer LLP; and Paul, Weiss, Rifkind, Wharton & Garrison LLP, respectively. Each of these firms is well-known for its highly skilled and experienced attorneys, and together they brought to bear the resources of some of the largest and most powerful law firms in the world. Throughout this litigation, defense counsel have fiercely advocated their

clients' positions. The skill and experience of counsel on both sides support the reasonableness of the fee request.

d. The complexity and duration of this litigation supports the requested fee award.

The complexity and duration of this case also weighs in favor of the requested fee. Courts have recognized that the “antitrust class action is arguably the most complex action to prosecute.” See *In re Linerboard Antitrust Litig.*, 2004 WL 1221350, at *10 (quoting *In re Motorsports Merch. Antitrust Litig.*, 112 F. Supp. 2d 1329, 1337 (N.D. Ga. 2000) (internal quotation marks omitted)); see also *In re Auto. Refinishing Paint Antitrust Litig.*, 617 F. Supp. 2d 336, 341 (E.D. Pa. 2007) (the “antitrust class action is arguably the most complex action to prosecute[;] [t]he legal and factual issues involved are always numerous and uncertain in outcome” (internal quotation marks and citation omitted)).

This has been a particularly complex antitrust class action to prosecute. From the beginning of the case, Defendants challenged Plaintiffs' fundamental legal theory, obtaining a dismissal by the judge previously assigned to this case, before the D.C. Circuit Court of Appeal reversed and the Supreme Court remanded the case to this Court after initially granting *certiorari*. Plaintiffs also had to prove that the nondiscrimination rules at issue, which were established in 1996, had anticompetitive effects and caused classwide impact to millions of ATM customers during a class period that began ten years later. These issues required extensive discovery, not only from Defendants, but also from third parties spread throughout the country that vigorously contested Plaintiffs' requests. The complexity of the case is also evident in the sophisticated economic analyses Professor Carlton presented at class certification to analyze the relevant market, and show that classwide impact and damages may be demonstrated and measured through common evidence.

The long duration of this case also weighs in favor of the fee request. Class counsel initiated this action in October 2011, more than thirteen years ago. Additionally, this is not a case where Plaintiffs settled quickly after filing their pleadings or relied on parallel guilty pleas. Indeed, Plaintiffs reached the first settlement in this case, in principle, in December 2019—eight years after filing the first iteration of the complaint and only after multiple arm’s-length bargaining sessions over the course of several years with one of the nation’s leading mediators. The complexities and length of this case support the fee request. *See In re Aetna Inc. Sec. Litig.*, 2001 WL 20928, at *14, *16 (E.D. Pa. Jan. 4, 2001) (awarding 30 percent of settlement fund where “the course of this litigation was prolonged, having been actively litigated for nearly three years, and involved complex issues”).

e. Class Counsel have demonstrated devotion to this longstanding litigation, despite a serious risk of nonpayment.

The risk of nonpayment weighs in favor of the fee request. Many courts emphasize that the attorneys’ risk is a “foremost factor” in determining the fee award. *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 54 (2d Cir. 2000); *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 548 (S.D. Fla. 1988), *aff’d*, 899 F.2d 21 (11th Cir. 1990) (a contingency fee arrangement often justifies an increase in the award of attorneys’ fees). As noted in the accompanying declarations, Class Counsel have prosecuted this case on a purely contingent basis. The contingent nature of the fee “stands as a proxy for the risk that attorneys will not recover compensation for the work they put into a case.” *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 766 (S.D. Ohio 2007). Indeed, “within the set of colorable legal claims, a higher risk of loss does argue for a higher fee.” *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741, 746 (7th Cir. 2011).

This was a particularly challenging case where there was always a *bona fide* risk of no recovery. From the beginning of the case, Plaintiffs had to overcome an initial dismissal order,

first by prevailing at the D.C. Circuit Court of Appeals, and then by successfully convincing the Supreme Court to dismiss Defendants' appeal. Moreover, while Plaintiffs believe their case is strong, at the time of the settlement, there were many hurdles yet to overcome, any one of which could have led to no recovery at all: summary judgment, trial, and even more appeals. *See Meijer, Inc. v. Warner Chilcott Holdings Co. III*, 565 F. Supp. 2d 49, 55 (D.D.C. 2008) (“[C]omplex antitrust litigation is rife with uncertainties, risks, and delays . . .”).

Despite these serious risks of nonpayment, Class Counsel have diligently worked on the case for over a decade, totaling 32,673.4 hours and generating a lodestar (after a 5% across-the-board billing judgment reduction) of \$29,062,798. Class Counsel also incurred more than \$14.32 million in out-of-pocket costs. *See infra*, Sections III.A.1.g & III.B (discussing calculation of lodestar and litigation expenses in more detail). Class Counsel have thus assumed an enormous financial risk in prosecuting this complex litigation on a 100-percent contingent basis. Indeed, the amount of time devoted by Class Counsel alone weighs in favor of the fee request. *See Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) (court should look to “amount of time devoted to the case by plaintiffs’ counsel”); *Rosenbaum v. MacAllister*, 64 F.3d 1439, 1445 (10th Cir. 1995) (court should look at the “time and labor required”); *see also, e.g., In re Newbridge Networks Sec. Litig.*, 1998 WL 765724, at *3 (D.D.C. Oct. 22, 1998) (awarding fees of 30 percent of common fund where counsel “engaged in extensive motions practice and conducted considerable discovery”).

In sum, the significant risks faced by Plaintiffs throughout this complex litigation, and Class Counsel’s skilled efforts and substantial investment of resources and money over the course of more than a decade on behalf of Plaintiffs, purely on a contingent basis with no guarantee of any recovery, further supports the reasonableness of the 30 percent fee request. *See*

In re Lorazepam, 2003 WL 22037741, at *9 (awarding 30 percent of \$35 million settlement fund where class action was “vigorously litigated for a protracted period of time, raised novel and complex issues, involved a substantial risk of absolute non-payment, and demonstrated the quality of Class Counsel’s reputation”).

f. No objection to the Network Settlement has been filed to date.

Despite the fact that direct email notice of the Settlement has been provided to approximately 77.5 million potential settlement class members in combination with a robust publication notice campaign (Joint Decl. ¶ 36), no one has objected to the Network Settlements to date, which favors granting the fee request given that millions of class members had the opportunity to do so.

g. A lodestar cross-check, though not required, confirms the reasonableness of the fee request.

Some circuits require that district courts cross-check the contemplated percentage award against counsel’s lodestar. *In re Fannie Mae*, 4 F. Supp. 3d at 113 & n.20. In this Circuit, although a lodestar cross-check is not required, district courts may conduct one at their discretion to confirm a fee award’s reasonableness. *Id.*; *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82, 101 (D.D.C. 2013); *Trombley v. Nat’l City Bank*, 826 F. Supp. 2d 179, 205 (D.D.C. 2011) (citing *Swedish Hosp.*, 1 F.3d at 1266-67); *Wells v. Allstate Ins. Co.*, 557 F. Supp. 2d 1, 7 (D.D.C. 2008); *In re Baan Co. Secs. Litig.*, 288 F. Supp. 2d 14 (D.D.C. 2003).

The reasonableness of the requested fee award is confirmed by the lodestar cross-check. As explained in Mr. Berman and Mr. Wolfson’s Joint Declaration and the Skalet Declaration, as well as the accompanying exhibits, Class Counsel’s attorneys and staff have collectively worked more than 32,673 hours during this more than decade-long litigation, on a variety of tasks essential to representing Plaintiffs in this case. Joint Decl. ¶ 52. Moreover, the hours counted

toward the lodestar do not include the hours Class Counsel will spend through final approval, distribution of the settlement funds, and any appeals. Applying the current rates charged by attorneys and professional staff of Class Counsel to the hours expended, along with an across-the-board 5% reduction, yields a total lodestar of \$29,062,798. *Id.* ¶ 53.⁸ In this motion, Class Counsel’s fee request is \$59.25 million, and when added to the \$20.022 million in fees awarded in connection with the Bank Settlement, would result in total case fee awards of \$79,272,000. Thus, for their work securing settlements totaling \$264.24 million for the Settlement Class, Class Counsel represents a 2.73 multiplier of their total lodestar. *Id.*

The 2.73 multiplier is reasonable in light of the substantial common fund obtained for the class, the significant risks faced by Plaintiffs throughout this lengthy action, and the effective and efficient work of Class Counsel, who litigated this case on a purely contingent basis. Moreover, the 2.73 multiplier requested here is well within the range of multipliers granted in other cases, and lower than many. *See In re Lorazepam*, 2003 WL 22037741, at *9 (explaining that “multiples ranging up to ‘four are frequently awarded in common fund cases when the lodestar method is applied’” (quoting *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 148 F.3d 283, 341 (3d Cir. 1998))); *Spano v. Boeing Co.*, 2016 WL 3791123, at *3 (S.D. Ill. Mar. 31,

⁸ Courts in this Circuit, and elsewhere, frequently use current billing rates to calculate lodestar. *See, e.g., In re Nifedipine Antitrust Litig.*, 2011 WL 13392312, at *1 (D.D.C. Jan. 31, 2011) (Leon, J.); *In re Lorazepam*, 2003 WL 22037741, at *9. Using current rates can “counterbalance the delay in payment,” particularly when “legal services were provided over a multiple-year period.” *Murray v. Weinberger*, 741 F.2d 1423, 1433 (D.C. Cir. 1984). That reasoning has particular resonance here given that Class Counsel has litigated this case since 2011, and in the ensuing decade-plus billing rates have increased, while counsel has continued to litigate the case on a contingent basis with no guarantee of repayment. If Class Counsel used historic billing rates, without any billing judgment adjustment, its lodestar would be \$18,850,008, leading to an increase in the multiplier to 4.2, still well within the range of multipliers granted in similar cases, as discussed in the text. Joint Decl. ¶¶ 52-53.

2016) (“In risky litigation such as this, lodestar multipliers can be reasonable in a range between 2 and 5.”).⁹

B. Class Counsel Should Be Reimbursed for the Remainder of the Reasonable Litigation Expenses They Incurred, and for Which They Did Not Previously Seek Reimbursement

This Court has explained that “[i]n addition to being entitled to reasonable attorneys’ fees, class counsel in common fund cases are also entitled to reasonable litigation expenses from that fund.” *In re Fannie Mae*, 4 F. Supp. 3d at 113 (quoting *In re Lorazepam*, 2003 WL 22037741, at *10); *see also Vista Healthplan, Inc., v. Warner Holdings Co. III, Ltd.*, 246 F.R.D. 349, 365 (D.D.C. 2007) (“[T]here is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of ... reasonable litigation expenses from that fund.”). In this Motion, Plaintiffs respectfully request reimbursement of out-of-pocket expenses in the amount of \$4,322,524. After deducting the \$10 million they were reimbursed after the Bank Settlements, that is the remainder of the approximately \$14,322,524 in out-of-pocket expenditures Class Counsel incurred during the more than ten years of this litigation, all of which were reasonably incurred in connection with the prosecution of this case. Joint Decl., ¶ 59.

⁹ *See also Steiner v. Am. Broad. Co., Inc.*, 248 F. App’x 780, 783 (9th Cir. 2007) (affirming fee award with multiplier of 6.85 as “fall[ing] well within the range of multipliers that courts have allowed”); *Perez v. Rash Curtis & Assocs.*, 2021 WL 4503314, at *5 (N.D. Cal. Oct. 1, 2021) (approving fees of 37% of \$75 million settlement fund, a lodestar multiplier of 4.8); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) (explaining that “Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers,” and collecting cases); *King Drug Co. of Florence v. Cephalon, Inc. (Provigil)*, 2015 WL 12843830, at *6 (E.D. Pa. Oct. 15, 2015) (awarding a \$140.8 million fee equating to 4.12 multiplier); *In re AremisSoft Corp. Secs. Litig.*, 210 F.R.D. 109, 134-35 (D.N.J. 2002) (fee award resulted in lodestar multiplier of 4.3); *Steinfeld v. Discover Fin. Servs.*, 2014 WL 1309692, at *2 (N.D. Cal. Mar. 31, 2014) (approving fee that resulted in a 3.5 multiplier); *Dyer v. Wells Fargo Bank, N.A.*, 303 F.R.D. 326, 334 (N.D. Cal. 2014) (finding a 2.83 multiplier appropriate).

The total expenses incurred by Plaintiffs are broken down by category in the supporting declarations and exhibits. *See* Joint Decl. ¶¶ 59-67, Exs. 3, 6, 8, 10; Skalet Decl. ¶ 8, Ex. A.

With regard to expenses incurred by Class Counsel, the individual firm expenses include expenses for items such as attorney travel for case-related events, online legal research, service of subpoenas and process, and postage. Individual firm expenses that have been reasonably incurred in this litigation total approximately \$250,413. *See* Joint Decl. ¶ 66, Exs. 3, 6, 8; Skalet Decl. ¶ 8, Ex. A.

For the bulk of expenses in this litigation, however, Class Counsel created a Litigation Fund, 100% funded by counsel. No outside litigation funders have contributed to, or have an interest in, this Litigation Fund. Hagens Berman administered the Litigation Fund in connection with the prosecution of this case. The expenses incurred by the Litigation Fund are reflected in the books and records of Hagens Berman. These books and records are prepared from invoices, checks, and other source materials which are regularly kept and maintained by Hagens Berman and accurately reflect the expenses incurred. Joint Decl. ¶ 65. Payments from the Litigation Fund in this case total approximately \$14,072,111.67, or more than 98 percent of all of the expenses incurred in this case. *Id.* ¶ 64. Payments from the Litigation Fund went toward critical common expenditures, including economic experts and other consultants, the online database Plaintiffs used to house and review documents collected for and produced in the case (Everlaw, Inc.), deposition-related services, and mediation services. *See* Joint Decl. ¶ 65, Ex. 10.

Class Counsel submit that the litigation expenses incurred were reasonable and necessary to obtain the results achieved for the Settlement Class in light of the complexities of the case, the amount of discovery that was required of the five defendants and numerous third parties, and the challenging liability and expert issues raised in the case. Furthermore, these expenses are typical

expenses that counsel would generally bill to paying clients in the marketplace. Joint Decl. ¶ 62. Indeed, the “fact that [Class Counsel] were willing to expend their own money, as an investment whose reimbursement was entirely contingent on the success of this litigation, is perhaps the best indicator that the expenditures were reasonable and necessary.” *In re Lorazepam*, 2003 WL 22037741, at *10 (internal quotation marks omitted).

In this case, as is often the situation in complex antitrust class actions, Plaintiffs’ investments in economic experts constituted the largest category of expenditure. Class Counsel invested more than \$13.31 million in economic experts, which is equivalent to nearly 93% of the total expenditures in the case. *See* Joint Decl. ¶ 65, Ex. 10. As Plaintiffs discussed in Section II.A.4, *supra*, expert analysis was essential to this litigation. The key question has always been whether the non-discrimination rules at issue have anticompetitive effects, and cause classwide impact, and these are questions that cannot be fully answered without sustained economic analysis. The economic experts in this case—Dr. Frankel of Coherent Economics and Professor Carlton of Compass Lexecon, Plaintiffs’ testifying expert at class certification—split the work to maximize efficiencies and provide support to Class Counsel throughout the course of this litigation. In discovery, that work included researching and identifying the data needed from defendants and third parties, advising Class Counsel during the meet-and-confer process, and then after the data had been obtained, painstakingly cleaning it (*i.e.*, rendering it analyzable) and putting it all together in a single database. Utilizing that database, Professor Carlton and his team then supported Plaintiffs’ class certification motion with a comprehensive report and set of analyses showing, among other things, that Defendants’ conduct caused antitrust injury to all or nearly all class members, and that common evidence may be used to calculate the Class’s damages. Professor Carlton was also deposed at length, and then in his rebuttal report, he refuted

the criticisms of defense expert, Professor Hubbard, and showed how Professor Hubbard's analysis actually *supported* the propriety of certifying the proposed class. This work has been critical to prosecuting the action. And even more than in most antitrust class actions, the economic expert work here was particularly time-consuming and demanding, as explained in the accompanying declarations of Professor Carlton and Dr. Frankel. *See* Carlton Decl. ¶¶ 3-14; Frankel Decl. ¶¶ 3-12.

In sum, Plaintiffs respectfully submit that the \$4,322,524 in expenses they seek were reasonable expenses incurred in connection with this decade-plus long litigation. This Court has recognized that prosecuting cases of this size, duration, and complexity may require a large outlay in expenses. In *In re Fannie Mae*, this Court awarded the requested \$15,294,860.78 in expenses to class counsel, which were incurred over nine years of litigation and where, like here, expenditures on experts also constituted the bulk of expenses. *See In re Fannie Mae*, 4 F. Supp. 3d at 113-14.

C. Class Representatives Deserve Reasonable Service Awards for Their Dedication to This Case

Plaintiffs request modest service awards for each of the two class representatives in the amount of \$10,000 each. This award would be in recognition of the service the class representatives, Andrew Mackmin and Sam Osborn, have provided to the proposed Settlement Class, and in this district, "Courts routinely compensate named plaintiffs for the services provided and the risks incurred during class action litigation." *See Little v. Wash. Metro. Area Transit Auth.*, 313 F. Supp. 3d 27, 39 (D.D.C. 2018).

In this case, the \$10,000 service awards are well-deserved. Each class representative took his responsibilities seriously and devoted substantial time to the case, which has spanned more than a decade. Defendants deposed both representatives, and each spent substantial time

preparing for these depositions with counsel. Defendants also propounded 46 document requests and 26 interrogatories to each class representative. Messrs. Mackmin and Osborn provided valuable input throughout the case, reviewed pleadings, and, in consultation with counsel, reviewed and approved of the Settlements. In light of the value of the settlement proceeds and the class representatives' extraordinary service to the Settlement Class, Class Counsel respectfully submits that the requested awards are reasonable. Joint Decl. ¶¶ 68-70; Mackmin Decl. ¶¶ 2-7; Osborn Decl. ¶¶ 2-8.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request an award of \$59,250,000 in attorneys' fees, reimbursement of litigation expenses incurred in the amount of \$4,322,524, and \$10,000 in service awards to each of the two class representatives.

Dated November 8, 2024

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*Co-Lead Class Counsel for the
Mackmin Consumer Plaintiffs*

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Civil Action No. 1:11-cv-1831-RJL

**JOINT DECLARATION OF STEVE W. BERMAN AND ADAM WOLFSON IN
SUPPORT OF *MACKMIN* CONSUMER PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF
LITIGATION EXPENSES, AND SERVICE AWARDS FOR CLASS
REPRESENTATIVES**

GLOSSARY OF TERMS

Term	Description
Bank of America	Defendants Bank of America, National Association, NB Holdings Corporation, and Bank of America Association.
Bank Defendants	Bank of America, Chase, and Wells Fargo.
Carlton Decl.	Declaration of Dennis W. Carlton, concurrently filed herewith.
Chase	Defendants Chase Bank USA, N.A., JPMorgan Chase & Co., and JPMorgan Chase Bank, N.A.
Class Counsel	Hagens Berman, Quinn Emanuel, and Mehri & Skalet.
Defendants	Bank Defendants and Non-Settling Defendants.
Dkt.	All “Dkt.” citations in this brief refer to docket entries in <i>Mackmin et al. v. Visa, Inc. et al.</i> , No. 1:11-cv-1831-RJL (D.D.C.), unless otherwise noted.
Frankel Decl.	Declaration of Alan S. Frankel, concurrently submitted herewith.
Hagens Berman	Hagens Berman Sobol Shapiro LLP.
MasterCard	Defendants Mastercard Inc. and Mastercard International Inc. d/b/a Mastercard Worldwide.
Mehri & Skalet	Mehri & Skalet, PLLC.
Network Defendants	Defendants Visa and MasterCard.
Quinn Emanuel	Quinn Emanuel Urquhart & Sullivan, LPP.
Plaintiffs or <i>Mackmin</i> Consumer Plaintiffs	Plaintiffs in <i>Mackmin et al. v. Visa, Inc. et al.</i> , No. 1:11-cv-1831-RJL (D.D.C.).
Skalet Decl.	Declaration of Steven A. Skalet, concurrently filed herewith.
Wells Fargo	Defendants Wells Fargo & Company and Wells Fargo Bank, N.A.
Visa	Defendants Visa Inc., Visa U.S.A. Inc., Visa International Service Association, and Plus System, Inc.

WE, STEVE W. BERMAN AND ADAM WOLFSON, jointly declare under penalty of perjury under the laws of the United States as follows:

1. Steve Berman is an attorney duly licensed to practice before all of the courts of the State of Washington, and his pro hac vice application was approved by this Court. He is the Managing partner of the law firm of Hagens Berman Sobol Shapiro LLP (“Hagens Berman”).

2. Adam Wolfson is an attorney duly licensed to practice before all of the courts of the State of California, and his pro hac vice application was approved by this Court. He is a partner with Quinn Emanuel Urquhart & Sullivan, LLP (“Quinn Emanuel”).

3. These attorneys and their firms, alongside Mehri & Skalet, PLLC (“Mehri & Skalet”), are counsel of record for the Mackmin Plaintiffs (“Plaintiffs”), having been appointed Co-Lead Class Counsel (“Class Counsel”) for the litigation Class by this Court. *Mackmin et al. v. Visa, Inc. et al.*, No. 1:11-cv-1831-RJL (D.D.C. Sept. 7, 2021), Dkt. 238. Unless otherwise noted, all subsequent Dkt. references are to this case.

4. Mr. Berman and Mr. Wolfson declare that based on personal knowledge or discussions with counsel in their firms of the matters set forth herein in this Joint Declaration of Steve W. Berman and Adam Wolfson in Support of Mackmin Consumer Plaintiffs’ Notice of Motion and Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards (“Joint Declaration” or “Joint Decl.”), if called upon, they could and would competently testify thereto.

5. In addition to this Joint Declaration, Co-Lead Class Counsel Steven A. Skalet submitted a declaration on behalf of Mehri & Skalet, concurrently filed herewith. His declaration will be referred to herein as “Skalet Decl.”

6. The purpose of this Joint Declaration is to summarize and provide detailed documentation of: (a) this action; (b) the work performed by Class Counsel; (c) the time and fees incurred by Class Counsel in prosecuting this action; (d) the costs and expenses for which Class Counsel seek reimbursement, including the costs and expenses paid from the Litigation Fund, which Class Counsel funded; (e) the steps Class Counsel employed to ensure effective management of this complex litigation; and (f) the work performed by the class representatives in support of this action.

7. In addition to this Joint Declaration and the Skalet Declaration, Plaintiffs also have concurrently filed herewith in support of Mackmin Consumer Plaintiffs' Notice of Motion and Motion For Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards ("Fee Motion"): the declarations of the two class representatives, Andrew Mackmin ("Mackmin Decl.") and Sam Osborn ("Osborn Decl."), and the declarations of the two economic experts whose teams supported Plaintiffs' prosecution of this case, Professor Dennis Carlton ("Carlton Decl.") and Dr. Alan Frankel ("Frankel Decl.").

8. Class Counsel has prosecuted this litigation solely on a contingent-fee basis, without the use of outside funders, with no upfront retainer fees or allowance for expenses, and has been at risk of not receiving compensation for prosecuting the claims against the Defendants. These attorneys and their firms devoted substantial time and resources to this matter, and have foregone other legal work for which they otherwise would have been compensated.

I. THE ACTION

9. The Settlement Class in this case is defined as follows:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in

the United States at any time from October 1, 2007 to the date of the Preliminary Approval Order.¹ *See* Dkt. 292 at ¶ 2 (Order Granting Preliminary Approval of Settlement with Visa and Mastercard Defendants and Directing Notice to the Class).

II. BACKGROUND

A. The Network Settlement was the product of more than a decade of determined litigation by Class Counsel.

1. Early victories in the D.C. Circuit and the Supreme Court made these settlements possible.

10. In October 2011, Plaintiffs filed this action on behalf of themselves and a putative class of consumers who overpaid for surcharges levied on “off-us” transactions throughout the nation at bank ATMs. *See* Dkt. 1. The Bank Defendants and their co-defendants, Visa and MasterCard, moved to dismiss the case, which Class Counsel, on Plaintiffs’ behalf, briefed and argued. The judge previously assigned to this case granted that motion (Dkt. 55) and denied Plaintiffs’ subsequent motion to amend their complaint (Dkt. 71).

11. Class Counsel appealed that order and briefed and argued the issue in the D.C. Circuit Court of Appeals. Those efforts resulted in a complete reversal of the dismissal order, with a published decision finding that Plaintiffs plausibly stated all elements of their antitrust claims against Defendants. *See Osborn v. Visa Inc.*, 797 F.3d 1057 (D.C. Cir. 2015).

12. Defendants then petitioned for certiorari to the Supreme Court, which the Court granted. In the subsequent merits briefing, Class Counsel explained that, “[a]fter having

¹ Specifically excluded from the Settlement Classes are Defendants; Released Parties; the officers, directors, or employees of any Defendant or Released Party; any entity in which any Defendant or Released Party has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant or Released Party and any person acting on their behalf. Also excluded from the Settlement Class are any federal, state, or local governmental entities, Class Lead Counsel, and any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff.

persuaded [the Supreme Court] to grant certiorari” on a specific, narrow issue, Defendants chose instead “to rely on a different argument” to seek to overturn the D.C. Circuit Court of Appeal’s decision. The Supreme Court agreed that Defendants overstepped and subsequently dismissed the appeal on the basis that the writ of certiorari had been improvidently granted. *See Visa Inc. v. Osborn*, 580 U.S. 993 (2016) (Mem.). As this history shows, Class Counsel had to brief complex and unique legal issues before three sets of courts before even proceeding with discovery on behalf of Plaintiffs. Without investing substantial resources in these early efforts, no recovery would have been possible.

2. Class Counsel engaged in substantial written discovery.

13. After remand to this Court, Class Counsel aggressively pursued discovery to develop Plaintiffs’ claims. Before the Supreme Court had even granted certiorari, the parties undertook negotiations on a comprehensive case management order and pre-trial schedule. This resulted in a Joint Report on Scheduling Matters (Dkt. 99) in which Plaintiffs agreed to coordinate all three cases for discovery purposes to maximize efficiencies. Following an initial status conference, in which this Court encouraged the parties to work collaboratively (Dkt. 113), Class Counsel took the lead role in negotiating a protective order (Dkt. 112), ESI protocol (Dkt. 121), and expert discovery protocols (Dkt. 130).

14. These extensively negotiated protocols then set the stage for substantial yet targeted written and other discovery, which Class Counsel again took the lead role in pursuing and negotiating. Plaintiffs propounded 38 document requests and 8 interrogatories to both Network Defendants (Visa and MasterCard), along with 39 document requests and 6 interrogatories to each Bank Defendant (Bank of America, Chase, and Wells Fargo).

15. After multiple rounds of in-person, telephonic, and written meet-and-confer negotiations spanning the better part of a year, Defendants ultimately produced more than

239,422 documents, totaling 2,419,934 pages. As this is an antitrust case focusing on alleged overcharges, data productions were of particular importance, and following negotiations, Defendants ultimately produced an enormous transactional dataset. With the assistance of their experts, Plaintiffs cleaned and processed this dataset so that it could be analyzed for purposes of class certification and the merits analyses.

16. Third-party discovery was also essential in this case, because a single ATM transaction involves several different entities. Members of the Class transacted at ATMs operated by banks other than the Defendant banks, over ATM networks other than those operated by the Network Defendants, and, at times, those transactions were routed through various payment processing entities. None of these entities were parties to the case. Accordingly, both Plaintiffs and Defendants subpoenaed numerous third parties for records and data. As part of this effort, Class Counsel served 24 third-party subpoenas on ATM networks and ATM processors. Ultimately, Plaintiffs obtained more than 205,444 documents (constituting 677,299 pages) and substantial data productions, which Plaintiffs and their experts used to develop the case. In total, Plaintiffs' experts processed and analyzed over 3.6 terabytes of raw data from Defendants and third parties. Carlton Decl. ¶ 7.

17. Not all third-party materials were produced voluntarily. Class Counsel continued to negotiate with third parties resisting the subpoenas and, ultimately, brought three motions to compel documents against four third parties. One of these motions was withdrawn after the subpoenaed party agreed to produce requested material. The remaining motions were briefed extensively, and argued, before they were transferred to this Court, where they were granted in

full.² All told, these motions to compel yielded more than 200,000 documents and 600,000 pages of discovery material.

3. Class Counsel took and defended more than 35 fact and expert depositions and argued multiple discovery motions.

18. To progress discovery in this matter, the Court convened regular “Gang of 8” conferences with counsel for all parties. Class Counsel participated in and helped lead every conference for the plaintiff side and worked extensively with the parties in advance to narrow the issues presented to the Court. Through Class Counsel’s efforts, this process moved discovery forward on multiple fronts and, among other things, also resulted in briefing parameters for class certification that facilitated a fulsome showing from Plaintiffs.

19. Depositions proceeded apace. All told, Class Counsel took and participated in over 35 depositions. Class Counsel deposed the executives most involved in Defendants’ ATM businesses, as well as multiple Rule 30(b)(6) designees. In expert discovery, Class Counsel also deposed an economic expert and an industry expert who supplied reports opposing class certification. Class Counsel also prepared extensively for, and defended, the depositions of the named Plaintiff class representatives (Andrew Mackmin and Sam Osborn), as well as Plaintiffs’ economic expert, Professor Carlton.

4. Class Counsel and their experts engaged in extensive expert discovery and analysis that was critical to prosecuting this complex action.

20. From the very start, expert analysis was essential to this litigation. The existence of the “non-discrimination” pricing rules (“NDRs”) Plaintiffs challenge was never in dispute; rather, the question has always been whether the rules have anticompetitive effects and cause classwide impact. These are questions that cannot be fully answered without sustained economic

² See Minute Order, *Mackmin et al. v. NYCE Payments Network, LLC*, 19-mc-00002 (D.D.C. June 5, 2019); Minute Order, *Mackmin et al. v. Visa, Inc.*, 19-mc-00018 (D.D.C. June 5, 2019).

expert analysis. All parties in this litigation, both plaintiffs and defendants, have retained one or more seasoned economic experts, given this reality.

21. Class Counsel retained multiple experts, some of which acted in a consulting role and one of which, Professor Carlton, provided testimony. To provide industry analysis and data support, Plaintiffs retained Dr. Alan Frankel, founder and chair of Coherent Economics, as well as a team of Coherent economists to assist in his work. Plaintiffs also retained Sam Ditzion, CEO of Tremont Capital Group, to consult on the ATMs industry. As their testifying and class certification expert, Plaintiffs retained Professor Dennis Carlton of Compass Lexecon. Plaintiffs split the expert work to maximize efficiencies. Dr. Frankel and his team, along with Mr. Ditzion, provided invaluable insight into the ATM industry, along with data analysis. This foreground work allowed Professor Carlton to focus on liability, class certification, and damages issues, which required an enormous amount of data-specific analysis and work, along with a broader review of the case documents and economic literature.

22. Overall, this litigation required an atypically high amount of expert work, particularly due to the large amount and nature of data bearing on Plaintiffs' claims. As noted above, it was not enough to just obtain Defendants' documents and data, a task that would have been labor-intensive in its own right. Both Plaintiffs and Defendants also subpoenaed data and documents from two dozen third parties, which magnified the amount of work exponentially. While this data was essential to Professor Carlton's damages analysis, stitching it together required an incredible amount of hands-on analysis. *See* Carlton Decl. ¶¶ 6-9; Frankel Decl. ¶¶ 6-9.

23. All of this work culminated in Professor Carlton's report supporting Plaintiffs' motion for class certification. The report covered the waterfront of liability and damages issues

and concluded that all could be established with common proof. To estimate damages, Professor Carlton constructed a regression model to estimate the relationship between net-interchange and surcharges. He then applied the output of that model to the extensive data Plaintiffs collected to estimate classwide damages. Following affirmance of class certification, Professor Carlton also updated his damages analysis and was in the process of preparing merits reports when the Network Defendants finally settled with Plaintiffs.

5. Class Counsel completed thorough class certification briefing, obtained class certification, and successfully defended that result on appeal.

24. On September 20, 2019, following extensive discovery, Plaintiffs filed their motion for class certification, supported by the Carlton expert report discussed above. *See* Dkt. 177-13, 177-113. In their class certification motion, Plaintiffs showed, among other things, that Defendants' adoption of the NDRs in 1996 reduced price competition and increased costs to ATM operators across the ATM industry. Professor Carlton demonstrated that this industry-wide elevation in marginal costs resulted in an industry-wide elevation in surcharges (i.e., consumer prices), which all or virtually all Class members paid and suffered injury as a result. *See* Dkt. 177-13 at 29-45 (discussing Professor Carlton's conclusions).

25. On February 18, 2020, the Visa and MasterCard Defendants filed their opposition to Plaintiffs' motion for class certification. Dkt. 203. The Bank Defendants did not join this opposition because just prior to its filing, they agreed in principle to settlements with Plaintiffs (though the negotiations leading to the final settlement agreements continued until August 2020). *See* Section II.B.1, *infra*. Defendants' opposition to class certification was supported by Professor Glenn Hubbard, as well as by industry expert, Anthony Hayes. Dkt. 203. After deposing Professor Hubbard and Mr. Hayes, Plaintiffs filed their class certification reply brief, supported by the rebuttal report of Professor Carlton, wherein he refuted the criticisms of

Professor Hubbard and reconstructed more than 100 regressions Professor Hubbard had supplied to show that, properly specified using all available data, they actually supported the propriety of certifying the proposed class. Dkt. 217, 248.

26. Unlike in most cases where the reply memorandum ends the class certification briefing, that was not the case here. Unsatisfied by the state of play after Plaintiffs' reply brief and Professor Carlton's rebuttal report, on September 24, 2020, Visa and MasterCard filed a motion for leave to file a sur-reply alongside a proposed sur-reply brief and a 278-page sur-rebuttal report by Professor Hubbard. Dkt. 220. Class Counsel then filed an opposition to Defendants' motion for leave to file a sur-reply, explaining that Visa and MasterCard identified nothing "new" in Professor Carlton's reply warranting a sur-reply; rather, they simply sought to (unsuccessfully) rehabilitate Professor Hubbard's analysis that Professor Carlton's showed was flawed and actually supported class certification. Dkt. 221. After this October 1, 2020 brief, the class certification briefing closed. On August 4, 2021, this Court issued an Order and Memorandum Opinion granting Plaintiffs' motion for class certification, as well as granting the class certification motions of the two related putative classes with claims against Visa and MasterCard. Dkt. 234, 235.³ On October 1, 2021, the D.C. Circuit Court of Appeals granted Visa and MasterCard's petition for permission to file an interlocutory appeal from the class certification orders pursuant to Fed. R. Civ. P. 23(f). Dkt. 245. The D.C. Circuit affirmed class certification by Judgment dated July 25, 2023. Dkt. 269. The Network Defendants petitioned the Supreme Court for certiorari, which was denied on April 15, 2024, after extensive briefing from both sides.

³ The Court subsequently issued an Amended Order granting class certification that superseded its prior certification order. Dkt. 238. The Amended Order also appointed Co-Lead Class Counsel and Class Representatives for the litigation class. *Id.*

B. Arms' length settlement negotiations resulted in settlements that deliver assured and significant monetary relief to the Class.

1. Plaintiffs engaged in extensive settlement negotiations with the Network Defendants.

27. Co-Lead Class Counsel and counsel for the Network Defendants first discussed potential settlement in December 2017, involving all then-Defendants. Subsequently, settlement was only reached with the Bank Defendants. Those settlements were preliminary approved on November 12, 2021, and, following notice to the Settlement Class, finally approved by Order dated August 8, 2022. In approving the Bank Defendant settlements, the Court found the settlement relief “fair, reasonable, and adequate to the Settlement Class” and that the Settlement Administrator had delivered the “best notice practicable.” *Id.* at 2, 3. There was only one objection to the Bank Defendant settlements, which the Court concluded was “without merit.” *Id.* 3.

28. Settlement discussions with Network Defendants began again in May 2020, after the Bank Defendants settlement had been announced, in mediations before the Hon. Layn Phillips (Ret.), one of the nation’s foremost mediators. At those times, the parties were unable to reach resolution. Then, in early 2024, after class certification had been granted and the D.C. Circuit Court of Appeals affirmed this Court’s order, and while the Network Defendants’ petition for certiorari was pending before the Supreme Court, Plaintiffs and the Network Defendants began to discuss settlement again. This culminated in a full-day mediation with Judge Phillips in March 2024.

29. The parties then engaged in numerous negotiation sessions regarding long-form settlement agreements. Those negotiations included specifics about the information and assistance the Network Defendants would provide to Plaintiffs regarding, inter alia, class notice

and the payment of settlement funds to members of the proposed Settlement Class. That extended process resulted in a term sheet. Throughout, Network Defendants' counsel, who are highly experienced and capable, vigorously advocated their clients' positions in the settlement negotiations. Class Counsel, who were well-informed of the facts and issues concerning liability and damages and the relative strengths and weaknesses of each side's litigation position, as well as the importance of obtaining cooperation and assistance from the Network Defendants, just as vigorously advocated Plaintiffs' positions. Plaintiffs and the Network Defendants proceeded to negotiate a long-form Settlement Agreement, which was entered into on May 2, 2024.

2. The Network Settlement delivers substantial relief to the Class.

30. Pursuant to the Settlement Agreements, the Network Defendants will collectively make cash payments of \$197.5 million.

31. The Network Defendants also agreed to "exercise their reasonable best effort to accomplish the terms of this Settlement Agreement," including by "serving notice on those entities required to receive notice pursuant to 28 U.S.C. § 1715." Dkt. 288-2, Ex. A at 12.

32. The Network Defendants have stipulated to certification of the Settlement Class, which is substantively identical to the litigation class definition certified by the Court. *Compare id.* ¶ 2, with Dkt. 238 at 1. All proposed Settlement Classes are identical.

33. In exchange for the consideration described above, members of the proposed Settlement Class for the Network Defendants will release the respective Network Defendants from any and all claims that were or could have been alleged in this Action. Dkt. 288-2, Ex. A at

¶ 9.⁴

⁴ The full text of the proposed release, including the limitations thereof, is set forth in the Settlement Agreement. Dkt. 292.

C. Further proceedings and the current state of play.

34. On May 29, 2024, Plaintiffs moved for preliminary approval of the settlements with the Network Defendants and to direct notice to the Settlement Class. Dkt. 288.

35. Plaintiffs' Motion for Preliminary Approval of Settlement was granted by an order dated July 26, 2024. Dkt. 292.

36. As ordered by this Court, notice to the Settlement Class commenced on August 23, 2024. That notice included direct email notice to approximately 77.5 million potential settlement class members in combination with a robust publication notice campaign.

37. This case was stayed on July 29, 2024. Dkt. 292.

III. SUMMARY OF HAGENS BERMAN'S LODESTAR AND EXPENSES

38. Professionals at Hagens Berman devoted 15,399.6 hours in total to this litigation.

39. Hagens Berman's hourly rates are based on regular and ongoing monitoring of prevailing market rates for attorneys of comparable skill, experience, and qualifications.

40. A summary of the Hagens Berman timekeepers who worked on this litigation, their total hours, their historical hourly billing rates, and their total lodestar based on historical billing rates, is attached as Exhibit 1.

41. A summary of these same timekeepers who worked on this litigation, their total hours, their current hourly billing rates, and their total lodestar based on current billing rates, is attached as Exhibit 2.

42. A summary of the costs and expenses that Hagens Berman has paid to date in this litigation, organized by category, is attached as Exhibit 3. Apart from contribution to the Litigation Fund, the separate expenses incurred by Hagens Berman total \$92,205.73. *See also* Exhibit 8 (internal expenses of each Class Counsel firm identified). These costs and expenses are based on the books and records of Hagens Berman. The expenses reflected in Exhibit 3 are

prepared from expense vouchers, receipts, and bank records, and thus represent an accurate recordation of the expenses incurred.

43. In addition to the separate expense of Hagens Berman for which Class Counsel seek reimbursement, Hagens Berman also contributed \$6,828,547 to a Litigation Fund maintained in this case. *See* Exhibit 9. The expenses paid from this Litigation Fund for which Class Counsel seek reimbursement are described *infra*, in Section VI.B.

IV. SUMMARY OF QUINN EMANUEL'S LODESTAR AND EXPENSES

44. Professionals at Quinn Emanuel devoted 11,710.1 hours in total to this litigation.

45. Quinn Emanuel's hourly rates are based on regular and ongoing monitoring of prevailing market rates for attorneys of comparable skill, experience, and qualifications.

46. A summary of the Quinn Emanuel timekeepers who worked on this litigation, their total hours, their historical hourly billing rates, and their total lodestar based on historical billing rates, is attached as Exhibit 4.

47. A summary of these same timekeepers who worked on this litigation, their total hours, their current hourly billing rates, and their total lodestar based on current billing rates, is attached as Exhibit 5.

48. A summary of the costs and expenses that Quinn Emanuel has paid to date in this litigation, broken down by category, is attached as Exhibit 6. Apart from contribution to the Litigation Fund, the separate expenses incurred by Quinn Emanuel total of \$136,297.23. These costs and expenses are based on the books and records of Quinn Emanuel. The expenses reflected in Exhibit 6 are prepared from expense vouchers, receipts, and bank records, and thus represent an accurate recordation of the expenses incurred.

49. In addition to the separate expense of Quinn Emanuel for which Class Counsel seek reimbursement, Quinn Emanuel also contributed \$6,850,214 to a Litigation Fund maintained in this case. *See* Exhibit 9.

V. SUMMARY OF CLASS COUNSEL’S ATTORNEYS’ FEES

50. In this Motion, Plaintiffs respectfully request an award of \$59.25 million in attorney’s fees—equal to 30 percent of the \$197.5 million common fund obtained by the Network Settlement.

51. As explained *supra*, in Exhibits 1 and 2, respectively, Hagens Berman has provided its total lodestar at historical and current hourly rates. Similarly, as also explained *supra*, in Exhibits 4 and 5, respectively, Quinn Emanuel has provided its total lodestar at historical and current hourly rates. In Mr. Skalet’s declaration, he has provided Mehri & Skalet’s total lodestar at historical and current rates. *See* Skalet Decl. ¶ 9, Ex. A.

52. As shown in the exhibits to this Joint Declaration and the exhibits to the declaration of Mr. Skalet, Class Counsel’s total lodestar at current rates is \$30,592,419.01. Class Counsel’s total lodestar at historical rates is \$18,850,008.50. Class Counsel’s total lodestar is based on the 32,673.40 hours that they have invested in prosecuting this action. *See* Exhibit 7.

53. In order to offer a conservative number that also reflects the decade-plus that Class Counsel has worked on this case on a strictly contingency basis without any guarantee of payment, Class Counsel will take their total lodestar at current rates and reduce it across-the-board by 5% for billing judgment, and will using the resulting reduced lodestar amount, \$29,062,798, for the purposes of this Fee Motion. Class Counsel’s fee request is \$59.25 million, and when added to the \$20.022 million in fees awarded in connection with the Bank Settlements, that result in total fee awards in this case of \$79,272,000. That amount is approximately 2.73 times that lodestar used for the Fee Motion (often referred to as a multiplier). (If the Court used

Class Counsel's full lodestar at historical rates, \$18,850,008.50, the requested fee award, plus the amount awarded after the Bank Settlements, would lead to a multiplier of approximately 4.2.)

54. Class Counsel has foregone other work while litigating this case, and some attorneys worked nearly exclusively on this case for at least some of the many years of this decade-long litigation.

55. A summary of the total hours and lodestar for each Class Counsel firm at current and historical billing rates is summarized in Exhibit 7 to this declaration.

56. For an antitrust case of this size and complexity, Class Counsel has worked hard to keep the team relatively small, relying on attorneys from only three firms to avoid unnecessary inefficiency. Our team knows the case well and understands the complexity and nuances of the litigation.

57. To avoid duplication, Class Counsel has worked together to split assignments wherever possible, including at the document review stage. Our document reviewers have years of experience reviewing and assessing large volumes of documents in similar antitrust class action cases.

58. The attorneys working for Class Counsel applied their extensive experience litigating other antitrust class actions to this case, resulting in additional efficiencies.

VI. EXPENSES INCURRED BY PLAINTIFFS

A. Summary of Expenses

59. In this Motion, Plaintiffs respectfully request reimbursement of litigation costs and expenses they incurred on behalf of Plaintiffs in the amount of \$4,322,524. Reasonable litigation expenses in this case total \$14,322,524.93 (*see* Exhibits 8 and 10). After deducting the \$10 million Class Counsel were reimbursed after the Bank Settlements, \$4,322,524 is (rounded-down) the remainder of the out-of-pocket expenditures Class Counsel incurred during the more

than ten years of this litigation. Class Counsel's unreimbursed expenses were reasonably incurred, necessary for the litigation of the case, and Class Counsel advanced these expenses interest free with no assurance that they would ever be reimbursed.

60. Throughout the litigation, Class Counsel has prosecuted this case on a contingent basis, funding the case out-of-pocket, without the use of outside litigation funders.

61. The total amount of expenses requested is based the amounts identified in this Joint Declaration (for Hagens Berman and Quinn Emanuel) and the Skalet Decl. (for Mehri & Skalet), and the expenses paid out of the Litigation Fund, which are described in detail in this Joint Declaration in Section VI.B, *infra*.

62. Class Counsel submit that the litigation expenses incurred were reasonable and necessary to obtain the results achieved for the Settlement Class in light of the complexities of the alleged conspiracy, the amount of discovery that was required of the five Defendants and numerous third parties, and the challenging liability and expert issues raised in the case. Furthermore, these expenses are typical expenses that counsel would generally bill to paying clients in the marketplace.

B. Expense Paid out of the Litigation Fund

63. For the bulk of expenses in this litigation, Class Counsel created a Litigation Fund, 100% funded by counsel. As with all expenses for which Class Counsel seek reimbursement, no outside litigation funders have contributed to, or have an interest in, this Litigation Fund. The Hagens Berman firm has been tasked with the responsibility for administering the Litigation Fund in connection with the prosecution of this case. The expenses incurred by the Litigation Fund are reflected in the books and records of Hagens Berman. These books and records are prepared from invoices, checks, and other source materials which are regularly kept and maintained by Hagens Berman and accurately reflect the expenses incurred.

64. The litigation costs and expenses paid from the Litigation Fund total \$14,072,111.67. *See* Exhibit 10. That total represents more than 98 percent of the total expenses of \$14,322,524.93 incurred in connection with this case. *See* Exhibits 8 and 10.

65. Attached hereto as Exhibit 10 is a summary of the expenses paid from the Litigation Fund. The expenses from the Litigation Fund include the following:

a. Economic Experts and Analysis: Payments made to economic experts Professors Carlton and his team at Compass Lexecon, and Dr. Alan Frankel and his team at Coherent Economics. The expenditures for this expert analysis was essential to this litigation. In discovery, that work included researching and identifying the data needed from Defendants and third parties, advising Class Counsel during the meet-and-confer process, and then after the data had been obtained, painstakingly cleaning it (i.e., rendering it analyzable) and putting it all together in a single database. Utilizing that database, Professor Carlton and his team then supported Plaintiffs' class certification motion with a comprehensive report and set of analyses showing, among other things, that Defendants' conduct caused antitrust injury to all or nearly all class members, and that common evidence may be used to calculate the Class's damages. Even more than in most antitrust class actions, the economic expert work here was particularly time-consuming and demanding, as further explained in the accompanying declarations of Professor Carlton and Dr. Frankel, concurrently submitted herewith. In total, Plaintiffs incurred \$13,312,903.60 in this category of expenses paid from the Litigation Fund, which is equivalent to nearly 93 percent of the total expenditures in this case.

b. Deposition Transcripts and Videographers: Payments to deposition transcription and videography services by Veritext. In total, Plaintiffs incurred \$39,300.57 in this category of expenses paid from the Litigation Fund.

c. Document Collection, Review, and Synthesis: Payments made to document review platform hosting vendors, including Everlaw. In total, Plaintiffs incurred \$496,130.45 in costs for these services paid from the Litigation Fund.

d. Neutral Services: Payments made to Phillips ADR. In total, Plaintiffs incurred a total of \$98,542.50 in costs for these services paid from the Litigation Fund.

e. Industry Expert: Payments to an industry expert and his firm. In total, Plaintiffs incurred \$119,276.81 in costs for these services paid from the Litigation Fund.

f. Other Expenses: This category includes payments for printing and copying services, and to process services. In total, Plaintiffs incurred a total of \$5,957.74 in costs for these services paid from the Litigation Fund

C. Expenses Paid Directly by Class Counsel.

66. Of the total expenses incurred, \$250,413.26 of those expenses were paid directly by individual Class Counsel firms to vendors, as shown in Exhibit 8, which breaks down the expenses sought by Class Counsel according to the individual firm that paid the expense.

67. Each of the expenses is based on the expenses identified by Class Counsel in this Joint Declaration (for Hagens Berman and Quinn Emanuel) and the Skalet Decl. (for Mehri & Skalet).

VII. CLASS REPRESENTATIVE SERVICE AWARDS

68. The two Class Representatives in this litigation—Andrew Mackmin and Sam Osborn—have remained actively involved during the course of this case.

69. Plaintiffs request modest service awards for these class representatives in the amount of \$10,000 each (\$20,000 in total).

70. Each class representative took his responsibilities seriously and devoted substantial time to the case. Defendants deposed both representatives, and each spent substantial

time preparing for these depositions with counsel. Defendants also propounded 46 document requests and 26 interrogatories to each class representative. Messrs. Mackmin and Osborn provided valuable input throughout the case, reviewed pleadings, and, in consultation with counsel, reviewed and approved of the Settlements. In light of the value of the settlement proceeds and the class representatives' extraordinary service to the Settlement Class, Class Counsel respectfully submit that the requested awards are reasonable.

VIII. EXPERTISE AND EXPERIENCE OF CORE HAGENS BERMAN TEAM MEMBERS WORKING ON THIS LITIGATION

71. The expertise and experience of lead counsel is another important factor in setting a fair fee. As demonstrated by the Hagens Berman firm résumé, attached hereto as Exhibit 11, Hagens Berman is among the most experienced and skilled practitioners in the complex litigation field, and has a long and successful track record in such cases. Hagens Berman is a nationally recognized law firm, with offices in Berkeley, Seattle, Boston, Chicago, Los Angeles, Washington D.C., and Phoenix. The firm has been consistently rated by the National Law Journal in the top ten of plaintiffs' firms in the country. Hagens Berman has extensive experience litigating complex class actions asserting claims of securities, investment fraud, product liability, tort, antitrust, consumer fraud, employment, environmental, and ERISA cases. The fact that Hagens Berman has demonstrated a willingness and ability to prosecute complex cases such as this was undoubtedly a factor that encouraged the Bank Defendants to engage in settlement discussions, and added valuable leverage in the negotiations, ultimately resulting in the recovery for the Class. The Hagens Berman team paid attention to ensuring that each attorney on the file had specific areas of focus; that there was not duplication of efforts, especially among higher billers; and that projects were assigned to experienced lawyers with depth in the field who could effectively and efficiently execute the amount of work this case demanded.

72. In addition to biographies included in the attached firm résumé, below is a summary of the experience of some of the core team members:

73. Steve Berman, one of the founding partners of Hagens Berman, is widely regarded as one of the most effective class action attorneys in the country. In *In re NCAA Grant-in-Aid Cap Antitrust Litigation*, Mr. Berman led Hagens Berman’s trial team in a 10-day trial in September 2019 before former Chief Judge Claudia Wilken of the Northern District of California, successfully obtaining an injunction against the NCAA relating to caps on compensation available to college student-athletes. Mr. Berman questioned numerous witnesses and gave the closing argument at trial. The decision and injunction was upheld, unanimously, by the Supreme Court. *See NCAA v. Alston*, 141 U.S. 1241 (2021). Prior to trial, Mr. Berman recovered a \$208 million settlement for the class, but continued to litigate on behalf of the class for the injunction affirmed by the Supreme Court. He served as lead counsel for 13 states in the tobacco litigation, leading to a settlement of \$206 billion—the largest in history. He, along with Marc Seltzer, was appointed sua sponte by Judge James V. Selna of the Central District of California to serve as co-lead counsel in *In re Toyota Motor Corp. Unintended Acceleration*. The \$1.6 billion settlement was then the largest auto settlement, both in terms of class members and recovery, in U.S. history. Mr. Berman was sole lead class counsel in *In re: Stericycle, Inc., Steri-Safe Contract Litigation*, Case No. 13 C 5795, MDL No. 2455 (N.D. Ill.), where the class obtained \$295 million in settlements and injunctive relief. Judge Shadur stated in his preliminary approval order that the settlement demonstrated the “type of high quality work product that this Court anticipated when it designated Hagens Berman and its lead partner Steve Berman as class counsel.” Memo. & Order at 3, *In re: Stericycle, Inc.*, MDL No. 2455 (N.D. Ill. Oct. 26, 2017), ECF No. 310. He has served as lead or co-lead counsel in antitrust, securities, consumer, and

products liability litigation, as well as other complex litigation, including MDL actions, throughout the country. In addition, Mr. Berman was appointed to the plaintiffs' steering committee by Judge Breyer in the *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liability Litig.*, No. 15-md-02672-CRB (N.D. Cal.), and lead counsel for the franchise VW dealers, who settled for \$1.2 billion. Mr. Berman has received countless awards and recognition for his work, including the National Law Journal's 2021 recognition of him as a Sports & Entertainment Law Trailblazer, the American Antitrust Institute recognizing him in 2021, 2019, and 2018 as an Honoree for Outstanding Antitrust Litigation Achievement, and being named as a Class Action MVP of the Year for 2016 through 2020 by Law360. Mr. Berman was also recently named to the Lawdragon Hall of Fame for his career achievements. Mr. Berman graduated from the University of Chicago Law School in 1980.

74. *Jennifer Connolly* was a partner with Hagens Berman specializing in national, complex litigation matters including antitrust, pharmaceutical and consumer fraud class actions. Ms. Connolly performed a key role in litigation against McKesson Corporation, alleging the company engaged in a scheme that raised the prices of more than 400 brand name drugs. That case resulted in a \$350 million private class action settlement, an \$82 million settlement for municipalities throughout the United States, and numerous settlements on behalf of state attorneys general. Ms. Connolly was also a member of the team that successfully tried the *In re Pharmaceutical Industry Average Wholesale Price Litigation*, No. 01-cv-12257 (D. Mass.), against four pharmaceutical defendants, obtaining a verdict that was subsequently affirmed in all respects by the First Circuit Court of Appeals.

75. *Ben Harrington* is a partner with Hagens Berman specializing in antitrust and class action matters. Mr. Harrington has experience representing both plaintiffs and defendants,

including in *In Re Rail Freight Fuel Surcharge Antitrust Litigation*, 07-mc-00489 (D.D.C.), *Mackmin v. Visa Inc.*, 11-cv-01831 (D.D.C), *Laumann v. National Hockey League et al.*, 12-cv-2065 (S.D.N.Y.), and *In Re Google Play Store Antitrust Litigation*, 21-md-02981 (N.D. Cal.). After graduating summa cum laude from Hastings College of the Law, Mr. Harrington completed clerkships with the Honorable Harris Hartz (Tenth Circuit) and the Honorable Nina Gershon (Eastern District of New York).

76. *Christopher O'Hara* is a partner with Hagens Berman with a long history in working on antitrust class actions and settlements. Mr. O'Hara plays a key role in working with and overseeing notice and claims administrators on the firm's class settlements and class notice programs, including antitrust actions such as *In re Electronic Books Antitrust Litig.*, No. 11-mc-02293 (S.D.N.Y.); *In re Optical Disk Drive Antitrust Litig.*, No. 10-md-2143 RS (N.D. Cal.); and *In re Animation Workers Antitrust Litig.*, No. 14-CV-04062-LHK (N.D. Cal.). An active member of the firm's Microsoft defense team, Mr. O'Hara has spent the past 17 years working for and advising Microsoft in 20 state antitrust class action lawsuits and settlements around the country. Mr. O'Hara began his career with the firm as a Special Assistant Attorney General for 13 states, working on consumer protection and antitrust claims in the landmark State Tobacco Litigation, which resulted in the \$206 billion Tobacco Master Settlement Agreement, the largest settlement in world history. Named a Rising Star in 2003, Mr. O'Hara graduated from Seattle University School of Law, cum laude, in 1993.

77. *Benjamin Siegel* is Of Counsel in Hagens Berman's Berkeley office with significant experience in antitrust class actions. He is a 2007 graduate of The University of Texas School of Law, where he was an Articles Editor of the Texas Law Review, and the University of Texas Lyndon B. Johnson School of Public Affairs, graduating first in his class. After law

school, Mr. Siegel was a judicial law clerk to the Honorable Thomas M. Reavley of the United States Court of Appeals for the Fifth Circuit. He was admitted to the State Bar of California in 2008 and has been admitted to practice before the courts of the State of California, the Northern District of California, the Eastern District of California, and the Ninth Circuit Court of Appeals. Since joining the firm, Mr. Siegel has had a practice focused on antitrust class actions and is a member of the Hagens Berman teams in *In re Resistors Antitrust Litigation*, No. 15-cv-03820 (N.D. Cal.); *In re Optical Disk Drive Antitrust Litigation*, No. 10-md-02143 (N.D. Cal.); *Mackmin v. Visa Inc.*, No. 11-cv-1831 (D.D.C.); *In re College Athlete NIL Litigation*, No. 20-cv-03919 (N.D. Cal.); and *In re NCAA Grant-In-Aid Cap Antitrust Litigation*, No. 14-md-02541 (N.D. Cal.). In the latter case, Mr. Siegel was part of the team that successfully defended its trial win before the Supreme Court and received the American Law Institute’s award for Outstanding Antitrust Litigation Achievement in Private Law Practice. In 2018, he was named one of Super Lawyers’ “Rising Stars.” In 2024, he was named one of Northern California’s Super Lawyers.

IX. EXPERTISE AND EXPERIENCE OF CORE QUINN EMANUEL TEAM MEMBERS WORKING ON THIS LITIGATION

78. As the largest firm in the nation devoted solely to business litigation—with over 800 litigators worldwide—Quinn Emanuel has been described as a “global force in business litigation” by the *Wall Street Journal* and a “litigation powerhouse” by *The American Lawyer*. Quinn Emanuel has also been recognized by *Legal Business* three times as “US Law Firm of the Year.” And *The American Lawyer* named the firm in 2015 and 2019 as a “Litigation Department of the Year: Finalist.” Quinn Emanuel also was named “firm of the year” for Commercial Litigation in 2015 by the *Legal 500 USA Awards*. In 2020, Quinn Emanuel was voted the “most feared” firm in the world after independent BTI Consulting Group surveyed over 350 major companies who identified Quinn Emanuel as the firm they least wanted to face as opposing

counsel. A document with further summary information about Quinn Emanuel is attached as Exhibit 12.

79. When representing plaintiffs, Quinn Emanuel has won over \$80 billion in judgments and settlements. Quinn Emanuel also tries more cases than almost any other major law firm. The firm's partners have first-chaired over 2,300 trials and arbitrations, including five 10-figure verdicts, and eight 9-figure jury verdicts. The firm has also obtained fifty-one 9-figure settlements, and twenty 10-figure settlements.

80. Quinn Emanuel's class action practice is recognized as among the nation's best. For example, in 2013, 2016, and 2021, Quinn Emanuel was named the "Class Action Practice Group of the Year" by *Law360* for its work for plaintiffs and defendants in class action litigation. It has similarly received multiple accolades for its antitrust practice, having been named one of the best antitrust litigation groups in multiple years by legal publications such as *Chambers*, *Law360*, *The Recorder*, *Global Competition Review*, and more.

81. The following are representative examples of Quinn Emanuel's success on behalf of antitrust and class plaintiffs: Quinn Emanuel served as co-lead class counsel, obtaining over \$1.87 billion in settlements in *In re Credit Default Swaps Antitrust Litigation*, No. 13-md-02476 (S.D.N.Y.). Quinn Emanuel served as lead counsel, obtaining over \$5.4 billion in judgments, in *Health Republic Insurance Company v. U.S.*, No. 16-cv-00259 (Fed. Cl.), and *Common Ground Healthcare Cooperative v. U.S.*, No. 17-cv-00877 (Fed. Cl.). Quinn Emanuel served as co-lead class counsel, obtaining more than \$500 million in settlements in *ISDAfix Antitrust Litigation*, No. 14-cv-7126 (S.D.N.Y.). Quinn Emanuel served as co-lead class counsel for direct purchaser plaintiffs and obtained more than \$430 million in settlements in *Polyurethane Foam Antitrust Litig.*, Case No. 10-md-02196 (N.D. Ohio). Quinn Emanuel served as counsel for a plaintiff that

asserted exclusive dealing, tying, and monopolization claims against Live Nation and Ticketmaster, securing a \$110 million settlement for the plaintiff in *Complete Entertainment Resources LLC v. Live Nation Entertainment, Inc. et al.*, No. 15-cv-09814 (C.D. Cal.). Quinn Emanuel served as co-lead class counsel and secured settlements totaling \$95.5 million in *In re SSA Bonds Antitrust Litig.*, No. 16-cv-03711 (S.D.N.Y.).

82. The Quinn Emanuel partners who co-lead this litigation are Adam Wolfson and Mike Bonanno.

83. Adam Wolfson is a partner in Quinn Emanuel's Los Angeles office, focusing on class actions and plaintiff-side litigation. He was one of the principal counsel for a certified class of health insurers that obtained nearly \$4 billion in judgments related to claims that the federal government failed to pay certain "risk corridor" amounts required by the Affordable Care Act. Mr. Wolfson was also one of co-lead counsel for plaintiffs in *In re Polyurethane Foam Antitrust Litigation*, where he helped obtain more than \$430 million in settlements on behalf of a certified class in a case alleging a price-fixing conspiracy in the flexible polyurethane foam industry. He also obtained a \$283 million patent infringement and breach of contract trial verdict in 2014 on behalf of ViaSat, Inc. relating to its competitor's theft of innovative intellectual property and satellite designs. He is currently on the plaintiffs' Executive Committee in *In re Combat Arms Earplug Product Liability Litigation*, in which the plaintiffs, service members from all branches of the U.S. Armed Forces, are suing to recover for damages they suffered from the use of defective earplugs 3M sold to the USAF for over a decade. There are over 280,000 such plaintiffs currently waiting their day in court, and Mr. Wolfson and his colleagues in the case leadership have to date obtained over \$160 million in trial verdicts for just seven of those former service members. He was recognized as a Rising Star in Class Actions by *Law360* in 2019, as a

Recommended Lawyer in antitrust litigation by *Legal 500 USA*, and included in the Lawdragon 500 Leading Plaintiff Financial Lawyers guide every year since 2019.

84. *Mike Bonanno* graduated from Georgetown University Law Center in 2010 and joined the Antitrust Division of the United States Department of Justice through the Attorney General's Honors Program. He was a trial lawyer in the Antitrust Division for more than four years, during which time he worked on many investigations concerning mergers of national importance, including Google's acquisition of ITA Software, NASDAQ's proposed acquisition of the New York Stock Exchange, and AT&T's proposed acquisition of T-Mobile. While at DOJ, Mr. Bonanno also played a lead role in two major civil antitrust trials (*United States v. Bazaarvoice, Inc.* and *United States v. American Express*). Mr. Bonanno left the government and joined Quinn Emanuel in early 2015. In private practice, he has represented both plaintiffs and defendants in antitrust cases, including class actions.

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

Executed this 8th day of November, 2024, at Seattle, Washington.

/s/ Steve W. Berman
STEVE W. BERMAN

Executed this 8th day of November, 2024, at Los Angeles, California.

/s/ Adam B. Wolfson
ADAM B. WOLFSON

Exhibit 1

ATM Antitrust
Hagens Berman Sobol Shapiro LLP
LODESTAR TOTALS FROM INCEPTION TO NOVEMBER 1, 2024
AT HISTORIC RATES

NAME	YEAR	HOURLY RATE	HOURS	LODESTAR AT HISTORIC RATES
Steve Berman (P)	2011	\$725.00	5.50	\$3,987.50
Steve Berman (P)	2012	\$725.00	3.00	\$2,175.00
Steve Berman (P)	2013	\$900.00	2.00	\$1,800.00
Steve Berman (P)	2015	\$900.00	47.80	\$43,020.00
Steve Berman (P)	2016	\$950.00	15.30	\$14,535.00
Steve Berman (P)	2017	\$950.00	18.00	\$17,100.00
Steve Berman (P)	2018	\$975.00	24.30	\$23,692.50
Steve Berman (P)	2019	\$1,025.00	43.80	\$44,895.00
Steve Berman (P)	2020	\$1,075.00	26.70	\$28,702.50
Steve Berman (P)	2021	\$1,125.00	2.50	\$2,812.50
Steve Berman (P)	2022	\$1,200.00	7.70	\$9,240.00
Steve Berman (P)	2023	\$1,285.00	3.60	\$4,626.00
Steve Berman (P)	2024	\$1,350.00	18.00	\$24,300.00
Anthony Shapiro (P)	2011	\$650.00	5.30	\$3,445.00
Kevin Green (OC)	2016	\$630.00	1.30	\$819.00
Kevin Green (OC)	2022	\$800.00	0.50	\$400.00
Kevin Green (OC)	2023	\$850.00	1.00	\$850.00
Ben Harrington (P)	2017	\$450.00	208.30	\$93,735.00
Ben Harrington (P)	2018	\$450.00	1203.70	\$541,665.00
Ben Harrington (P)	2019	\$475.00	1540.60	\$731,785.00
Ben Harrington (P)	2020	\$550.00	723.50	\$397,925.00
Ben Harrington (P)	2021	\$700.00	37.70	\$26,390.00
Ben Harrington (P)	2022	\$750.00	125.90	\$94,425.00
Ben Harrington (P)	2023	\$800.00	152.80	\$122,240.00
Ben Harrington (P)	2024	\$950.00	202.50	\$192,375.00
Rio Pierce (P)	2019	\$500.00	94.10	\$47,050.00
Jason Zweig (P)	2011	\$500.00	7.80	\$3,900.00
Chris O'Hara (P)	2019	\$650.00	13.00	\$8,450.00
Chris O'Hara (P)	2020	\$675.00	188.50	\$127,237.50
Chris O'Hara (P)	2021	\$675.00	43.00	\$29,025.00
Chris O'Hara (P)	2022	\$700.00	68.50	\$47,950.00
Chris O'Hara (P)	2023	\$750.00	72.40	\$54,300.00
Chris O'Hara (P)	2024	\$800.00	9.20	\$7,360.00
Jennifer Connolly (P)	2014	\$650.00	265.10	\$172,315.00
Jennifer Connolly (P)	2015	\$650.00	280.00	\$182,000.00
Jennifer Connolly (P)	2016	\$685.00	879.70	\$602,594.50
Jennifer Connolly (P)	2017	\$685.00	386.40	\$264,684.00

Jennifer Connolly (P)	2018	\$700.00	325.40	\$227,780.00
Nathaniel Tarnor (OC)	2018	\$650.00	505.70	\$328,705.00
Nathaniel Tarnor (OC)	2019	\$675.00	0.20	\$135.00
Benjamin Siegel (OC)	2019	\$575.00	968.90	\$557,117.50
Benjamin Siegel (OC)	2020	\$600.00	516.80	\$310,080.00
Benjamin Siegel (OC)	2021	\$600.00	65.80	\$39,480.00
Benjamin Siegel (OC)	2022	\$650.00	191.20	\$124,280.00
Benjamin Siegel (OC)	2023	\$700.00	72.10	\$50,470.00
Benjamin Siegel (OC)	2024	\$850.00	72.40	\$61,540.00
Jerrod Patterson (P)	2015	\$575.00	4.30	\$2,472.50
Jerrod Patterson (P)	2016	\$575.00	10.30	\$5,922.50
Erin Flory (P)	2012	\$550.00	96.60	\$53,130.00
George Sampson (P)	2011	\$550.00	40.80	\$22,440.00
George Sampson (P)	2012	\$600.00	145.10	\$87,060.00
George Sampson (P)	2013	\$600.00	24.70	\$14,820.00
George Sampson (P)	2014	\$600.00	29.30	\$17,580.00
Anthea Grivas (A)	2011	\$350.00	9.70	\$3,395.00
Anthea Grivas (A)	2012	\$350.00	10.00	\$3,500.00
Anthea Grivas (A)	2013	\$350.00	6.00	\$2,100.00
Zoran Tasic (A)	2018	\$400.00	46.30	\$18,520.00
Lara Gustavson (CA)	2018	\$350.00	308.20	\$107,870.00
Lara Gustavson (CA)	2018	\$400.00	902.50	\$361,000.00
Lara Gustavson (CA)	2019	\$400.00	1002.10	\$400,840.00
Bridget Marks (CA)	2018	\$400.00	489.50	\$195,800.00
Zachary Stump (CA)	2018	\$350.00	310.40	\$108,640.00
Zachary Stump (CA)	2018	\$400.00	672.00	\$268,800.00
Brian Miller (PL)	2011	\$150.00	0.70	\$105.00
Brian Miller (PL)	2019	\$300.00	105.70	\$31,710.00
Brian Miller (PL)	2020	\$350.00	1.00	\$350.00
Brian Miller (PL)	2022	\$375.00	3.90	\$1,462.50
Carrie Flexer (PL)	2011	\$200.00	2.50	\$500.00
Carrie Flexer (PL)	2013	\$200.00	7.30	\$1,460.00
Carrie Flexer (PL)	2014	\$200.00	15.20	\$3,040.00
Carrie Flexer (PL)	2016	\$200.00	3.50	\$700.00
Carrie Flexer (PL)	2017	\$200.00	0.50	\$100.00
Carrie Flexer (PL)	2018	\$250.00	0.50	\$125.00
Carrie Flexer (PL)	2019	\$275.00	26.00	\$7,150.00
Carrie Flexer (PL)	2024	\$425.00	6.50	\$2,762.50
Sophia Chao (SA)	2018	\$325.00	3.80	\$1,235.00
Joseph Salonga (PL)	2017	\$180.00	0.50	\$90.00
Joseph Salonga (PL)	2022	\$350.00	19.60	\$6,860.00
Jeaneth Decena (PL)	2019	\$300.00	40.00	\$12,000.00
Jeaneth Decena (PL)	2020	\$350.00	0.60	\$210.00
Jooyoung Koo (SA)	2018	\$350.00	419.40	\$146,790.00
Kathleen Left (CA)	2018	\$350.00	186.20	\$65,170.00
Nicolle Huerta (PL)	2019	\$225.00	1.90	\$427.50
Robert Haegele (PL)	2011	\$170.00	11.70	\$1,989.00

Robert Haegele (PL)	2012	\$170.00	11.30	\$1,921.00
Robert Haegele (PL)	2013	\$180.00	5.30	\$954.00
Robert Haegele (PL)	2014	\$180.00	38.70	\$6,966.00
Robert Haegele (PL)	2015	\$180.00	12.00	\$2,160.00
Robert Haegele (PL)	2016	\$180.00	50.70	\$9,126.00
Robert Haegele (PL)	2017	\$180.00	47.00	\$8,460.00
Robert Haegele (PL)	2018	\$200.00	152.20	\$30,440.00
Robert Haegele (PL)	2019	\$225.00	220.70	\$49,657.50
Robert Haegele (PL)	2020	\$250.00	86.40	\$21,600.00
Robert Haegele (PL)	2021	\$275.00	19.80	\$5,445.00
Robert Haegele (PL)	2022	\$350.00	34.10	\$11,935.00
Robert Haegele (PL)	2023	\$375.00	33.80	\$12,675.00
Robert Haegele (PL)	2024	\$400.00	72.50	\$29,000.00
Camille Bass (A)	2012	\$295.00	0.40	\$118.00
Radha Kerzan (PL)	2022	\$300.00	1.10	\$330.00
Radha Kerzan (PL)	2023	\$325.00	0.50	\$162.50
Radha Kerzan (PL)	2024	\$350.00	2.50	\$875.00
Shelby Taylor (PL)	2018	\$200.00	12.00	\$2,400.00
Shelby Taylor (PL)	2019	\$225.00	0.50	\$112.50
Jessica Stevens (PL)	2018	\$200.00	125.20	\$25,040.00
Jessica Stevens (PL)	2019	\$225.00	53.00	\$11,925.00
Jessica Stevens (PL)	2020	\$225.00	0.20	\$45.00
Rebecca Heneghen (PL)	2012	\$170.00	0.80	\$136.00
Rebecca Heneghen (PL)	2015	\$170.00	0.70	\$119.00
Heidi Waggoner (PL)	2018	\$175.00	0.50	\$87.50
Heidi Waggoner (PL)	2019	\$175.00	1.00	\$175.00
Adrian Garcia (PL)	2011	\$150.00	1.00	\$150.00
Adrian Garcia (PL)	2015	\$150.00	2.00	\$300.00
Sheila Carey (PL)	2012	\$150.00	0.20	\$30.00
Sheila Carey (PL)	2014	\$150.00	0.20	\$30.00
Sherrie Malloy (PL)	2014	\$150.00	1.00	\$150.00
TOTAL:			15399.60	\$7,864,045.00

(P) Partner

(OC) Of Counsel

(A) Associate

(SA) Staff Attorney

(CA) Contract Attorney

(PL) Paralegal

Exhibit 2

ATM Antitrust
Hagens Berman Sobol Shapiro LLP
LODESTAR TOTALS FROM INCEPTION TO NOVEMBER 1, 2024
AT CURRENT RATES

NAME	TOTAL HOURS	CURRENT HOURLY RATE	LODESTAR AT CURRENT RATES
Steve Berman (P)	218.20	\$1,350.00	\$294,570.00
Anthony Shapiro (P)	5.30	\$950.00	\$5,035.00
Ben Harrington (P)	4195.00	\$950.00	\$3,985,250.00
Rio Pierce (P)	94.10	\$950.00	\$89,395.00
Kevin Green (OC)	2.80	\$875.00	\$2,450.00
Benjamin Siegel (OC)	1887.20	\$850.00	\$1,604,120.00
Jerrod Patterson (P)	14.60	\$800.00	\$11,680.00
Chris O'Hara (P)	394.60	\$800.00	\$315,680.00
Jason Zweig (P)	7.80	\$725.00	\$5,655.00
Jennifer Connolly (P)	2136.60	\$700.00	\$1,495,620.00
Nathaniel Tarnor (OC)	505.90	\$775.00	\$392,072.50
Erin Flory (P)	96.60	\$600.00	\$57,960.00
George Sampson (P)	239.90	\$600.00	\$143,940.00
Anthea Grivas (A)	25.70	\$525.00	\$13,492.50
Zoran Tasic (A)	46.30	\$500.00	\$23,150.00
Lara Gustavson (CA)	2212.80	\$400.00	\$885,120.00
Bridget Marks (CA)	489.50	\$400.00	\$195,800.00
Zachary Stump (CA)	982.40	\$500.00	\$491,200.00
Brian Miller (PL)	111.30	\$400.00	\$44,520.00
Carrie Flexer (PL)	62.00	\$425.00	\$26,350.00
Sophia Chao (SA)	3.80	\$500.00	\$1,900.00
Joseph Salonga (PL)	20.10	\$400.00	\$8,040.00
Jeaneth Decena (PL)	40.60	\$350.00	\$14,210.00
Jooyoung Koo (SA)	419.40	\$350.00	\$146,790.00
Kathleen Left (CA)	186.20	\$350.00	\$65,170.00
Nicolle Huerta (PL)	1.90	\$400.00	\$760.00
Robert Haegele (PL)	796.20	\$400.00	\$318,480.00
Radha Kerzan (PL)	4.10	\$350.00	\$1,435.00
Camille Bass (A)	0.40	\$350.00	\$140.00
Shelby Taylor (PL)	12.50	\$350.00	\$4,375.00
Jessica Stevens (PL)	178.40	\$250.00	\$44,600.00
Rebecca Heneghen (PL)	1.50	\$200.00	\$300.00
Heidi Waggoner (PL)	1.50	\$175.00	\$262.50
Adrian Garcia (PL)	3.00	\$175.00	\$525.00
Sheila Carey (PL)	0.40	\$150.00	\$60.00
Sherrie Malloy (PL)	1.00	\$150.00	\$150.00
TOTAL:	15399.60		\$10,690,257.50

(P)	Partner
(OC)	Of Counsel
(A)	Associate
(SA)	Staff Attorney
(CA)	Contract Attorney
(PL)	Paralegal

Exhibit 3

ATM Antitrust
Hagens Berman Sobol Shapiro LLP
EXPENSE REPORT FROM INCEPTION TO NOVEMBER 1, 2024

CATEGORY	AMOUNT INCURRED
Travel (Airfare, Ground Transportation, Meals, Lodging, Parking)	\$27,406.68
Internal Photocopies	\$4,412.00
Outside Copy Service	\$207.71
Litigation Fund Assessments	\$6,828,547.00
Professional Fees (Investigator, Consulting, Experts)	\$1,419.72
Court Fees (Filing, etc.)	\$1,498.50
Telephone	\$828.96
Online Services/Legal Research (LexisNexis/PACER/Westlaw)	\$43,294.57
Postage/Overnight Shipping	\$3,259.55
Transcripts and Deposition Reporting	\$5,094.55
Messenger/Service of Process	\$2,575.00
PR/Marketing	\$1,557.45
Miscellaneous (ABA Literature)	\$651.04
TOTAL:	\$6,920,752.73

Exhibit 4

ATM Antitrust
Quinn Emanuel Urquhart & Sullivan, LLP
LODESTAR TOTALS FROM INCEPTION TO NOVEMBER 1, 2024
AT HISTORIC RATES

NAME	POSITION	YEAR	HOURLY RATE	HOURS	LODESTAR AT HISTORIC RATES
Aaron Alcantara	Lit Support	2017	\$175.00	13.70	\$2,397.50
		2018	\$175.00	2.80	\$490.00
Adam B. Wolfson	Partner	2016	\$840.00	51.10	\$42,924.00
		2016	\$920.00	17.10	\$15,732.00
		2017	\$920.00	57.00	\$52,440.00
		2017	\$950.00	53.40	\$50,730.00
		2018	\$950.00	140.50	\$133,475.00
		2018	\$1,000.00	122.20	\$122,200.00
		2019	\$1,000.00	497.20	\$497,200.00
		2019	\$1,150.00	181.10	\$208,265.00
		2020	\$1,150.00	293.70	\$337,755.00
		2020	\$1,200.00	26.30	\$31,560.00
		2021	\$1,200.00	17.80	\$21,360.00
		2021	\$1,385.00	8.00	\$11,080.00
		2022	\$1,385.00	47.70	\$66,064.50
		2022	\$1,600.00	32.40	\$51,840.00
		2023	\$1,600.00	1.40	\$2,240.00
		2023	\$1,690.00	15.50	\$26,195.00
		2024	\$1,810.00	65.40	\$118,374.00
Adrian Palma	Paralegal	2017	\$320.00	0.60	\$192.00
Alexander J. Merton	Partner	2015	\$660.00	6.10	\$4,026.00
Anthony Bentancourt	Lit Support	2019	\$175.00	1.20	\$210.00
Brantley Pepperman	2018 Associate	2018	\$575.00	20.10	\$11,557.50
		2019	\$575.00	198.00	\$113,850.00
Bruce Van Dalsem	Of Counsel	2018	\$1,225.00	1.00	\$1,225.00
Carolyn Reichardt	Attorney	2018	\$400.00	1223.90	\$489,560.00
		2019	\$400.00	534.70	\$213,880.00
		2020	\$400.00	89.70	\$35,880.00
Christopher Clark	Attorney	2018	\$350.00	424.00	\$148,400.00
Dallas Bullard	2015 Associate	2017	\$610.00	46.30	\$28,243.00
		2017	\$670.00	20.10	\$13,467.00
		2018	\$670.00	62.30	\$41,741.00
		2018	\$745.00	15.00	\$11,175.00
D'Andrea Green	Paralegal	2019	\$330.00	1.50	\$495.00

Danny Rose	Lit Support	2019	\$175.00	0.20	\$35.00
David M. Cooper	Partner	2016	\$860.00	82.20	\$70,692.00
		2016	\$895.00	91.20	\$81,624.00
		2021	\$1,200.00	46.70	\$56,040.00
		2021	\$1,385.00	4.30	\$5,955.50
		2022	\$1,385.00	72.90	\$100,966.50
		2022	\$1,600.00	39.30	\$62,880.00
		2023	\$1,690.00	32.60	\$55,094.00
		2024	\$1,810.00	87.70	\$158,737.00
Diego DiGiovanni	Attorney	2018	\$385.00	555.10	\$213,713.50
Fahri Abduhalikov	Paralegal	2016	\$310.00	15.80	\$4,898.00
		2017	\$310.00	19.20	\$5,952.00
Henry Soledad	2004 Associate	2018	\$400.00	1246.70	\$498,680.00
		2019	\$400.00	89.50	\$35,800.00
Hope Skibitsky	Partner	2018	\$790.00	0.90	\$711.00
Jaclyn Palmerson	2016 Associate	2018	\$670.00	1.90	\$1,273.00
Jon D. Corey	Of Counsel	2015	\$935.00	0.80	\$748.00
Jonathan Land	Lit Support	2018	\$365.00	2.50	\$912.50
Joy Odom	Law Clerk	2016	\$610.00	1.90	\$1,159.00
Kathleen Sullivan	Partner	2016	\$1,350.00	2.30	\$3,105.00
		2022	\$2,130.00	4.30	\$9,159.00
Kevin Silveira	Lit Support	2018	\$175.00	2.30	\$402.50
Krishna Shah	2020 Associate	2023	\$1,195.00	15.70	\$18,761.50
		2024	\$1,305.00	1.40	\$1,827.00
		2024	\$1,395.00	9.20	\$12,834.00
Kristen Strayhorn	Paralegal	2019	\$320.00	1.60	\$512.00
Lauren W. Misztal	Of Counsel	2016	\$775.00	127.00	\$98,425.00
Michael Gulston	Paralegal	2017	\$310.00	0.30	\$93.00
		2017	\$320.00	1.20	\$384.00
		2018	\$320.00	24.60	\$7,872.00
Mike Bonanno	Partner	2016	\$815.00	12.40	\$10,106.00
		2017	\$815.00	52.10	\$42,461.50
		2017	\$850.00	93.30	\$79,305.00
		2018	\$850.00	67.10	\$57,035.00
		2018	\$860.00	139.90	\$120,314.00
		2019	\$860.00	305.80	\$262,988.00
		2019	\$900.00	83.30	\$74,970.00
		2020	\$975.00	60.70	\$59,182.50
Nicoletta Malogioglio	2002 Associate	2018	\$875.00	362.60	\$317,275.00
		2019	\$875.00	232.90	\$203,787.50
		2019	\$900.00	14.90	\$13,410.00
		2020	\$900.00	49.80	\$44,820.00
Patricia Smith	Managing Clerk	2018	\$365.00	1.00	\$365.00

Raul Vasquez	Lit Support	2018	\$175.00	1.40	\$245.00
Ryan Lopez	Lit Support	2018	\$175.00	13.90	\$2,432.50
		2019	\$175.00	2.00	\$350.00
Samantha Zuba	2018 Associate	2019	\$385.00	150.70	\$58,019.50
		2019	\$575.00	11.60	\$6,670.00
Sandy Weisburst	Partner	2016	\$935.00	4.20	\$3,927.00
Shon Morgan	Partner	2015	\$995.00	30.20	\$30,049.00
		2016	\$995.00	4.80	\$4,776.00
		2017	\$1,120.00	2.00	\$2,240.00
Stephanie Hodach	Attorney	2018	\$350.00	311.50	\$109,025.00
Stephen R. Neuwirth	Partner	2015	\$1,175.00	4.30	\$5,052.50
		2016	\$1,175.00	46.10	\$54,167.50
		2016	\$1,350.00	4.60	\$6,210.00
		2017	\$1,350.00	48.30	\$65,205.00
		2017	\$1,375.00	12.70	\$17,462.50
		2018	\$1,375.00	8.20	\$11,275.00
		2018	\$1,525.00	3.60	\$5,490.00
		2019	\$1,525.00	18.90	\$28,822.50
		2019	\$1,550.00	23.60	\$36,580.00
		2020	\$1,550.00	21.60	\$33,480.00
		2020	\$1,595.00	0.80	\$1,276.00
		2021	\$1,595.00	9.90	\$15,790.50
		2021	\$1,845.00	2.10	\$3,874.50
		2022	\$1,845.00	7.20	\$13,284.00
Steven Kamin	Attorney	2018	\$400.00	1013.70	\$405,480.00
Teri Juarez	Paralegal	2018	\$320.00	4.50	\$1,440.00
		2019	\$320.00	187.60	\$60,032.00
		2019	\$330.00	25.60	\$8,448.00
		2020	\$330.00	28.60	\$9,438.00
Thomas J. Lepri	Of Counsel	2020	\$950.00	1.80	\$1,710.00
		2020	\$1,000.00	33.20	\$33,200.00
Trish Goforth	Paralegal	2018	\$320.00	164.60	\$52,672.00
		2019	\$320.00	50.30	\$16,096.00
		2019	\$330.00	22.10	\$7,293.00
		2020	\$330.00	39.00	\$12,870.00
		2020	\$355.00	0.40	\$142.00
Vince Mesa	Lit Support	2019	\$250.00	19.70	\$4,925.00
		2020	\$250.00	1.40	\$350.00
Viola Trebicka	Partner	2018	\$910.00	575.20	\$523,432.00
		2019	\$950.00	250.20	\$237,690.00
		2019	\$975.00	50.40	\$49,140.00
William Adams	Partner	2022	\$1,600.00	8.00	\$12,800.00
William Sears	Partner	2020	\$860.00	110.50	\$95,030.00

		2020	\$950.00	15.00	\$14,250.00
		2022	\$1,130.00	18.20	\$20,566.00
	TOTAL:			11710.10	\$7,784,197.00

Exhibit 5

ATM Antitrust
Quinn Emanuel Urquhart & Sullivan, LLP
LODESTAR TOTALS FROM INCEPTION TO NOVEMBER 1, 2024
AT CURRENT RATES

NAME	POSITION	TOTAL HOURS	CURRENT HOURLY RATE	LODESTAR AT CURRENT RATES
Aaron Alcantara	Lit Support	16.50	190.00	\$3,135.00
Adam B. Wolfson	Partner	1627.80	1810.00	\$2,946,318.00
Adrian Palma	Paralegal	0.60	550.00	\$330.00
Alexander J. Merton	Partner	6.10	1645.00	\$10,034.50
Anthony Bentancourt	Lit Support	1.20	190.00	\$228.00
Brantley Pepperman	2018 Associate	218.10	1465.00	\$319,516.50
Bruce Van Dalsem	Of Counsel	1.00	2115.00	\$2,115.00
Carolyn Reichardt	Attorney	1848.30	995.00	\$1,839,058.50
Christopher Clark	Attorney	424.00	495.00	\$209,880.00
Dallas Bullard	2015 Associate	143.70	1515.00	\$217,705.50
D'Andrea Green	Paralegal	1.50	550.00	\$825.00
Danny Rose	Lit Support	0.20	190.00	\$38.00
David M. Cooper	Partner	456.90	1810.00	\$826,989.00
Diego DiGiovanni	Attorney	555.10	995.00	\$552,324.50
Fahri Abduhalikov	Paralegal	35.00	550.00	\$19,250.00
Henry Soledad	2004 Associate	1336.20	1515.00	\$2,024,343.00
Hope Skibitsky	Partner	0.90	1645.00	\$1,480.50
Jaclyn Palmerson	2016 Associate	1.90	1515.00	\$2,878.50
Jon D. Corey	Of Counsel	0.80	1725.00	\$1,380.00
Jonathan Land	Lit Support	2.50	395.00	\$987.50
Joy Odom	Law Clerk	1.90	645.00	\$1,225.50
Kathleen Sullivan	Partner	6.60	2410.00	\$15,906.00
Kevin Silveira	Lit Support	2.30	190.00	\$437.00
Krishna Shah	2020 Associate	26.30	1395.00	\$36,688.50
Kristen Strayhorn	Paralegal	1.60	550.00	\$880.00
Lauren W. Misztal	Of Counsel	127.00	1570.00	\$199,390.00
Michael Gulston	Paralegal	26.10	550.00	\$14,355.00
Mike Bonanno	Partner	814.60	1645.00	\$1,340,017.00
Nicoletta Malogioglio	2002 Associate	660.20	1515.00	\$1,000,203.00
Patricia Smith	Managing Clerk	1.00	620.00	\$620.00
Raul Vasquez	Lit Support	1.40	190.00	\$266.00
Ryan Lopez	Lit Support	15.90	190.00	\$3,021.00
Samantha Zuba	2018 Associate	162.30	1465.00	\$237,769.50
Sandy Weisburst	Partner	4.20	1995.00	\$8,379.00

Shon Morgan	Partner	37.00	1995.00	\$73,815.00
Stephanie Hodach	Attorney	311.50	495.00	\$154,192.50
Stephen R. Neuwirth	Partner	211.90	2250.00	\$476,775.00
Steven Kamin	Attorney	1013.70	995.00	\$1,008,631.50
Teri Juarez	Paralegal	246.30	550.00	\$135,465.00
Thomas J. Lepri	Of Counsel	35.00	1570.00	\$54,950.00
Trish Goforth	Paralegal	276.40	550.00	\$152,020.00
Vince Mesa	Lit Support	21.10	270.00	\$5,697.00
Viola Trebicka	Partner	875.80	1645.00	\$1,440,691.00
William Adams	Partner	8.00	1810.00	\$14,480.00
William Sears	Partner	143.70	1645.00	\$236,386.50
TOTAL:		11710.10		\$15,591,078.00

Exhibit 6

ATM Antitrust
Quinn Emanuel Urquhart & Sullivan, LLP
EXPENSE REPORT FROM INCEPTION TO NOVEMBER 1, 2024

CATEGORY	AMOUNT INCURRED
Air travel	\$15,470.91
Air travel-Agency fees	\$730.00
Attorney service(s)	\$598.37
Blowbacks (B&W)	\$25.20
Blowbacks (Color)	\$2.00
Color Document Reproduction	\$5,965.00
Conference Fee(s)	\$1,041.16
Courier	\$52.40
Deposition transcript(s)	\$10,821.74
Document Reproduction	\$8,328.48
Document Services	\$20,527.52
Express mail	\$1,110.22
Filing fee(s)	\$347.00
Hearing transcript(s)	\$242.50
Hotel	\$17,012.80
Litigation Funding	\$6,850,214.00
Local business travel	\$259.40
Local meals	\$1,061.54
Meals during travel	\$1,748.23
Messenger	\$335.25
Online Research	\$26,256.63
Online Research - Off Contract	\$0.00
Online Research - Tax	\$993.04
Other	\$153.88
Out-of-Town Travel	\$2,204.73
Outside record production	\$2,367.76
PACER Services	\$1,149.50

Parking	\$108.00
Postage	\$0.47
Telephone	\$97.11
Travel	\$650.51
Travel-Internet	\$130.85
Velobind	\$1.06
Video deposition/Videotaping(s)	\$15,447.97
Word processing	\$1,056.00
TOTAL:	\$6,986,511.23

Exhibit 7

Mackmin et al. v. Visa Inc., et al.
No. 1:11-cv-1831-RJL

LODESTAR SUMMARY -- ALL FIRMS

Firm	Hours	Lodestar	
		Historical Rates	Current Rates
Hagens Berman Sobol Shapiro LLP	15,399.60	\$ 7,864,045.00	\$ 10,690,257.50
Quinn Emanuel Urquhart & Sullivan, LLP	11,710.10	\$ 7,784,197.00	\$ 15,591,078.00
Mehri & Skalet, PLLC	5,563.70	\$ 3,201,766.50	\$ 4,311,083.51
TOTAL	32,673.40	\$ 18,850,008.50	\$ 30,592,419.01

Exhibit 8

Mackmin et al. v. Visa Inc., et al.
No. 1:11-cv-1831-RJL

INTERNAL EXPENSES -- ALL FIRMS

Firm	Expenses
Hagens Berman Sobol Shapiro LLP	\$ 92,205.73
Quinn Emanuel Urquhart & Sullivan, LLP	\$ 136,297.23
Mehri & Skalet, PLLC	\$ 21,910.30
TOTAL	\$ 250,413.26

Exhibit 9

Mackmin et al. v. Visa Inc., et al.
No. 1:11-cv-1831-RJL

LITIGATION FUND CONTRIBUTION SUMMARY

Firm	Contribution
Hagens Berman Sobol Shapiro LLP	\$ 6,828,547.00
Quinn Emanuel Urquhart & Sullivan, LLP	\$ 6,850,214.00
Mehri & Skalet, PLLC	\$ 385,000.00
Philips ADR Refund Credited as Mehri & Skalet Lit Fund Contribution	\$ 8,000.00
TOTAL	\$ 14,071,761.00

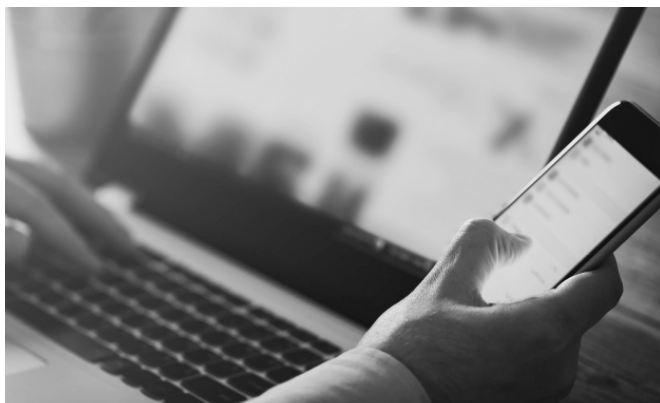
Exhibit 10

Mackmin et al. v. Visa Inc., et al.
No. 1:11-cv-1831-RJL

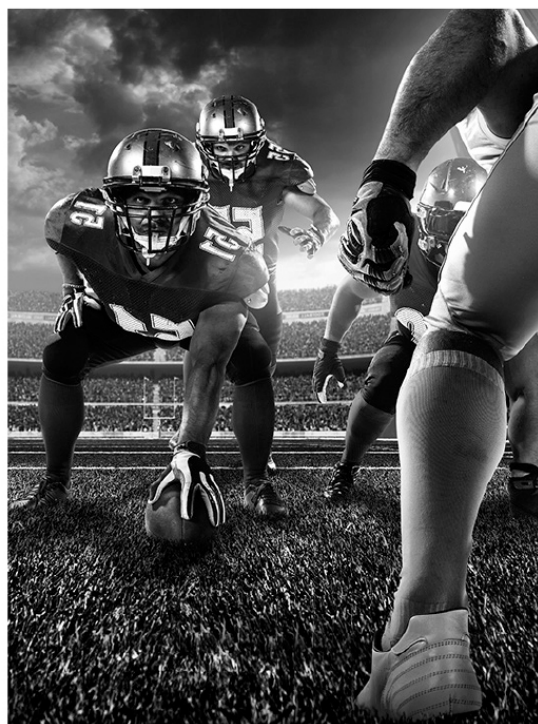
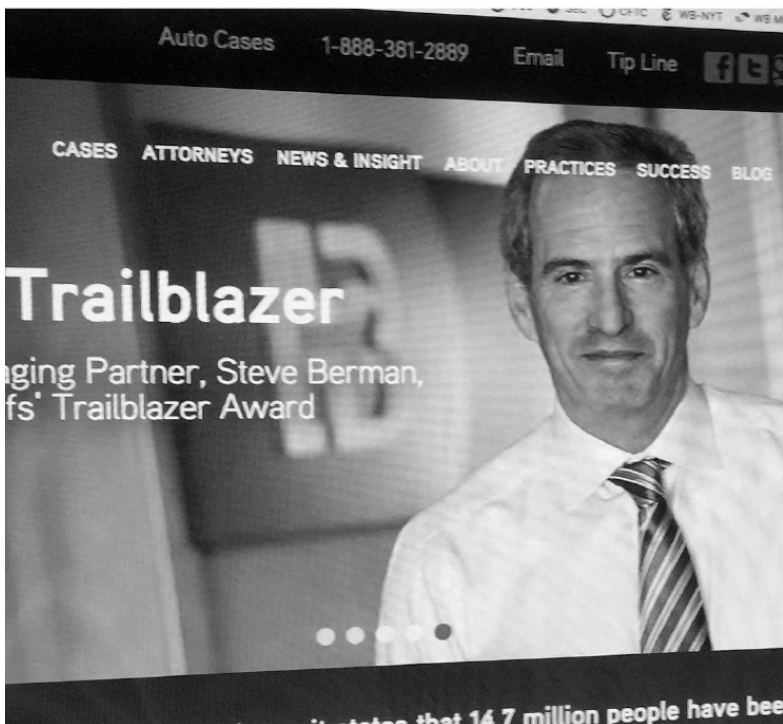
**LITIGATION FUND EXPENDITURE
SUMMARY**

Economic Experts & Analysis	\$	13,312,903.60
Coherent Economics	\$	3,473,929.79
Compass Lexecon	\$	9,838,973.81
Document Collection, Review, & Synthesis	\$	496,130.45
Everlaw, Inc.	\$	496,130.45
Neutral Services	\$	98,542.50
Phillips ADR	\$	98,542.50
Industry Experts	\$	119,276.81
Sam S. Ditzion	\$	9,183.06
Tremont Capital Group, Inc.	\$	110,093.75
Deposition, Transcription & Videoagraphy	\$	39,300.57
Veritext	\$	39,300.57
Printing & Copying Services	\$	5,832.74
Wilson-Epes Printing Co, Inc.	\$	4,840.00
Becker Gallagher Legal Publishing Inc.	\$	992.74
Process Servers	\$	125.00
ABC Legal, Inc.	\$	125.00
TOTAL	\$	14,072,111.67

Exhibit 11



HAGENS BERMAN



Hagens Berman is a national leader in class-action litigation driven by an international team of legal powerhouses. With a tenacious spirit, we are motivated to make a positive difference in people's lives.

Table of Contents

INTRODUCTION	4
The Firm	4
Locations	5
Quotes.....	6
Victories & Settlements.....	10
PRACTICE AREAS.....	8
Antitrust.....	16
U.S. LEGAL TEAM.....	21
Steve W. Berman	22
Ben Harrington	31
Benjamin J. Siegel.....	32

INTRODUCTION

The Firm

Hagens Berman Sobol Shapiro LLP was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group. Through the firm's focus on class-action litigation and other complex, multi-party cases, it fights for those seeking representation against wrongdoing and fraud. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest and the greater good. We represent plaintiffs including consumers, inventors, investors, workers, the environment, governments, whistleblowers and others.

We are one of the nation's leading class-action law firms and have earned an international reputation for excellence and innovation in ground-breaking litigation against large corporations.

OUR FOCUS

Our focus is to represent plaintiffs in [antitrust](#), [consumer fraud](#), [employment](#), [environmental](#), [intellectual property](#), product liability, [securities and investment fraud](#), [sexual harassment](#), tort and [whistleblower law](#) cases. Our firm is particularly skilled at managing multistate and nationwide class actions through an organized, coordinated approach. Our skilled team implements an efficient and aggressive prosecutorial strategy to place maximum pressure on defendants.

WE WIN

We believe excellence stems from a commitment to try each case, vigorously represent the best interests of our clients and obtain maximum recovery. Our opponents know we are determined and tenacious. They respect our skills and recognize our track record of achieving top results for those who need it most.

WHAT MAKES US DIFFERENT

We are driven to return to the class every possible portion of its damages — our track record proves it. While many class action or individual plaintiff cases result in large legal fees and no meaningful outcome for the client or class, Hagens Berman finds ways to return real value to the victims of corporate fraud and malfeasance through damages and real change.

AN INTERNATIONAL REACH

Our firm offers clients an international scope of practice. We have flourished through our core network of U.S. offices, and with a global expansion, Hagens Berman has grown geographically to where our eyes have always been: trends of fraud, negligence and wrongdoing taking form anywhere in the world. The firm now does business through endeavors in Paris, London and Amsterdam and has a vested interest in fighting global instances of oppression and injustice.

INTRODUCTION

Locations

SEATTLE

1301 Second Avenue, Suite 2000
Seattle, WA 98101
T 206-623-7292
F 206-623-0594

CHICAGO

455 N. Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
T 708-628-4949
F 708-628-4950

PHOENIX

11 West Jefferson Street, Suite 1000
Phoenix, AZ 85003
T 602-840-5900
F 602-840-3012

BERKELEY

715 Hearst Avenue, Suite 300
Berkeley, CA 94710
T 510-725-3000
F 510-725-3001

LOS ANGELES

301 North Lake Avenue, Suite 920
Pasadena, CA 91101
T 213-330-7150
F 213-330-7152

SAN DIEGO

533 F Street
Suite 207
San Diego, CA 92101
T 619-929-3340

BOSTON

1 Faneuil Hall Square, 5th Floor
Boston, MA 02109
T 617-482-3700
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NEW YORK

594 Dean Street, Suite 24
Brooklyn, NY 11238
T 212-752-5455
F 917-210-3980

LONDON

Hagens Berman UK LLP
125 Old Broad Street
London, EC2N 1AR
T 0203 150 1445

PARIS

HBSS France
106 rue de l'Université
75007 Paris
T +1 83 64 15 08

INTRODUCTION

Quotes

“[A] clear choice emerges. That choice is the Hagens Berman firm.”

— *U.S. District Court for the Northern District of California, In re Optical Disk Drive Products Antitrust Litigation (Appointing the firm lead counsel in the case which would later usher in \$205 million in settlements.)*

“Landmark consumer cases are business as usual for Steve Berman.”

— *The National Law Journal, naming Steve Berman one of the 100 most influential attorneys in the nation for the third time in a row*

“Berman is considered one of the nation’s top class action lawyers.”

— *Associated Press*

“unprecedented success in the antitrust field”

— *California Magistrate Judge Nathanael M. Cousins
A July 2015 order awarding attorneys’ fees in student-athlete name and likeness litigation*

“All right, I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that the results are exceptional... You did an exceptionally good job at organizing and managing the case...”

— *U.S. District Court for the Northern District of California, In re Dynamic Random Access Memory Antitrust Litigation (Hagens Berman was co-lead counsel and helped achieve the \$406 million class settlement.)*

“aggressive and independent advocacy”

— *Hon. Thomas M. Durkin in an order appointing Hagens Berman as interim class counsel in In re Broiler Chicken Antitrust Litigation*

“Class counsel has consistently demonstrated extraordinary skill and effort.”

— *Hon. James Selna, Central District of California, In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation, (The firm was appointed co-lead counsel without submitting to lead the case, and later achieved what was then the largest settlement in history brought against an automaker – \$1.6 billion.)*

“...I have never worked with such professional, decent counsel.”

— *Hon. Dennis M. Cavanaugh, United States District Judge (Retired), Transcript Of Proceedings Fairness Hearing for In re Mercedes-Benz Emissions Litigation, (Hagens Berman helped secure a \$700 million settlement for class members and served as interim class counsel.)*

“...the track record of Hagens Berman[‘s] Steve Berman is...impressive, having racked... a \$1.6 billion settlement in the Toyota Unintended

Acceleration Litigation and a substantial number of really outstanding big-ticket results.”

— Hon. Milton I. Shadur, Senior U.S. District Judge, naming Hagens Berman interim class counsel in Stericycle Pricing MDL (Hagens Berman served as lead counsel and secured a \$295 million settlement.)

“...when you get good lawyers this is what happens; you get these cases resolved.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired), Proceedings Fairness Hearing for In re Mercedes-Benz Emissions Litigation

“...Class counsel have devoted considerable time and resources to this litigation...”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired), Proceedings Fairness Hearing for In re Mercedes-Benz Emissions Litigation

“...This result...puts significant money into the pockets of all of the class members, is an excellent result. ...I’ve also looked at the skill and quality of counsel and the quality of the work... and find that to have been at a high level.”

— Hon. Beth Labson Freeman, United States District Judge, Final Approval of Settlement Hearing for Dean Sheikh et al v. Tesla, Inc.

“...respective clients certainly got their money’s worth with these attorneys and the work that they did on their behalf. ...Plaintiffs did an excellent job on behalf of their clients in this case.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired)
Proceedings Fairness Hearing for In re Mercedes-Benz Emissions Litigation

“Class Member reaction to the Mercedes Settlement is overwhelmingly positive.”

— Hon. Dennis M. Cavanaugh (Ret.) Special Master, In re Mercedes-Benz Emissions Litigation

“I will reiterate that class counsel has demonstrated over many years, superior experience and capability in handling class actions of this sort.”

— Hon. Beth Labson Freeman, United States District Judge, Final Approval of Settlement Hearing for Dean Sheikh et al v. Tesla, Inc.

“Not only did they work hard and do what was appropriate under the circumstances; their behavior was exemplary throughout. They were fair and firm. There were no pushovers involved here.”

— Hon. Dennis M. Cavanaugh, United States District Judge (Retired), Proceedings Fairness Hearing for In re Mercedes-Benz Emissions Litigation

“Class Counsel are extremely qualified and competent counsel who have experience and expertise prosecuting complex class actions...successfully tried class actions to jury verdicts and...also obtained billions of dollars in settlements...”

— Judge Magnuson, *Final CBL Approval Order*

“Plaintiffs have zealously litigated this case on behalf of the class over the course of eight years...the reaction of the class members has been overwhelmingly positive.”

— Hon. Jeffrey S. White
Order finalizing \$28 million settlement in class-action against Schneider National Carriers Inc.

“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.”

— Hon. William E. Smith, District Judge, U.S. District Court for the District of Rhode Island
*In re Loestrin 24 Antitrust Litigation, Master File No. 1:13-md-2472 (D.R.I.)
Final Approval Hearing on the direct purchaser settlement (\$120M)*

“...counsel provided strong representation for the class. Class counsel discovered and developed this case without the benefit of a government investigation’s coattails. In total, class counsel reviewed 578,790 documents, deposed 19 fact and opposing-expert witnesses, and consulted with and retained 10 expert witnesses of their own.”

— Hon. William Alsup, District Judge
U.S. District Court for the Northern District of California, In re Glumetza Antitrust Litigation

“Class counsel also successfully defeated defendants’ motions to dismiss, certified a Rule 23 class, and defeated defendants’ summary judgment motions prior to reaching an agreement with all three defendants to settle this action mere weeks before the trial date. Class counsel accomplished all of this despite vigorous opposition from large multi-national companies with high-quality representation from six national law firms.”

— Hon. William Alsup, District Judge
U.S. District Court for the Northern District of California, In re Glumetza Antitrust Litigation

“The settlement was achieved at arm’s length only after DPPs’ highly skilled and experienced counsel had received and reviewed the voluminous discovery and exchanged over 30 expert reports with defendant...”

— Hon. Nina Gerson, District Judge
U.S. District Court for the Eastern District of New York, *In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*

“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.”

— Hon. William E. Smith, District Judge, U.S. District Court for the District of Rhode Island
Final Approval Hearing on the direct purchaser settlement (\$120M), *In re Loestrin 24 Antitrust Litigation*

INTRODUCTION

Victories & Settlements

Since its founding, the firm has secured settlements valued at more than \$320 billion on behalf of class members in large-scale complex litigation.

\$260 BILLION

STATE TOBACCO LITIGATION

Hagens Berman represented 13 states prosecuting major actions against Big Tobacco. The settlement led to a multistate settlement requiring the tobacco companies to pay the states and submit to advertising and marketing restrictions. It was the largest civil settlement in history.

\$25 BILLION

VISA CHECK/MASTERMONEY ANTITRUST LITIGATION

The firm served as co-lead counsel in what was then the largest antitrust settlement in history. The class-action lawsuit alleged that Visa and MasterCard engaged in an anticompetitive scheme to monopolize the debit card services market and charge merchants artificially inflated interchange fees by tying merchant acceptance of their debit card services, Visa Check and MasterMoney, to merchant acceptance of their credit card services. Settlements secured categories of relief that court decisions valued at as much as \$25-87 billion.

\$14.7 BILLION

VOLKSWAGEN EMISSIONS LITIGATION

Hagens Berman was named a member of the plaintiffs' steering committee and part of the settlement negotiating team in this monumental case that culminated in the largest automotive settlement in history. The firm was the first law firm to file against Volkswagen regarding its Dieselgate emissions-cheating scandal.

\$1.6 BILLION

TOYOTA UNINTENDED ACCELERATION LITIGATION

Hagens Berman served as co-lead counsel and secured what was then the largest automotive settlement in history in this class action that recovered \$1.6 billion for vehicle owners.

\$1.6 BILLION

VOLKSWAGEN FRANCHISE DEALERS LITIGATION

The firm served as lead counsel representing VW franchise dealers in this lawsuit related to VW's Dieselgate scandal. The settlement recovered nearly full damages for the class.

\$1.45 BILLION

MERACORD

The firm secured a default judgment on behalf of consumers for a useless debt-settlement conspiracy, following years of plaintiff victories in the case. Hagens Berman filed its lawsuit in 2011, on behalf of consumers nationwide, claiming the company violated Washington law and the federal Racketeer Influenced and Corrupt Organizations Act.

\$1.3 BILLION

HYUNDAI KIA THETA II GDI FIRE HAZARD LITIGATION I

Hagens Berman is co-lead counsel in this case accusing automakers of selling vehicles with failure-prone engines that could sometimes catch fire. The case is still pending litigation pertaining to other affected models.

\$700 MILLION

MERCEDES BLUETEC EMISSIONS LITIGATION

A monumental settlement was reached on behalf of owners of Mercedes vehicles affected by Daimler's emissions cheating. The case was initially filed and researched by Hagens Berman, based on the firm's independent vehicle testing, and the firm served as co-lead counsel. The consumer settlement followed a \$1.5 billion settlement between Mercedes and the U.S. Justice Department and California Air Resources Board. The settlement includes an \$875 million civil penalty for violating the Clean Air Act.

\$700 MILLION**WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS) SECURITIES LITIGATION**

Hagens Berman represented bondholders and the trustee in a class action stemming from the failure of two nuclear projects. Plaintiffs were awarded a \$700 million settlement.

\$568 MILLION**APPLE E-BOOKS ANTITRUST LITIGATION**

Hagens Berman served as co-lead counsel against Apple and five of the nation's largest publishing companies and secured a combined \$568 million settlement, returning class members nearly twice their losses in recovery, following the firm's victory over Apple after it appealed the case to the U.S. Supreme Court.

\$535 MILLION**CHINA MEDIAEXPRESS HOLDINGS, INC. SECURITIES LITIGATION**

Hagens Berman, which served as lead counsel in the case, alleged on behalf of a class of investors that China MediaExpress Holdings made false and misleading statements, including misrepresentations about its revenues, the number of buses in its network and the nature of its business relationships. The lawsuit resulted in relief for investors valued at \$535 million.

\$470 MILLION**LCD ANTITRUST LITIGATION**

Hagens Berman served as a member of the Executive Committee representing consumers in multi-district litigation. Total settlements exceeded \$470 million.

\$453 MILLION**GLUMETZA ANTITRUST LITIGATION**

The court denied summary judgment and paved the way for trial in this litigation against brand and generic manufacturers of the diabetes drug Glumetza. Hagens Berman served as co-lead counsel for the direct purchaser class. U.S. District Judge William Alsup approved \$453.85 million in settlements resolving direct purchasers' allegations. The result was the largest antitrust recovery to receive final approval in 2022.

\$406 MILLION**DRAM ANTITRUST LITIGATION**

The firm was co-lead counsel in this antitrust case which settled for \$406 million in favor of purchasers of dynamic random access memory chips.

\$385 MILLION**SUBOXONE ANTITRUST LITIGATION**

Hagens Berman was co-lead counsel in this pharmaceutical antitrust class action alleging defendants violated federal antitrust laws by delaying generic competition for its blockbuster opioid addiction medicine, Suboxone.

\$383.5 MILLION**DAVITA HEALTHCARE PERSONAL INJURY LITIGATION**

A Denver jury awarded a monumental \$383.5 million verdict to families of three patients who died after receiving dialysis treatments at DaVita clinics.

\$340 MILLION**RANBAXY INC.**

Hagens Berman served as co-lead counsel representing Meijer Inc. and Meijer Distribution Inc. in a class-action lawsuit against drugmaker Ranbaxy. The lawsuit alleged it recklessly stuffed the generic drug approval queues with grossly inadequate applications and deceiving the FDA into granting tentative approvals to lock in statutory exclusivities to which Ranbaxy was not entitled. Ranbaxy then excluded competition at the expense of U.S. drug purchasers. The settlement was part of a \$485 million settlement for all plaintiffs. The result was the second largest antitrust recovery to receive final approval in 2022.

\$338 MILLION**AVERAGE WHOLESALE PRICE DRUG LITIGATION**

Hagens Berman was lead counsel in this ground-breaking drug pricing case against the world's largest pharmaceutical companies, resulting in a victory at trial. The court approved a total of \$338 million in settlements.

\$325 MILLION**NEURONTIN PFIZER LITIGATION**

The firm brought suit against Pfizer and its subsidiary, Parke-Davis, accusing the companies of a fraudulent scheme to market and sell the drug Neurontin for a variety of "off-label" uses for which it is not approved or medically efficacious.

\$307 MILLION**ECODIESEL EMISSIONS CHEATING LITIGATION**

The firm achieved a settlement on behalf of owners of EcoDiesel Dodge 1500 and Jeep Grand Cherokee vehicles in response to Fiat Chrysler's emissions-cheating. Under the settlement, class members who repair their vehicles and submit a claim will receive \$3,075. The total value of the deal is estimated at \$307 million, granted all owners submit a valid claim.

\$300 MILLION**HYUNDAI/KIA HYDRAULIC ELECTRONIC CONTROL UNIT (HECU) FIRE HAZARD**

Approximately three million Hyundai and Kia vehicles nationwide were affected by a dangerous defect in the hydraulic and electronic control units (HECU), also known as anti-lock brake (ABS) modules which posed a risk of non-collision engine fires. Conservatively, plaintiffs' experts valued the settlement achieved by Hagens Berman as co-class counsel in the range of \$326 million to \$652 million.

\$295 MILLION**STERICYCLE, STERI-SAFE LITIGATION**

Hagens Berman served as lead counsel representing small businesses including veterinary clinics, medical clinics and labs in a class-action lawsuit alleging Stericycle's billing practices and accounting software violated consumer laws and constituted breach of contract.

\$255 MILLION**HYUNDAI & KIA FUEL ECONOMY LITIGATION**

Hagens Berman filed a class-action lawsuit on behalf of consumers alleging Hyundai and Kia overstated fuel economy for many vehicles they sold in the United States.

\$250 MILLION**ENRON ERISA LITIGATION**

Hagens Berman was co-lead counsel in this ERISA litigation, which recovered in excess of \$250 million, the largest ERISA settlement in history.

\$250 MILLION**BOFA COUNTRYWIDE APPRAISAL RICO**

Hagens Berman served as co-lead counsel in a nationwide class-action lawsuit against Bank of America, Countrywide Financial and appraisal firm LandSafe Inc. on behalf of a class of home buyers accusing the suit's defendants of carrying out a series of phony appraisals in an attempt to secure more loans.

\$235 MILLION**CHARLES SCHWAB SECURITIES LITIGATION**

The firm was lead counsel in this action alleging fraud in the management of the Schwab YieldPlus mutual fund. A \$235 million class settlement was approved by the court.

\$234 MILLION**AEQUITAS CAPITAL MANAGEMENT**

The firm settled this case on behalf of 1,600 investors of the now-defunct Aequitas companies. It is believed to be the largest securities settlement in Oregon history.

\$218 MILLION**JP MORGAN MADOFF**

Hagens Berman settled this case on behalf of Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, its parents, subsidiaries and affiliates. The settlement against JPMorgan involved three simultaneous, separately negotiated settlements totaling more than \$2.2 billion.

\$215 MILLION**USC, DR. GEORGE TYNDALL SEXUAL ABUSE AND HARASSMENT**

The firm served as co-lead counsel and secured a \$215 million settlement on behalf of a class of thousands of survivors of sexual assault against the University of Southern California and its Dr. George Tyndall, the full-time gynecologist at USC's student health clinic.

\$212 MILLION**TOYOTA, LEXUS DENSO FUEL PUMP DEFECT**

Hagens Berman represented consumers in a lawsuit alleging that Toyota Motor Corp. sold vehicles with faulty engines made by Denso International America Inc. The defect left vehicle owners at risk of spontaneous vehicle shutdown, engine stall and other safety risks that increased the likelihood of a crash or injury. The settlement brought relief to more than 3.3 million vehicle owners.

\$208 MILLION**NCAA SCHOLARSHIP CAP ANTITRUST LITIGATION**

Hagens Berman was co-lead counsel in the damages portion of this historic antitrust class action claiming the NCAA unlawfully capped the value of athletic scholarships. In a historic ruling, the U.S. Supreme Court unanimously upheld a trial victory regarding the injunctive portion of the case securing monumental improvements for college athletes, and forever changing college sports. Steve Berman served as trial counsel.

\$205 MILLION**OPTICAL DISC DRIVES (ODD) ANTITRUST LITIGATION**

Hagens Berman served as lead counsel on behalf of consumers in a lawsuit filed against Philips, Pioneer and others for artificially inflating the price of ODDs.

\$200 MILLION**NEW ENGLAND COMPOUNDING PHARMACY MENINGITIS OUTBREAK LITIGATION**

Hagens Berman attorneys served as lead counsel for the plaintiffs' steering committee on behalf of plaintiff-victims of the 2012 fungal meningitis outbreak that led to more than 64 deaths and hundreds of joint infection cases.

\$181 MILLION

BROILER CHICKEN ANTITRUST LITIGATION

Hagens Berman serves as interim class counsel in a case against Tyson, Purdue and 16 other chicken producers for allegedly conspiring to stabilize chicken prices by reducing production. The firm continues to litigate the case against remaining defendants.

\$169 MILLION

ANIMATION WORKERS

Hagens Berman was co-lead counsel for a class of approximately 10,000 animators and other artistic workers in an antitrust class action against Pixar, DreamWorks, The Walt Disney Company, Sony and others for allegedly conspiring to restrain competition and suppress industry wages. A \$169 million settlement resulted in a payment of more than \$13,000 per class member.

\$150 MILLION

FLONASE ANTITRUST LITIGATION

Hagens Berman was co-lead counsel representing purchasers in this case alleging GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

\$150 MILLION

LUPRON CONSUMER LITIGATION

Hagens Berman served as co-lead counsel on behalf of consumers and third-party payors who purchased the drug Lupron. Under the terms of the settlement, TAP Pharmaceuticals paid \$150 million on behalf of all defendants.

\$125 MILLION

PHARMACEUTICAL AWP LITIGATION

Hagens Berman was lead counsel against 11 pharmaceutical companies, including Abbott Laboratories and Watson Pharmaceuticals, resulting in multiple settlements between 2006 and 2012. Defendants agreed to pay \$125 million in a nationwide settlement for intentionally inflating reports of the average wholesale prices (AWP) on certain prescription medications.

\$123.4 MILLION

EXPEDIA LITIGATION

Hagens Berman led this class action arising from bundled “taxes and service fees” that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act and its contractual commitment to charge as service fees only “costs incurred in servicing” a given reservation.

\$120 MILLION

GENERAL MOTORS

Hagens Berman represented owners of GM-branded vehicles as co-lead counsel in a national class-action lawsuit seeking compensation, statutory penalties and punitive damages against GM on behalf of owners of millions of vehicles affected by alleged safety defects and recalls. The court granted final approval to a \$120 million settlement on behalf of affected GM vehicle owners on Dec. 18, 2020. Under the settlement, a trust controlled by creditors in GM’s 2009 bankruptcy contributed up to \$50 million.

\$120 MILLION

LOESTRIN ANTITRUST LITIGATION

Hagens Berman served as interim co-lead counsel for the certified class of direct purchasers. The parties reached a proposed settlement shortly before trial.

\$113 MILLION

BATTERIES ANTITRUST LITIGATION

Hagens Berman served as co-lead counsel and secured a settlement in this class-action lawsuit against some of the largest electronics manufacturers for allegedly illegally fixing the price of lithium-ion batteries, pushing costs higher for consumers.

\$108 MILLION

FIAT CHRYSLER LOW OIL PRESSURE

As co-lead counsel, Hagens Berman represented a class of owners of Fiat Chrysler vehicles allegedly prone to spontaneous shut off when oil pressure is low. A federal judge approved a settlement valued at \$108 million comprised of comprehensive relief including extended warranties, software upgrades, free testing and repairs and repair reimbursements.

\$100 MILLION

APPLE IOS APP STORE LITIGATION

In this lawsuit against Apple, the firm served as interim lead counsel in this matter and represented U.S. iOS developers against the tech giant. The suit accused Apple of monopolizing distribution services for iOS apps and in-app digital products, allegedly resulting in commission overcharges. Apple agreed to pay \$100 million and make developer-friendly changes to its App Store policy.

\$100 MILLION

OPPENHEIMER CORE BOND AND CHAMPION INCOME FUNDS LITIGATION

Hagens Berman obtained settlements in two cases alleging that various Oppenheimer entities and certain individual defendants made materially false or misleading statements and omissions to the investing public regarding the investment profile and objectives of the two funds.

\$100 MILLION

TENET HEALTHCARE

Hagens Berman achieved a settlement on behalf of uninsured patients who received care at Tenet facilities nationwide, alleging that the patients were charged excessive prices at 114 hospitals owned and operated by Tenet Healthcare. The suit claimed that Tenet took advantage of the uninsured and working poor who did not have the economic leverage to negotiate lower rates, while giving discounts to HMO's and other large payers.

\$100 MILLION

TREMONT LITIGATION

The firm filed a class action on behalf of investors alleging the company and others grossly neglected fiduciary duties by turning capital over to Bernard Madoff Investment Securities.

\$98 MILLION

PROGRAF ANTITRUST LITIGATION

Hagens Berman served as court-appointed co-lead class counsel representing a class of direct purchasers of Prograf. The antitrust lawsuit alleges that Astellas violated antitrust laws by filing a petition with the FDA as a means of delaying entry of a generic version of Prograf, a drug used to prevent organ rejection by kidney, liver, heart and lung transplant patients.

\$95 MILLION

APPLECARE

This class action secured compensation for iPhone and iPad owners who bought AppleCare or AppleCare+ coverage. The suit accused Apple of using inferior, refurbished or used parts in device replacements, despite promising to provide consumers with a device "equivalent to new in performance and reliability," and Hagens Berman reached a settlement with the tech giant in April 2022, resolving these claims.

\$94 MILLION

CELEBREX ANTITRUST LITIGATION

Hagens Berman litigated claims on behalf of a certified class of direct purchasers alleging Pfizer obtained reissuance of a follow-on patent by defrauding the Patent and Trademark Office. The case settled just weeks before trial.

\$92.5 MILLION

BOEING SECURITIES LITIGATION

Boeing and Hagens Berman agreed to a settlement to this shareholder suit filed in November 1997 by Hagens Berman. The settlement, the then second largest awarded in the Northwest, affected tens of thousands of Boeing common stock shareholders.

\$90 MILLION

GOOGLE PLAY STORE APP DEVELOPERS

The firm filed a class action on behalf of Android app developers for violating antitrust laws by allegedly illegally monopolizing markets for Android app distribution and in-app payment processing. A \$90 million settlement has been preliminarily approved.

PRACTICE AREAS

PRACTICE AREAS

Antitrust

Hagens Berman works to preserve fair trade and healthy marketplace competition by protecting consumers and businesses from price-fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation in which we have recovered nearly \$30 billion in settlements for our clients. Our attorneys have a deep understanding of legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive anti-competitive practices. Our cases have returned more than \$320 billion across all practice areas.

Hagens Berman represents millions of class members in high-profile class-action lawsuits and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as college sports, app development, debit and credit card services, personal computer components, electric and gas power, airlines and internet services, and we have prevailed against some of the world's largest corporations. The firm has also taken on wage-fixing antitrust agreements in various industries including animation, food production and aerospace engineering.

The firm's antitrust cases span the reaches of anticompetitive behavior, impacting even the realm of college sports. In the Keller and O'Bannon cases, the firm represented college athletes against the NCAA and Electronic Arts Inc. claiming the companies illegally use college football and basketball players' names and likenesses in video games without permission or consent from the player. In those matters, the firm secured a total \$60 million in settlements, and checks went out to about 15,000 players, some up to \$7,600, with a median around \$1,100.

Hagens Berman has also brought about significant changes already to the NCAA's policies and procedures regulating payments. In NCAA Grants-in-Aid Scholarships Litigation, the firm brought an antitrust class action against the NCAA on behalf of college athletes, claiming that the NCAA had violated the law when it kept the class from being able to receive compensation provided by schools or conferences for athletic services other than cash. Following a \$208 million settlement in the damages portion of the case — an almost 100% recovery of single damages — the Supreme Court upheld the favorable opinion of the Ninth Circuit in a 9-0 ruling regarding injunctive relief. Justice Kavanaugh's opinion further underscored the massive win for plaintiffs and the ruling's ongoing effects: "The NCAA couches its arguments for not paying student athletes in innocuous labels. But the labels cannot disguise the reality: The NCAA's business model would be flatly illegal in almost any other industry in America," pushing for further scrutiny of the NCAA's regulations. After the ruling, the NCAA relaxed some of the name, image and likeness (NIL) restrictions and the market for NIL revenues exploded reaching almost \$5 billion this year. Few antitrust decisions have been so transformative.

The firm continues its work litigating against the NCAA regarding name, image and likeness (NIL) rights. Currently Hagens Berman is co-lead counsel in *House v. NCAA*, which challenges current restrictions on athletes NIL rights and seeks damages for lost NIL opportunities. In *House*, plaintiffs seek a share of the golden goose, namely, NCAA and conference

broadcast and licensing revenues. So far, the firm has cleared two monumental hurdles in the lawsuit receiving class certification status for both the injunctive and damages portions of the case, for classes representing more than 184,000 college athletes.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust cases involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman's settlements accounted for 35% of total U.S. antitrust settlements that reached final approval in 2022, including the two largest antitrust recoveries to receive final approval, In re Glumetza Antitrust Litigation (\$453.85 million settlement) and In re Ranbaxy Generic Drug Application Antitrust Litigation (\$340 million settlement). Hagens Berman has served as lead or co-lead counsel in landmark antitrust litigation in many matters, including Paxil Direct Purchaser Litigation (\$100 million), Relafen Antitrust Litigation (\$75 million), Tricor Indirect Purchaser Antitrust Litigation (\$65.7 million), and Augmentin Antitrust Litigation (\$29 million).

Representative antitrust successes include:

VISA CHECK/MASTERMONEY ANTITRUST LITIGATION

Hagens Berman was co-lead counsel in this landmark antitrust case involving Visa and Mastercard. The case alleged the credit card giants engaged in anticompetitive practices to monopolize the debit card services market and impose artificially inflated interchange fees on merchants. The court valued the settlement between \$25 billion and \$87 billion, making it the largest antitrust settlement in U.S. history at the time.

RESULT: \$3.05 billion settlement and injunctive relief valued at more than \$23 billion

APPLE E-BOOKS LITIGATION

With state attorneys general, the firm served as lead counsel to secure a settlement with publishing companies that conspired with Apple to fix e-book prices. The firm then took on Apple for its part in the price-fixing conspiracy. In the final stage, the U.S. Supreme Court denied appeal from Apple, bringing the consumer payback amount to more than twice the amount of losses suffered by the class of e-book purchasers. This represents one of the most successful recoveries in any antitrust lawsuit in the country.

RESULT: \$568 million in total settlements

LG PHILIPS AND TOSHIBA LCD ANTITRUST LITIGATION

Hagens Berman filed a class action against more than 20 manufacturers of TFT LCD products, including LG Philips and Toshiba, claiming the companies engaged in a conspiracy to fix, raise, maintain and stabilize the price of electronic products and devices. After years of representing consumers in multi-district litigation, the case against Toshiba went to trial. In 2012, Toshiba was found guilty of price-fixing and settled.

RESULT: \$470 million in total settlements

DYNAMIC RANDOM ACCESS MEMORY (DRAM) ANTITRUST LITIGATION

The suit claimed DRAM (Dynamic Random Access Memory) manufacturers secretly agreed to reduce the supply of DRAM, a necessary component in a wide variety of electronics, which artificially raised prices. The class included equipment manufacturers, franchise distributors and purchasers.

RESULT: \$406 million settlement

OPTICAL DISK DRIVES ANTITRUST LITIGATION

Hagens Berman fought on behalf of consumers in a lawsuit filed against Philips, Pioneer and others for artificially inflating the price of ODDs for consumers.

RESULT: \$205 million in total settlements

BROILER CHICKEN ANTITRUST LITIGATION

Hagens Berman serves as co-lead counsel in this massive antitrust class action asserting that the nation's largest broiler chicken producers – Tyson, Pilgrim's Pride, Perdue and a host of others – conspired to fix the price of chicken for consumers by up to 50 percent since 2009. Settlements will offer compensation to millions of American consumers who have unknowingly overpaid for chicken products for years.

RESULT: \$181 million in total settlements. The firm continues to litigate against remaining defendants

ANIMATION WORKERS ANTITRUST LITIGATION

Hagens Berman served as co-lead counsel for a nationwide class of approximately 10,000 animators and other artistic workers in an antitrust class-action case filed against Pixar, DreamWorks, The Walt Disney Company, Sony, Blue Sky Studios and others for allegedly conspiring to restrain competition to suppress compensation. The settlement resulted in a payment of more than \$13,000 per class member.

RESULT: \$169 million settlement

LITHIUM-ION BATTERIES ANTITRUST LITIGATION

Hagens Berman filed a class-action lawsuit against some of the largest electronics manufacturers for illegally fixing the price of lithium-ion batteries, pushing costs higher for consumers.

RESULT: \$113 million in total settlements

APPLE IOS APP DEVELOPERS

The firm achieved a \$100 million settlement with Apple on behalf of US iOS app developers and developers of in-app products sold on Apple's App Store following the filing of an antitrust class-action lawsuit. The suit accused Apple monopolized U.S. distribution for iOS apps and in-app digital products, resulting in commission overcharges to developers. The settlement brings important changes to App Store policies and practices, and U.S. iOS developers with less than \$1 million in annual proceeds from App Store sales can receive hundreds to tens of thousands of dollars in compensation.

RESULT: \$100 million settlement

GOOGLE PLAY STORE APP DEVELOPERS

The firm achieved a \$90 million settlement with Google on behalf of roughly 43,000 US Android app developers and developers of in-app products sold on Google's Play Store following the filing of an antitrust class-action lawsuit. The firm filed the class action against Google for violations of antitrust laws by illegally monopolizing markets for Android app distribution and in-app payment processing.

RESULT: \$90 million settlement

PORK ANTITRUST LITIGATION

In this antitrust class action, the firm's investigation revealed that since 2014, pork producers such as Tyson, Hormel and others colluded to knowingly reduce pork production to artificially inflate prices. The pork producers engaged in a conspiracy that has cost American consumers millions of dollars over the years, and so far Hagens Berman's antitrust team have achieved multiple settlements with defendants and continues to litigate claims against those remaining.

RESULT: \$95 million in settlements

GENERIC PHARMACEUTICAL PRICING ANTITRUST LITIGATION

Hagens Berman filed multiple lawsuits against numerous generic pharmaceutical companies for conspiring to increase and set prices on inexpensive, commonly used generic drugs. In 2022, U.S. District Judge Cynthia M. Rufe preliminarily approved \$86 million in settlements with Sun Pharmaceutical Industries Inc., Taro Pharmaceuticals USA Inc. and

Breckenridge Pharmaceutical Inc. for direct purchasers and indirect resellers to settle price-fixing allegations. The U.S. Department of Justice has since opened a criminal probe into the matter following Hagens Berman's case.

RESULT: \$86 million settlement

RELAFEN ANTITRUST LITIGATION

In 2006, Judge William Young issued preliminary approval of a proposed settlement between GlaxoSmithKline and a class of consumers and third-party payors who purchased the drug Relafen or its generic alternatives. Under the terms of the settlement, the defendants paid damages of \$75 million to class members. Of the total settlement amount, \$25 million was allocated to consumers and \$50 million was used to pay the claims of insurers and other third-party payors.

RESULT: \$75 million settlement

DAIRY PRICE-FIXING LITIGATION

The firm filed a class-action suit against several large players in the dairy industry, including the National Milk Producers Federation, Dairy Farmers of America, Land O'Lakes, Inc., Agri-Mark, Inc. and Cooperatives Working Together that together produce nearly 70 percent of milk consumed in the U.S. The suit alleged the groups conspired to fix U.S. milk prices through an organized scheme to limit production, involving the needless, premature slaughtering of 500,000 cows.

RESULT: \$52 million settlement

PANASONIC RESISTORS ANTITRUST LITIGATION

Hagens Berman was co-lead counsel, representing direct purchasers of linear resistors, a device in electronics used to limit electric current, against an alleged cartel of manufacturers who conspired to limit linear resistor price competition for nearly a decade.

RESULT: \$50.25 million settlement

TOYS "R" US BABY PRODUCTS ANTITRUST LITIGATION

The complaint claimed Toys "R" Us and several baby product manufacturers violated provisions of the Sherman Antitrust Act by conspiring to inflate prices of high-end baby products, including car seats, strollers, high chairs, crib bedding, breast pumps and infant carriers. The lawsuit asked the court to end what it claims are anti-competitive activities and sought damages caused by the company's actions.

RESULT: \$35.5 million settlement

EA MADDEN NFL ANTITRUST LITIGATION

The firm represented a class of consumers against Electronic Arts (EA) alleging it violated antitrust and consumer laws by inflating the price of EA-published videogames. The lawsuit alleged EA established agreements with the National Football League, The NFL Players Union, Arena Football League and the National Collegiate Athletic Association that drove competition out of the market and prevented new competitors from entering.

RESULT: \$27 million settlement

HOTEL ROOM OVERPRICING

The nation's largest hotel chains settled a class-action lawsuit brought by consumers of hotel room reservations booked online. Consumers represented by Hagens Berman alleged hotel chains agreed to restrain competition for paid search advertising for hotel rooms associated with defendants' brand names, depriving consumers free, competitive information, and raising the price of hotel rooms booked online.

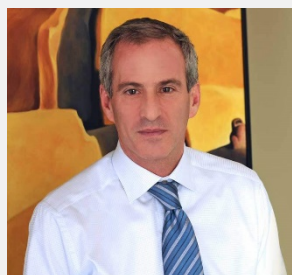
RESULT: The parties reached a confidential settlement.

REAL ESTATE COMMISSIONS ANTITRUST LITIGATION

The firm represents home sellers accusing the National Association of Realtors (NAR) and the largest real estate brokerage firms in the United States of conspiring to artificially inflate commissions associated with home sales – in part by implementing rules that require home sellers to pay commission to the agent representing the buyer. As of May 2024, the firm has reached \$980.9 million in settlements with all defendants in *Moehrl v NAR* and *Burnett v NAR*, and with some of the defendants in *Gibson v NAR*. The litigation is pending against remaining defendants in *Gibson v NAR*. The courts in *Moehrl* and *Burnett* certified damages and injunctive relief classes of sellers who sold their home through a Multiple Listing Service (MLS) during the relevant time periods, as well as current and future owners of residential real estate in affected jurisdictions who are currently listing or will list homes on an MLS. Class settlements encompass sellers who listed their homes on an MLS anywhere in the United States. In an order related to expert discovery, the court said that the buyer-broker policies challenged in the lawsuit facilitate “keeping buyers in the dark and severely restricting negotiations over buyer-broker commissions.”

RESULT: The firm has reached settlements totaling over \$980.9 million. The court has granted final approval of the settlements with Anywhere Real Estate (\$83.5 million), Keller Williams Realty Inc. (\$70 million), and RE/MAX (\$55 million). The Court has further granted preliminary approval of settlements with NAR (\$418 million), Compass (\$57.5 million), The Real Brokerage Inc. (\$9.25 million), Douglas Elliman (\$7.75 million), @properties (\$6.5 million), and Realty ONE (\$5 million). The case is pending against remaining defendants. The New York Times reported that Steve Brobeck, Ph.D., who served as the executive director of Consumer Federation of America for nearly four decades, estimates that the \$100 billion spent per year on residential real estate commissions will probably decline by between \$20 billion and \$50 billion, if the settlement with NAR is approved by the court.

U.S. LEGAL TEAM



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BAR ADMISSIONS

- Illinois
- Washington
- Foreign Registered Attorney in England and Wales

COURT ADMISSIONS

- Supreme Court of the United States
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Second Circuit

MANAGING PARTNER

Steve W. Berman

Served as co-lead counsel against Big Tobacco, resulting in the **largest settlement in world history**, and at the time **the largest automotive, antitrust, ERISA and securities settlements in U.S. history**

INTRODUCTION

Steve Berman has dedicated this career as a class-action plaintiffs' lawyer to improving the lives of those most in need. He represents large classes of consumers, investors and employees in large-scale, complex litigation held in state and federal courts. Steve's trial experience has earned him significant recognition and led The National Law Journal to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. Steve's class-action lawsuits have led to record-breaking settlements, historic changes to industries and made real change possible for millions of individuals.

Steve co-founded Hagens Berman in 1993 after his prior firm refused to represent several young children who consumed fast food contaminated with E. coli — Steve knew he had to help. In that case, Steve alleged that the poisoning was the result of Jack in the Box's cost cutting measures and negligence. He was further inspired to build a firm that vociferously fought for the rights of those most in need. Berman's innovative approach, tenacious conviction and impeccable track record have earned him an excellent reputation and numerous historic legal victories. He is considered one of the nation's most successful class-action attorneys and has been praised for securing tangible benefits for class members, as well as outstanding monetary relief. Steve is particularly known for his tenacity in forging settlements that return a high percentage of recovery or meaningful industry change to class members.

[Print & Online Feature Interviews »](#)

CURRENT ROLE

- Managing Partner of Hagens Berman Sobol Shapiro LLP and Hagens Berman EMEA LLP (U.K.), U.S. Managing Member of HBSS France

CURRENT CASES

Steve leads the firm's efforts in the areas of antitrust, consumer protection and more, maintaining a leading edge amid shifting trends and technology. His active cases concern billions of dollars in damages and affect hundreds of millions of individuals. Steve's caseload spans several industries, including technology, college sports, agriculture and wages and include the following highlights.

ANTITRUST LITIGATION

The antitrust lawsuits that Steve Berman has led have secured settlements valued at more than \$27 billion, spotlighting anticompetitive practices that have harmed consumers across various industries. Steve's outstanding work in this field has earned the firm accolades and awards, and his current caseload speaks to the breadth of the firm's impact.

- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Court of Appeals for the D.C. Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Federal Claims
- U.S. District Court for the District of Colorado
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Central District of Illinois
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Eastern District of Washington
- U.S. District Court for the Western District of Washington
- Supreme Court of Illinois
- Supreme Court of Washington

EDUCATION



University of Chicago Law School, J.D., 1980



University of Michigan, B.A., 1976

CASE	DESCRIPTION
Amazon Buy Box	Class action against Amazon for violating state consumer protection laws through the alleged use of a biased algorithm Status: Complaint filed
Amazon E-Books Price-Fixing Co-Lead Counsel	Class action accusing Amazon of establishing an illegal monopoly of the e-books market and charging artificially inflated prices Status: Court denies Amazon’s motion to dismiss monopoly claims
Amazon Online Retailer Consumer Antitrust (Frame-Wilson) Interim Co-Lead Counsel	Class action accusing Amazon of increasing prices for online purchases made via other retailers Status: Amazon’s motion to dismiss claims denied
Amazon.com Antitrust (De Coster) Co-Lead Counsel	Class action accusing Amazon of violating federal antitrust laws, causing customers to pay artificially high prices for products purchased via Amazon Status: Motion to dismiss denied
Apple iCloud Antitrust	Class action accusing Apple of violating antitrust laws and establishing a monopoly through its iOS cloud-based storage policies Status: Complaint filed
Apple Pay Payment Card Issuer Antitrust	Class action accusing Apple of intentionally monopolizing the billion-dollar mobile wallet market on iOS platforms, forcing payment card issuers to pay supracompetitive fees and stifling innovation Status: Motion to dismiss denied in part
Real Estate Commissions Antitrust Co-Lead Counsel	Class action against four national broker franchises alleging parties illegally inflated commissions associated with home sales Status: Settlements reached totaling \$693.2 million
RealPage Rent Price-Fixing – State of Arizona Retained Counsel	Retained by Arizona Attorney General Kris Mayes in a consumer-protection lawsuit on behalf of the state of Arizona alleging leasing companies colluded to artificially increase the price of rent Status: Complaint filed
NCAA Student-Athlete Name, Image and Likeness Co-Lead Counsel	Class action representing current and former NCAA college athletes accusing the NCAA and its conferences of illegally limiting the compensation athletes may receive for the use of their names, images and likenesses Status: Settlement reached
Visa Mastercard ATM Co-Lead Counsel	Class action alleging that Visa and MasterCard, with BofA, JP Morgan Chase and Wells Fargo, established uniform agreements with U.S. banks, preventing ATM operators from setting access fees below the level of fees charged on Visa’s and MasterCard’s networks \$197.5 million settlement with Visa and Mastercard receives preliminary approval, bringing total settlements to \$264.2 million if approved

AGRICULTURE ANTITRUST LITIGATION

The firm’s total settlements in this area of litigation is valued at more than \$636.32 million and have affected the lives of U.S. consumers and employees in the meat-processing industry. As inflation continues to rise, combatting anticompetitive schemes raising the cost of food is an issue pertinent to families across the nation.

AWARDS

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CASE	DESCRIPTION
Poultry Processing Wage-Fixing Antitrust Interim Co-Lead Counsel	Class action alleging wage-fixing agreement between the nation's biggest poultry companies Status: Settlements reached totaling \$217.2 million
Red Meat Processing Wage-Fixing Antitrust	Class action against the nation's largest meat processing companies alleging a yearslong wage-fixing agreement, causing employees to receive far less than legally owed Status: Settlements reached pending approval totaling \$138.5 million
Beef Antitrust Interim Co-Lead Counsel	Class action alleging major food corporations engaged in illegal conduct regarding the marketing and sales of beef products Status: Motion to dismiss denied
Broiler Chicken Antitrust Co-Lead Counsel	Class action accusing major food corporations of increasing the price of chicken in violation of antitrust laws Status: Settlements totaling \$181 million are pending court approval, class certification granted
Pork Antitrust Co-Lead Counsel	Class action alleging pork producers colluded to reduce pork production to artificially inflate prices Status: Settlements reached totaling \$95 million
Turkey Antitrust Interim Co-Lead Counsel	Class action alleging antitrust scheme by food corporations Status: Settlement reached with Tyson for \$4.62 million, seven remaining defendants

AUTO DEFECT & EMISSIONS LITIGATION

Hagens Berman's settlements in automotive defect and emissions lawsuits are collectively valued at more than \$21.4 billion and have led to significant safety protocols and changes in the auto industry. Steve's expertise leading complex litigation has led him to be hand-selected to champion the rights of vehicle owners. He remains dedicated to unearthing new instances of defect coverups, emissions cheating and safety concerns, utilizing the firm's resources to lead the charge against negligence.

CASE	DESCRIPTION
Daimler Mercedes BlueTEC Emissions – Australia Advisory Role	Following Hagens Berman's \$700 million settlement with Mercedes for alleged emissions cheating in the U.S., the firm has taken an advisory role in comparable litigation against Daimler filed in Australia. Status: Pending and active
FCA Dodge RAM 2500/3500 Emissions – 2007-2012 & 2013-2023	Class action alleging Fiat Chrysler/Stellantis and Cummins placed emissions-cheating defeat devices in affected RAM trucks Status: 2007-2012 models: motion to dismiss denied in part; 2013-2023 models: complaint filed
FCA Chrysler Pacifica Hybrid Minivan Fire Hazard Co-lead Counsel	Class action against Fiat Chrysler/Stellantis alleging a defect in the design of Chrysler Pacifica hybrid minivans results in spontaneous fires while vehicle is parked and off Status: Motion to dismiss denied
General Motors CP4 Fuel Pump Defect Class Counsel	Class action alleging Chevy Silverado and GMC Sierra trucks with a Duramax diesel 6.6 V8 engine are equipped with a defective high-pressure fuel injection pump. Status: Class certification granted

SECURITIES LITIGATION

Hagens Berman's total settlements in securities litigation valued at more than \$2.9 billion, and Steve's efforts in this area have helped to recover losses for millions of individuals who have been blindsided by instances of fraud and disinformation orchestrated by publicly traded companies.

CASE	DESCRIPTION
Plantronics, Inc. (NYSE: PLT) Co-Lead Counsel	Class action representing Plantronics investors seeking to recover damages caused by violations of the Securities Exchange Act of 1934 Status: Motion to dismiss denied
Vaxart, Inc. (NASDAQ: VXRT) Lead Counsel	Class action against Vaxart and controlling shareholder, Armistice, alleging claims under federal securities laws Status: \$12.015 million partial settlement reached
Zillow Group, Inc. (NASDAQ: Z, ZG) Lead Counsel	Class action alleging defendants falsely touted the durability and acceleration of Zillow Offers and improvements to pricing models Status: Motion to dismiss denied

RECENT SUCCESS

Steve Berman has achieved monumental settlements within the last two years, bringing hundreds of millions of dollars of relief to classes of everyday individuals affected by pricing schemes, automotive defects and other instances of wrongdoing. Through his recent case work, Steve maintains Hagens Berman's edge and excellence in class-action litigation.

CASE NAME	DATE	RECENT SUCCESS
NCAA Student-Athlete Name, Image and Likeness Co-Lead Counsel	07/26/24	Motion filed seeking preliminary approval of settlement
Visa MasterCard ATM Co-Lead Counsel	07/26/23	\$197.5 million settlement with Visa and Mastercard receives preliminary approval
Real Estate Commissions Antitrust Co-lead Counsel	04/23/24	\$418 million settlement with NAR receives preliminary approval
Hyundai / Kia Engine Fire Hazard Co-lead Counsel	04/09/24	Settlement receives final approval
NCAA/EA Video Games Likeness Co-lead Counsel	03/04/24	10,000 athletes revive EA College Football Videogame following NIL litigation
Hyundai / Kia Car Theft Defect Co-Lead Counsel	10/31/23	Settlement receives preliminary approval
University of Washington College Tuition Payback	06/29/23	Class certification granted
Hyundai / Kia Hydraulic Electronic Control Unit (HECU) Fire Hazard	05/05/23	Settlement receives final approval

CP4 Fuel Pump Defect – GM/Ford/FCA	03/31/23	Motion to dismiss denied
Pork Antitrust Co-Lead Counsel	09/27/22	Settlement agreements reached
Amazon.com Consumer Fraud	09/14/22	California AG files similar case, echoing Hagens Berman’s claims
Poultry Processing Wage-Fixing Antitrust Interim Co-Lead Counsel	07/19/22	Motions to dismiss denied

CAREER HIGHLIGHTS

Steve’s career highlights encompass the top cases in world history both in their historical significance and in their monetary relief. Steve’s total settlements are valued at more than \$316 billion, including the infamous Big Tobacco litigation of the 90s, and have had major national impact. Steve’s career highlights include Enron pension protection, justice for victims of Harvey Weinstein, restitution for those affected by Volkswagen’s Dieselgate scandal, the complete remaking of college sports compensation and more.

His career focus remains clear: steadfast representation for those most in need across the nation. Steve’s cases have brought widespread benefit to classes of individuals spanning industries and decades. Lawsuits he has settled have reunited Hungarian Holocaust survivors with priceless family heirlooms, and also enacted major changes in youth soccer and NCAA sports to promote safety and minimize the risk of concussions. Below are Steve’s outstanding career highlights.

CASE/ROLE	SETTLEMENT VALUE	NATIONAL IMPACT
State Tobacco Litigation Special Assistant Attorney General Representing 13 States	\$260 billion	Largest civil settlement in history The multi-state agreement required tobacco companies to pay the states \$260 billion and submit to broad advertising and marketing restrictions, leaving a lasting and widespread impact.
Visa Check/MasterMoney Antitrust Litigation Co-lead Counsel	\$25 billion	Largest antitrust settlement in U.S. history at the time Agreements with Visa and Mastercard secured relief valued at as much as \$25-87 billion, and injunctive relief reducing interchange rates, among other benefits.
Volkswagen/Porsche/Audi Emissions Scandal Plaintiffs’ Steering Committee and Settlement Negotiating Team	\$14.7 billion	Largest ever brought against any automaker Hagens Berman’s automotive legal team was the first to file in this historic lawsuit against Volkswagen for its emissions cheating and masking of harmful pollutants, culminating in a historic settlement.
Volkswagen Franchise Dealerships Lead Counsel	\$1.67 billion	The firm achieved a monumental settlement on behalf of Volkswagen dealerships across the U.S. blindsided by the automaker’s emissions cheating, returning an average payment to each Dealer Settlement Class Member of approximately \$1.85 million.

<p>Toyota Sudden, Unintended Acceleration Co-lead Counsel</p>	\$1.6 billion	<p>Largest automotive settlement in history at the time The firm did not initially seek to lead this litigation but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs.</p>
<p>Hyundai / Kia Theta II GDI Engine Fire Hazard Settlement Co-lead Counsel</p>	\$1.3 billion	<p>The firm achieved a settlement in response to a defect in 4.1 million Hyundai and Kia vehicles equipped with Theta II GDI engines putting owners at risk for spontaneous, non-collision engine fires or premature engine failure.</p>
<p>Mercedes BlueTEC Co-lead Counsel</p>	\$700 million	<p>Spurred by the firm's success in the Volkswagen Dieselgate case, Steve independently tested diesel vehicles across manufacturers, uncovering additional instances of emissions-cheating, masked via illegal defeat devices.</p>
<p>Apple E-Books Antitrust Co-lead Counsel</p>	\$568 million	<p>This antitrust lawsuit alleged Apple and five of the nation's top publishers colluded to raise the price of e-books for U.S. consumers. Steve's litigation resulted in an unheard of recovery equal to twice consumers' actual damages. Apple took the case to the U.S. Supreme Court, where it denied Apple's request to review the case.</p>
<p>McKesson Drug Class Litigation Co-lead Counsel</p>	\$350 million	<p>Steve was named co-lead counsel in this action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.</p>
<p>Average Wholesale Price Litigation</p>	\$338 million	<p>Drug prices charged to consumers and payers across the nation are significantly more than the cost to produce them. In many cases, Big Pharma conspires with other companies to create these false profits. Hagens Berman has helped several classes of plaintiffs obtain multimillion-dollar judgments.</p>
<p>Enron Pension Protection Litigation Co-lead Counsel</p>	\$250 million	<p>Attorneys represented 24,000 Enron employees claiming the company recklessly endangered retirement funds, causing some employees to lose hundreds of thousands of dollars almost overnight, in a major economic milestone in U.S. history.</p>
<p>BoA Homeloans</p>	\$250 million	<p>Following the historic market crash in 2008, Hagens Berman filed this class action against Bank of America, Countrywide and LandSafe, alleging their collusion was in direct violation of the RICO Act and other laws.</p>
<p>McKesson Governmental Entity Class Litigation Lead Counsel</p>	\$82 million	<p>Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.</p>

JPMorgan Madoff Lawsuit	\$218 million	This historic settlement against JPMorgan involved three simultaneous, separately negotiated settlements totaling more than \$2.2 billion, in which Hagens Berman returned hundreds of millions of dollars on behalf of Bernard L. Madoff investors.
NCAA Athletic Grant-in-Aid Cap Antitrust Co-lead Counsel	\$208 million	Steve pioneered this historic case which forever changed NCAA sports and the lives of 53,748 class members. The case culminated in a \$208 million settlement regarding damages and injunctive relief secured through a unanimous U.S. Supreme Court decision in favor of plaintiffs. According to the Court, the NCAA “permanently restrained and enjoined from agreeing to fix or limit compensation or benefits related to education” that conferences or schools may make available. Schools are now allowed to provide benefits tethered to education up to \$6,000 annually
Apple iOS App Developers Class Counsel	\$100 million	Hagens Berman represented developers of iOS apps sold via Apple’s App Store or featuring in-app sales, alleging the tech giant engaged in anticompetitive practices that harmed developers. The settlement brings important changes to App Store policies and practices. U.S. iOS app developers with less than \$1 million per year in proceeds from App Store sales through all associated developer accounts across the nation can receive hundreds to tens of thousands of dollars from the fund.
Google Play Store App Developers Co-lead Counsel	\$90 million	This antitrust class action accused Google of monopolizing its Play Store through anticompetitive policies, affecting small businesses across the nation. Attorneys for the class of roughly 43,000 Android app developers say some class members will likely see payments in the hundreds of thousands of dollar
Zuora Investor Fraud Lead Counsel	\$75.5 million	In a showcase of Steve’s securities litigation expertise, this settlement achieved in 2023 provides significant relief to purchasers of the securities of Zuora across the U.S.
NCAA Concussions Lead Counsel	\$75 million	Hagens Berman served as lead counsel in this multidistrict litigation against the NCAA, achieving medical monitoring and injunctive relief in the form of changes to concussion management and return-to-play guidelines. The lawsuit alleged the institutions neglected to protect college athletes from concussions and their aftermath at schools across the country.

NCAA/Electronic Arts Name and Likeness Co-lead Counsel	\$60 million	This first-of-its-kind lawsuit ushered in the first time that hardworking college athletes saw some of the profits from the use of their likeness in video games. More than 24,000 individuals were eligible to receive payment, and checks were issued for up to \$7,600, with a median around \$1,100.
Harvey Weinstein Sexual Harassment	\$17.1 million	As the #MeToo movement hit a fever pitch moment, Hagens Berman's Steve Berman represented a class of those harmed by Harvey Weinstein, a kingpin of sexual harassment in Hollywood. The firm litigated the case through to bankruptcy proceedings in 2020.
Youth Soccer Concussions		Steve pioneered this first-of-its-kind lawsuit that ended heading for US Soccer's youngest players to diminish risk of concussions and traumatic brain injuries, changing the game for youth players across the U.S.

ACTIVITIES

- In April of 2021, the University of Michigan School for Environment and Sustainability (SEAS) launched the Kathy and Steve Berman Western Forest and Fire Initiative with a philanthropic gift from Steve (BS '76) and his wife, Kathy. The program will improve society's ability to manage western forests to mitigate the risks of large wildfires, revitalize human communities and adapt to climate change. Steve studied at the School of Natural Resources (now SEAS) and volunteered as a firefighter due to his focus on environmental stewardship. [Read more »](#)
- In 2003, the University of Washington announced the establishment of the Kathy and Steve Berman Environmental Law Clinic. The Berman Environmental Law Clinic draws on UW's environmental law faculty and extensive cross-campus expertise in fields such as Zoology, Aquatic and Fishery Sciences, Forest Resources, Environmental Health and more. In addition to representing clients in court, the clinic has become a definitive information resource on contemporary environmental law and policy, with special focus on the Pacific Northwest.

RECOGNITION

- 500 Global Plaintiff Lawyers, Lawdragon, 2024
- 500 Leading Lawyers in America, Plaintiff Financial Lawyers, Lawdragon, 2023-2024
- 500 Leading Lawyers in America, Plaintiff Consumer Lawyers, Lawdragon, 2024
- Lawyer of the Year, Litigation, Securities Litigation, Best Lawyers, 2024
- The Best Lawyers in America, Antitrust Litigation, Best Lawyers, 2024
- The Best Lawyers in America, Securities Litigation, Best Lawyers, 2024
- The Best Lawyers in America, Plaintiffs Mass Tort Litigation/Class Actions, Best Lawyers, 2024
- The Best Lawyers in America, Plaintiffs Product Liability Litigation, Best Lawyers, 2024
- Legal Lion of the Week as part of the litigation team that achieved class certification in NCAA Student-Athlete Name, Image and Likeness, Law360, 2023

- Best Lawyers in America in Litigation, Securities and Product Liability Litigation, Plaintiffs and Other Areas of Note, 2023
- Washington Super Lawyers, 1999-2023
- Titan of the Plaintiffs Bar, Law360, 2018, 2020, 2022
- Leading Commercial Litigators, The Daily Journal, 2022
- Hall of Fame, Lawdragon, 2022
- Plaintiffs' Attorneys Trailblazer, The National Law Journal, 2017, 2022
- Sports & Entertainment Law Trailblazer, The National Law Journal, 2021
- Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2021, 2019, 2018
- Class Action MVP of the Year, Law360, 2016-2020
- Elite Trial Lawyers, The National Law Journal, 2014-2016, 2018-2019
- 500 Leading Lawyers in America, Lawdragon, 2014-2019
- State Executive Committee member, The National Trial Lawyers, 2018
- Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts, 2017
- Finalist for Trial Lawyer of the Year, Public Justice, 2014
- One of the 100 most influential attorneys in America, The National Law Journal, 2013
- Most powerful lawyer in the state of Washington, The National Law Journal, 2000
- One of the top 10 plaintiffs' firms in the country, The National Law Journal

PRESENTATIONS

- Steve is a frequent public speaker and has been a guest lecturer at Stanford University, University of Washington, University of Michigan and Seattle University Law School.

PERSONAL INSIGHT

Steve was a high school and college soccer player and coach. Now that his daughter's soccer skills exceed his, he is relegated to being a certified soccer referee and spends weekends being yelled at by parents, players and coaches (as opposed to being yelled at by judges during the week). Steve is also an avid cyclist and is heavily involved in working with young riders on the international Hagens Berman Axeon cycling team.



PARTNER
Ben Harrington

Ben focuses on challenging fraudulent business practices and enforcing antitrust laws, drawing from his extensive experience representing both plaintiffs and defendants at all stages of litigation.

benh@hbsslaw.com

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YEARS OF EXPERIENCE
14

PRACTICE AREAS
[Antitrust Litigation](#)
[Class Action](#)
[Consumer Rights](#)
[Pharmaceutical Fraud](#)

BAR ADMISSIONS
▪ California
▪ New York

COURT ADMISSIONS
▪ U.S. District Court for the Southern District of New York
▪ U.S. District Court for the Eastern District of New York

EDUCATION
UC HASTINGS
COLLEGE OF THE LAW
University of California, Hastings
College of the Law, J.D.,
summa cum laude, 2008



The Evergreen State College, B.A.,
2001

AWARDS
Super Lawyers
RISING STARS

CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP

EXPERIENCE

- Prior to joining Hagens Berman, Ben worked as a litigation associate in the New York office of Quinn Emanuel Urquhart & Sullivan LLP.

CLERKSHIPS

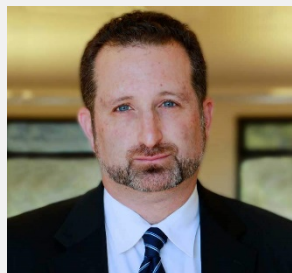
- Honorable Nina Gershon, U.S. District Court for the Eastern District of New York, 2014-2016
- Honorable Harris Hartz, U.S. Court of Appeals, Tenth Circuit, 2008-2009

RECOGNITION

- California Rising Star, Super Lawyers, 2020

PERSONAL INSIGHT

If Ben is not working you will probably find him chasing after his young daughter, noodling on a guitar or tending to his ever-growing stable of bicycles.



bens@hbsslw.com

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Berkeley, CA 94710

YEARS OF EXPERIENCE

14

PRACTICE AREAS

Antitrust Litigation
Class Action
High Tech Litigation
Sports Litigation

BAR ADMISSIONS

- California

COURT ADMISSIONS

- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Northern District of California
- U.S. District Court for the Eastern District of California

CLERKSHIPS

- Honorable Thomas M. Reavley, Fifth Circuit Court of Appeals

EDUCATION

TEXASLAW

The University of Texas School of Law, The University of Texas LBJ School of Public Affairs, J.D., M.P.A., Order of the Coif, High Honors, 2007 Articles Editor, Texas Law Review; Texas Law Review Best Litigation Note, Volume 85; Texas Law Public Interest Fellowship; LBJ Foundation Award, First in Class

OF COUNSEL

Benjamin J. Siegel

Mr. Siegel is an experienced litigator with a focus on antitrust law who has represented clients in state and federal courts, on appeals, as well as before arbitrators and governmental agencies, and has achieved significant settlements for clients.

CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro LLP

RECENT CASES

- In re College Athlete NIL Litigation*, No. 4:20-cv-03919 (N.D. Cal.)
- Carter v. NCAA et al.*, No. 3:23-cv-06325 (N.D. Cal.)
- In re Optical Disk Drive Prods. Antitrust Litigation*, No. 3:10-md-2143-RS (N.D. Cal.)
- Bartron et al. v. Visa Inc. et al.*, 1:11-cv-01831 (D.D.C.)
- In re NCAA Grant-In-Aid Antitrust Litigation*, 4:14-md-02541-CW (N.D. Cal.)
- In re Resistors Antitrust Litigation*, 5:15-cv-03820-JD (N.D. Cal.)

EXPERIENCE

- Following his work at Boies, Schiller & Flexner LLP in 2008-2009, Mr. Siegel has litigated cases on behalf of plaintiffs for the past 14 years.

LEGAL ACTIVITIES

- Alameda County Bar Association

RECOGNITION

- Northern California Super Lawyers, 2024
- Legal Lion of the Week as part of the litigation team that achieved class certification in NCAA Student-Athlete Name, Image and Likeness, Law360, 2023
- Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute, 2021
- Rising Stars, Super Lawyers, 2018

PUBLICATIONS

- Constitutional Rights and the Counter-Majoritarian Dilemma, May 15, 2007 (unpublished Master's thesis, University of Texas at Austin)
- Benjamin Siegel, Note, "Applying a 'Maturity Factor' Without Compromising the Goals of the Class Action," 85 Texas Law Review 74, 2007

Yale University

Yale University, B.A. Political
Science, cum laude, Phi Beta
Kappa, 2000

AWARDS

Super Lawyers
RISING STARS

- Benjamin Siegel et al., “Beyond the Numbers: Improving Postsecondary Success through a Central Texas High School Data Center,” LBJ School of Public Affairs, Policy Research Report No. 148, 2005
- Benjamin Siegel, “California Must Protect Health Care for Medi-Cal Children,” 15 Youth Law News 1, 2004
- Jenny Brodsky, Jack Habib and Benjamin Siegel, “Lessons for Long-Term Care Policy, World Health Organization,” Publication No. WHO/NMH7CCL/02.1, 2002
- Jenny Brodsky, Jack Habib, Miriam Hirschfeld and Benjamin Siegel, “Care of the Frail Elderly in Developed and Developing Countries: the Experience and the Challenges,” 14 Aging Clinical & Experimental Research 279, 2002

PERSONAL INSIGHT

When not working to enforce the nation’s antitrust laws, Mr. Siegel enjoys spending time with his wife and three young children in his hometown of Oakland, California. He also likes playing softball and pick-up basketball with his friends.

Exhibit 12

“A GLOBAL FORCE IN BUSINESS LITIGATION”
The Wall Street Journal

quinn emanuel
quinn emanuel urquhart & sullivan, llp | trial lawyers

abu dhabi | atlanta | austin | beijing | berlin | boston | brussels | chicago | dallas | doha | dubai | hamburg | hong kong | houston | london | los angeles | mannheim | miami | munich
neully-la defense | new york | paris | perth | riyadh | salt lake city | san francisco | seattle | shanghai | silicon valley | singapore | stuttgart | sydney | tokyo | washington, d.c. | wilmington | zurich

1,000+ litigators and arbitration practitioners—the largest and most successful litigation and arbitration law firm in the world.

- 36 offices located in 13 countries.
- We only do one thing—disputes—and we are the best at it. We win.
- “Most Feared Law Firm Globally”—Based on a survey of over 350 major corporations, Quinn Emanuel has, for over eleven years, been recognized by BTI Consulting as one of the “Fearsome Foursome,” an elite group of law firms that “clients don’t want to face on the other side.” For three years running, and a total of five times, we were named *the* most feared law firm in the world.
- *Chambers & Partners* awarded Quinn Emanuel “Commercial Litigation Law Firm of the Year” at its 2024 Chambers USA Awards.
- *The American Lawyer* awarded Quinn Emanuel “Litigation Department of the Year” at its 2023 Industry Awards. This award recognizes Quinn Emanuel as the best litigation firm in the U.S.
- Our global capabilities make coordinated representation in multi-jurisdictional litigation more effective and efficient.
- We try more major business cases than any other law firm. At least once each year, we are in a trial or an arbitration prosecuting or defending against a claim for over \$1 billion in damages.
- Partners have tried over 2,500 trials and arbitrations and won 86% of them.
- We have obtained five 10-figure verdicts, eight 9-figure jury verdicts, fifty-one 9-figure settlements, and twenty 10-figure settlements. We have won nearly \$80 billion for plaintiffs; \$28 billion in a recent two-year period. We are unmatched not only in our ability to obtain large judgments and award for our clients, but in collecting them –even against the most recalcitrant parties. No other firm can say that.
- When representing defendants, we have won cases outright where the plaintiffs were seeking billions of dollars. We bring unmatched ability and credibility to whichever side we are on.

quinn emanuel urquhart & sullivan, llp

Attorney Advertising. Prior results do not guarantee a similar outcome.

- We have grown to a 36-office global presence without a merger or acquisition of a large group. Our growth has come from recruiting top law students from top law schools and selective lateral partner hiring. Forty-eight of our partners were managing partners or practice heads at their prior firm. At last count, 318 of our attorneys (or 35.3%) were law review editors in law school, 242 have clerked at least once for judges and 24 of our partners were law school professors—one was the Dean of the Stanford Law School.
- Because of our formidable reputation as trial lawyers, we get better settlements. We bring exceptional negotiation skills to the table because we know it is often not in our client’s interest to go to trial. You will never hear about some of our greatest achievements—particularly in the white-collar area—because the prosecutors or plaintiffs dropped the charges or claims or settled. We are particularly proud of resolving suits on a business basis without resorting to the courts.
- We have the preeminent finance industry litigation practice in the world. We have the ability to be adverse to all major money center banks. We have unequaled experience in disputes regarding bankruptcy, restructuring, and complex financial products, such as derivatives, swaps, commodities, futures and options, RMBS, and CDOs. We were named “Banking Group of the Year” by *Law360* four out of the last five years.
- In 17 multi-billion dollar RMBS cases we brought on behalf of FHFA, we recovered approximately \$23 billion for U.S. taxpayers in settlements from major investment banks. We were also appointed co-lead counsel in the credit default swaps antitrust case, which alleged that major Wall Street banks conspired with Markit and ISDA to boycott the exchange trading of CDS. After two years of litigation, we obtained a settlement of more than \$1.86 billion, even though both the DOJ and EC had investigated and failed to bring charges.
- Close relationships with leading Democratic and Republican officials in Washington, D.C. facilitate fair hearings for client positions. Three of our partners have worked in the White House: two for Democrats, one for Republicans.
- We have the most successful and largest patent litigation practice in the world; more than 150 of our lawyers have science or engineering degrees.
- We have litigated cases regarding automated driving, CRISPR gene editing, and other cutting-edge technologies. We have been involved in the largest multi-jurisdiction patent disputes including the “smartphone wars,” where we were the defender of the Android operating system, and the Apple v. Qualcomm litigation. We have the leading patent litigation practice in Germany, the second most important IP jurisdiction in the world, and a specialized ITC practice team in Washington, D.C. Thus, we can offer clients representation in the most important patent dispute venues under one roof.
- The *Global Competition Review* named our antitrust and competition practice among the “25 Global Elite 2023,” and ranked us in their list of the world’s top 10 competition litigation practices.
- Our top international arbitration practitioners in Switzerland, London, Paris, New York, Washington, D.C., Los Angeles, and Hong Kong have collectively conducted arbitrations before all leading arbitral authorities—including the largest ICC arbitration ever. *Global Arbitration Review* consistently ranks us as one of the leading firms for international arbitration in the world, (number 8 in the world in 2024) and our arbitration specialists are rated among the world’s best by *Chambers*, *Legal 500*, and *Law360*.

- We have one of the top white-collar defense practices in the world. Over 25 partners are former Assistant United States Attorneys—two of whom were the United States Attorney in their districts as top DOJ officials. We represent individuals and companies in U.S. and international investigations and cases. The partners in this group regularly conduct internal investigations in almost every industry. We were named the “Most Impressive Investigations Practice of the Year” by Global Investigations Review, the leading legal periodical covering global white-collar investigations, and twice named “White Collar Group of the Year” by *Law360*.
- Twice voted “Class Action Group of the Year” by *Law360* for successes in antitrust, securities, consumer fraud, and wage and hour class action litigation on both defense and plaintiff sides. In the past three years, we defeated more than 20 class actions with prejudice at the pleading stage, and prevailed in more than two dozen others by defeating class certification, obtaining summary judgment, or resolving the case with no monetary payment. We are one of the few firms to have actually tried multiple class actions to verdict.
- Our appellate practice, headed by nationally recognized advocate Kathleen Sullivan, is one of the best in the U.S. and enables us to protect our clients’ wins and turn around losses. We have overturned six 8- and 9-figure verdicts. We have been named to *The National Law Journal’s* “Appellate Hot List” eight out of the last nine years and recognized as “Appellate Group of the Year” by *Law360*.
- We have a demonstrated record of advancing women. In 2010, Kathleen Sullivan became a name partner, marking the first time a woman held this position at an *Am Law 100* law firm. Twenty-seven women are either office managing partners or practice group chairs.
- The firm has been named “Best Place to Work for LGBTQ+ Equality” and received a perfect score by the 2022 Corporate Equality Index.

Representative Clients

- | | |
|---|--|
| ▪ Academy of Motion Picture Arts & Sciences | ▪ General Motors |
| ▪ AIG | ▪ Google |
| ▪ Airbus | ▪ Hyundai Motors |
| ▪ Alibaba | ▪ IBM |
| ▪ Bain Capital | ▪ KKR |
| ▪ Bank of China | ▪ Netflix |
| ▪ Barrick Gold | ▪ Nvidia |
| ▪ Carlyle | ▪ Public Investment Fund of Saudi Arabia |
| ▪ CATL (largest EV battery producer in the world) | ▪ Qualcomm |
| ▪ Charter Communications | ▪ Rio Tinto |
| ▪ Citadel | ▪ Samsung Electronics |
| ▪ Elon Musk | ▪ Softbank and Softbank Vision Fund |
| ▪ Express Scripts | ▪ Tesla |
| | ▪ TPG |

Recent Representative Matters

- On behalf of our client, Citadel founder and CEO Ken Griffin, obtained an unprecedented apology from the IRS, as well as commitments to make substantial investments in its data security systems, after the personal information of Mr. Griffin and thousands of other wealthy taxpayers was leaked to the press.
- Obtained dismissal of all charges against Alec Baldwin in the manslaughter prosecution arising from the shooting and death of cinematographer Halyna Hutchins on the set of the film "Rust." The case was dismissed after the Quinn team developed evidence that the prosecution improperly withheld exculpatory evidence from the defense.
- Obtained a \$6.01 billion settlement from 3M Company on behalf of U.S. servicemembers and veterans who suffered hearing loss/tinnitus because of defective earplugs sold by 3M. The settlement was reached after our team won over \$16 million in jury verdicts on behalf of three Army veteran plaintiffs in the bellwether trials we first chaired.
- Defended Google in a privacy class action seeking billions in damages based on allegations that Google receives users' communications with websites and personal information when users browse the web in "private" or "incognito" mode. The plaintiffs asserted federal and state wiretapping claims, as well as state constitutional and common law privacy claims. After eliminating the damages claims, we settled with the certified class for zero dollars and amending some disclosures.
- Defended Dr. Patrick Soon-Shiong, NantCell, NantPharma, and NANTibody in multiple actions and arbitrations brought by Sorrento Therapeutics, Inc. and its CEO Dr. Henry Ji arising from development of a would-be cancer drug and antibodies for use in combination therapies to cure cancer. Sorrento sought more than \$1 billion in damages. After we won \$176 million in an arbitration asserting claims against Sorrento and Dr. Ji, Sorrento filed for bankruptcy, resulting in a favorable settlement of all litigation.
- Obtained a \$580 million settlement and valuable injunctive relief for a class of investors, in a major antitrust lawsuit against the world's largest banks. The case alleges that the banks conspired to boycott the development of platform trading in the multi-trillion dollar securities lending market, to the detriment of investors everywhere. The case is ongoing against Bank of America.
- Won defense verdict in a multi-billion securities trial in San Francisco, with the jury finding client Elon Musk and Tesla not liable for investor losses. The trial followed Musk's 2018 tweets that he had "funding secured" to take Tesla private, and the jury reached their decision after less than two hours of deliberation. The victory was particularly noteworthy in that the court had instructed the jury that the tweets were false and recklessly made, and that the jury's task was to determine only whether the false representations were "material" and, if so, the amount of damages. Plaintiffs claimed that damages were in the range of \$12 billion.
- \$1.5 billion win for investors against Argentina on behalf of purchaser of that country's debt.
- Co-lead counsel for LIV Golf, Inc. and certain professional golfers in an antitrust action against PGA Tour, Inc., based on its unlawful monopolization or attempted monopolization of the market for the services of professional golfers for elite golf events; its unlawful monopolization or attempted monopolization of the market for the promotion of elite professional golf events; its unlawful agreement with the European Tour to eliminate competition in the markets; its breach of its

contracts with the player plaintiffs; and its interference with LIV Golf's contractual and prospective business relationships. The case settled with an agreement that LIV Golf and PGA Tour would pursue a combination.

- \$2 billion win for British petroleum company against India.
- Representing group of institutional investors on Credit Suisse AT-1 bonds against Switzerland.
- Win in UK Supreme Court for Ukraine on \$2 billion action brought on behalf of Russia.
- Win in U.S. Patent and Trademark office proceeding relating to priority of discovery of CRISPR CAS9 intellectual property technology on behalf of The Broad Institute against the Nobel Prize winners.
- Representing Bank of China, China Construction Bank, Industrial & Commercial Bank of China, and Bank of Communications in a series of U.S. litigation matters exonerating several of China's largest commercial banks from contempt of court liability for complying with Chinese law restrictions over a U.S. court freezing order, where the plaintiff sought hundreds of millions of dollars in sanctions.
- On damages retrial, reduced damages award against Tesla from \$137 million to \$15 million (we did not try the case originally).
- One of only two defense verdicts in the "Varsity Blues" prosecutions.
- Complete victory in the Delaware Court of Chancery for Mirae Asset in the first terminated takeover case of the COVID-19 era to go to trial. The Court denied all relief sought by the seller Anbang, including specific performance to complete a \$5.8 billion transaction, and awarded Mirae Asset the return of its \$581.7 million deposit with interest, and attorneys' fees and costs.
- \$1.2 billion verdict for Cal Tech University against Broadcom and Apple.
- Represented Waymo LLC, formerly Google's self-driving car program, in a highly publicized action asserting misappropriation of trade secrets related to Waymo's self-driving LiDAR (Light Detection and Ranging) technology against Uber Technologies, Inc. and Ottomotto LLC. The parties reached a settlement on the fourth day of trial, granting Waymo a percentage of equity in Uber (valued at \$245 million) as well as injunctive relief that assures Uber will not use Waymo's trade secret hardware and software self-driving car technology.
- Obtained a settlement as lead counsel for Qualcomm in a series of disputes between Apple and Qualcomm after we won both (1) a jury verdict in San Diego finding that five Qualcomm patents were valid, infringed by Apple and the appropriate royalty rate was \$1.41 per iPhone; (2) an Initial Determination before the International Trade Commission recommending that the Commission exclude all iPhones and iPads without Qualcomm baseband processors going forward from entering the country. The settlement was so favorable that Qualcomm's stock jumped 23% when news of the settlement was released.
- Representing Alibaba and Ant Financial in a number of U.S. litigation matters.

- As court appointed lead counsel of the plaintiff class in the Credit Default Swaps Antitrust Litigation. The firm negotiated one of the largest antitrust class action settlements in history (\$1.9 billion). The case alleged that twelve of the world's largest banks including Bank of America, Goldman Sachs, and JPMorgan colluded to block the emergence of exchange trading venues for credit default swaps.
- Won \$333 million patent infringement verdict in Delaware for Chinese client Complete Genomics, Inc. against Illumina, the U.S. market lead gene sequencing equipment manufacturer.
- Represented Changpeng Zhao, co-founder and CEO of Binance, in resolution of US government criminal and civil charges by the DOJ, CFTC, and FinCEN and OFAC of the US Treasury Department. As a result of the deal with Mr. Zhao, Binance will remain the world's largest crypto exchange and Mr. Zhao will retain his ownership in the company. Mr. Zhao was also permitted to travel freely pending his sentencing some time in Q2 or Q3 of 2024, which could range from no prison term to a maximum of 18 months under the US Sentencing Guidelines.
- Obtained \$5.3 billion in final judgments—representing 100% of the plaintiffs' damages—against the United States government due to its failure to make “risk corridor” and “cost sharing reduction” payments to three separate certified classes of Affordable Care Act health insurers.
- Achieved a \$1.84 billion settlement for client Ambac Assurance against Countrywide and Bank of America after five weeks of trial in New York Supreme Court in one of the largest Residential Mortgage Backed Securities (“RMBS”) cases.

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
COLUMBIA**

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Civil Action No. 1:11-Cv-1831-RJL

Description: Antitrust – Class Action

DECLARATION OF STEVEN A. SKALET

I, Steven A. Skalet, declare upon personal knowledge and under penalty of perjury that the following is true and correct:

1. I am co-lead Class Counsel in the above-captioned matter and was a principal in the Washington D.C. firm of Mehri & Skalet, PLLC (“M&S”) until 2020, with over 40 years of continuous litigation and transactional experience in consumer protection and fraud, bank fraud, real estate, employment, and class action litigation. I am a member of the Bars of the District of Columbia, Maryland, and many federal courts.

2. In 2001, I co-founded M&S and we have since been lead counsel or co-lead counsel in successful class actions with substantial settlements against Dell, Inc., Mercury Marine, Hewlett Packard, Apple, Sony, Ford, Verizon, Mitsubishi, Ciox, Morgan Stanley, and many other companies. Cyrus Mehri served as lead counsel before this Court in *Brown v Medicis Pharmaceutical Company*, which resulted in one of the largest gender discrimination settlements in U.S. history on a per class member basis. Recently M&S co-led a consumer class actions

against Farmers Insurance Company and Allstate Insurance that respectively resulted in a 15 and 25 million dollar recoveries as well as changes in company practices that will save tens of millions of dollars annually for California consumers. I have retired as an equity partner and am currently “of counsel” with M&S.

3. Among other accomplishments, I have been an advisor to the Federal Reserve Board, served on a District of Columbia Bar Committee and Montgomery County Advisory Committee, and have been peer selected as a “Super Lawyer” and “Top Attorney in Washington, DC.” I actively participated in Community Associations Institute activities and was Chair of the District of Columbia Legislative Action Committee for many years. In 1999 and again in 2001, I was awarded the Public Advocate Award for my work on District of Columbia legislation. I am a long-serving director of the Studio Theatre in Washington, DC and the Public Justice law firm, one of the country’s largest public interest law firms.

4. M&S has been involved in this case from its inception and acted as local counsel in connection with the initial court filings and service of process. M&S also participated in drafting the Complaint and participated extensively in research, motions practice, discovery, document review and in briefing the appeal. M&S was appointed as one of three Interim Co-Lead Counsel by Order dated March 3, 2016.

5. M&S partner Craig Briskin was initially the primary counsel at M&S on the case, with oversight from partners Steven Skalet and Cyrus Mehri and assistance from numerous associates and paralegals. He is presently a trial attorney at the US Department of Justice.

6. M&S maintains regular hourly billing rates for all attorneys, paralegals, and law clerks whose case-related work time is billed, which are consistent with or modestly below Adjusted Laffey Matrix rates.¹ These rates are reasonable for attorneys of similar experience, reputation, and expertise, and are consistent with the prevailing market rates for attorneys with comparable levels of experience in Washington, D.C.

7. The lodestar amount (hours worked times hourly rates) is based on the time recorded in contemporaneous billing records. Daily, M&S attorneys and paralegals record their billable time to the nearest tenth of an hour in a detailed, contemporaneous, and task-specific manner on a computerized program called TimeSolv. Such billing records have been maintained for this case. The tasks on which work was done, on an individual timekeeper, and a day-by-day basis are specified in the detailed time entries, which we can make available if requested for *in camera* review.

8. I certify to the Court that these records accurately reflect work reasonably performed in connection with the litigation of this matter. A chart displaying M&S's lodestar and expenses as of this date, not including work in connection with this fee application, is attached as Exhibit A. It shows lodestar in the case at billing rates in effect when the work was performed, and total lodestar computed at current Mehri & Skalet billing rates.

9. The time expended and expenses incurred in prosecuting this action were reasonable for the diligent litigation and fair resolution of this matter. This case has many complex and challenging legal and factual issues. The result achieved for the settlement class is outstanding.

¹ The Laffey Matrix is available here: <http://www.laffeymatrix.com>. See also, e.g., *DL v. District of Columbia* (D.C. Cir. 2019) 924 F.3d 585 (discussing the history and basis of the Laffey Matrix).

The lodestar reflected in the above chart also does not include the time to be devoted to preparing for and appearing at the final approval hearing or handling class member inquiries and other post-hearing matters.

10. Based on my substantial class action experience. I believe the fees and costs requested, as agreed in the Settlement Agreement, are extremely reasonable considering the degree of work required to litigate and successfully settle this case and the risk undertaken by Class Counsel, including the risks of advancing out-of-pocket costs in a contingency case and the risk of non-payment of fees if the case were not won or settled. Attached hereto as Exhibit B is a firm resume for M&S. Further information about the firm can be found at www.findjustice.com.

11. Executed on November 5, 2024..

/s/ Steven A. Skalet
Steven A. Skalet (DC No. 359804)

EXHIBIT A

TIME SUBMISSION

TimeKeeper	Status	Year	Historical Hourly Rate	Hours to date	Historical Lodestar to Date
Angoff, Jay	Attorney	2013	\$ 695.00	1.5	\$ 1,042.50
Best, Zachary W.	Law Clerk	2011	\$ 200.00	0.5	\$ 100.00
Bohl, Rebecca A.	Paralegal	2013	\$ 175.00	0.25	\$ 43.75
Briskin, Craig	Attorney	2017	\$ 715.00	8.3	\$ 5,934.50
Briskin, Craig L.	Attorney	2011	\$ 600.00	56.5	\$ 33,900.00
Briskin, Craig L.	Attorney	2012	\$ 600.00	97.3	\$ 58,380.00
Briskin, Craig L.	Attorney	2013	\$ 600.00	186.65	\$ 111,990.00
Briskin, Craig L.	Attorney	2014	\$ 600.00	170.75	\$ 102,450.00
Briskin, Craig L.	Attorney	2015	\$ 660.00	189.2	\$ 124,872.00
Briskin, Craig L.	Attorney	2016	\$ 685.00	290.4	\$ 198,924.00
Briskin, Craig L.	Attorney	2017	\$ 685.00	333.7	\$ 228,584.50
Briskin, Craig L.	Attorney	2018	\$ 685.00	482.7	\$ 330,649.50
Briskin, Craig L.	Attorney	2019	\$ 685.00	150.8	\$ 103,298.00
Carter, Anthony	Paralegal	2018	\$ 195.00	8.05	\$ 1,569.75
Carter, Anthony	Paralegal	2019	\$ 200.00	0.436	\$ 87.20
Charles, Dominic	Paralegal	2019	\$ 200.00	7.076	\$ 1,415.20
Charles, Dominic	Paralegal	2020	\$ 200.00	1.1	\$ 220.00

Charles, Dominic	Paralegal	2021	\$ 205.00	4	\$ 820.00
Charles, Dominic	Paralegal	2022	\$ 205.00	5.903	\$ 1,210.12
Cottrell, Brett	Attorney	2018	\$ 865.00	417.6	\$ 361,224.00
Darabnia, Amitis	Attorney Doc Reviewer	2018	\$ 460.00	160	\$ 73,600.00
Davis, Jamboa	Administrative	2021	\$ 205.00	3	\$ 615.00
Dhanvanthari, Anita	Attorney Doc Reviwer	2018	\$ 460.00	1225.5	\$ 563,730.00
Eardley, Ellen L.	Attorney	2011	\$ 450.00	1.75	\$ 787.50
Eardley, Ellen L.	Attorney	2014	\$ 575.00	0.2	\$ 115.00
Eardley, Ellen L.	Attorney	2018	\$ 718.00	1.7	\$ 1,220.60
Eardley, Ellen L.	Attorney	2019	\$ 740.00	0.4	\$ 296.00
Eardley, Ellen L.	Attorney	2020	\$ 740.00	0.3	\$ 222.00
Eardley, Ellen L.	Attorney	2021	\$ 760.00	0.1	\$ 76.00
Eardley, Ellen L.	Attorney	2022	\$ 760.00	2.9	\$ 2,204.00
Eardley, Ellen L.	Attorney	2024	\$ 1,055.00	0.2	\$ 211.00
Foster, LeeAnn	Paralegal	2018	\$ 200.00	8.7	\$ 1,740.00
Foster, LeeAnn	Paralegal	2019	\$ 195.00	2.5	\$ 487.50
Foster, LeeAnn	Paralegal	2020	\$ 200.00	0.2	\$ 40.00
Foster, LeeAnn	Paralegal	2022	\$ 205.00	16.2	\$ 3,321.00
Foster, LeeAnn	Paralegal	2023	\$ 225.00	1	\$ 225.00
Foster, LeeAnn	Paralegal	2024	\$ 235.00	4	\$ 987.00

Frye, Brianna	Paralegal	2021	\$ 205.00	0.8	\$ 164.00
Heidmann, Rachel	Paralegal	2011	\$ 175.00	11.75	\$ 2,056.25
Heidmann, Rachel	Paralegal	2012	\$ 195.00	7.75	\$ 1,511.25
Kabasakalian, Natalie	Attorney Doc Reviwer	2018	\$ 375.00	340.5	\$ 127,687.50
Karsh, Joshua	Attorney	2021	\$ 915.00	1	\$ 915.00
Lieder, Michael	Attorney	2018	\$ 865.00	0.1	\$ 86.50
Lieder, Michael	Attorney	2021	\$ 915.00	2.4	\$ 2,196.00
Lin, Earl	Paralegal	2017	\$ 190.00	8	\$ 1,520.00
Lin, Earl Y.	Paralegal	2015	\$ 180.00	0.6	\$ 108.00
Lin, Earl Y.	Paralegal	2016	\$ 190.00	9.9	\$ 1,881.00
Lin, Earl Y.	Paralegal	2017	\$ 190.00	49.3	\$ 9,367.00
Lin, Earl Y.	Paralegal	2018	\$ 195.00	6.8	\$ 1,326.00
Majeed, Jannat	Attorney	2018	\$ 455.00	975.001	\$ 443,625.46
Malcolm, Meredith	Paralegal	2017	\$ 190.00	5	\$ 950.00
Malcolm, Meredith	Paralegal	2018	\$ 190.00	44.991	\$ 8,548.29
Mehri, Cyrus	Attorney	2011	\$ 695.00	6.25	\$ 4,343.75
Mehri, Cyrus	Attorney	2012	\$ 695.00	0.2	\$ 139.00
Mehri, Cyrus	Attorney	2015	\$ 795.00	5	\$ 3,975.00
Mehri, Cyrus	Attorney	2016	\$ 825.00	9.7	\$ 8,002.50
Mehri, Cyrus	Attorney	2017	\$ 825.00	11.4	\$ 9,405.00

Mehri, Cyrus	Attorney	2018	\$ 865.00	3.4	\$ 2,941.00
Mehri, Cyrus	Attorney	2020	\$ 895.00	2	\$ 1,790.00
Mehri, Cyrus	Attorney	2021	\$ 915.00	8.7	\$ 7,960.50
Mehri, Cyrus	Attorney	2022	\$ 915.00	14.5	\$ 13,267.50
Mehri, Cyrus	Attorney	2023	\$ 997.00	0.7	\$ 697.90
Mehri, Cyrus	Attorney	2024	\$ 1,055.00	0.7	\$ 738.50
Monahan, Christine	Associate	2018	\$ 360.00	0.1	\$ 36.00
Monahan, Christine	Associate	2019	\$ 455.00	3	\$ 1,365.00
Rana, Amit	Paralegal	2013	\$ 195.00	2.5	\$ 487.50
Reyes, Tatiana L.	Paralegal	2013	\$ 195.00	2.5	\$ 487.50
Reyes, Tatiana L.	Paralegal	2014	\$ 195.00	2.75	\$ 536.25
Shaikh, Bushra	Paralegal	2022	\$ 205.00	0.325	\$ 66.99
Skalet, Steven A.	Attorney	2011	\$ 695.00	1.25	\$ 868.75
Skalet, Steven A.	Attorney	2012	\$ 695.00	2.6	\$ 1,807.00
Skalet, Steven A.	Attorney	2013	\$ 195.00	5.4	\$ 1,053.00
Skalet, Steven A.	Attorney	2014	\$ 750.00	0.6	\$ 450.00
Skalet, Steven A.	Attorney	2015	\$ 795.00	3.1	\$ 2,464.50
Skalet, Steven A.	Attorney	2016	\$ 825.00	12.4	\$ 10,230.00
Skalet, Steven A.	Attorney	2017	\$ 825.00	24.6	\$ 20,867.00
Skalet, Steven A.	Attorney	2019	\$ 895.00	7.9	\$ 7,070.50

Skalet, Steven A.	Attorney	2020	\$ 895.00	21.2	\$ 19,052.00
Skalet, Steven A.	Attorney	2021	\$ 915.00	6	\$ 5,490.00
Susong, Elizabeth	Paralegal	2014	\$ 195.00	0.5	\$ 97.50
Wasik, Joanna	Attorney	2015	\$ 330.00	30.7	\$ 10,131.00
Wasik, Joanna	Attorney	2016	\$ 420.00	29.2	\$ 12,264.00
Wasik, Joanna	Attorney	2017	\$ 420.00	66.1	\$ 27,762.00
Wasik, Joanna	Attorney	2018	\$ 440.00	226.3	\$ 99,572.00
Wasik, Joanna	Attorney	2019	\$ 455.00	10	\$ 4,550.00
Wilgus-Null, Taryn	Attorney	2013	\$ 400.00	0.1	\$ 40.00
Yeh, Teresa	Attorney	2013	\$ 300.00	10.4	\$ 3,120.00
Yeh, Teresa	Attorney	2014	\$ 310.00	0.4	\$ 62.00
Yeh, Teresa	Attorney	2015	\$ 405.00	0.1	\$ 40.50
Total Lodestar Computed at Historical Rates				5563.699	\$ 3,201,766.50
Total Lodestar Computed at 2024 Rates				5563.699	\$ 4,311,083.51

Type of Expense	Final Expenses
Litigation Assessment	\$ 385,000.00
Court Costs (Filing, etc)	\$ 1,075.00
Experts/Consultants	
Online document database	441.9
Federal Express	
Hearing Transcripts	\$ 490.55
Lexis/WestLaw	\$ 5,053.55
Messenger/Delivery	
Photocopies - In House	\$ 2,873.55
Photocopies - Outside	
Postage	\$ 317.06
Service of Process	
Special Supplies	
Telephone/telecopier	\$ 264.11
Travel	\$ 2,265.09
Miscellaneous	\$ 9,129.49

Total \$ **406,910.30**

EXHIBIT B

Mehri &Skalet

Firm Resume

November 4, 2024

2000 K Street, NW
Suite 325
Washington, DC 20006
findjustice.com / 202.822.5100

OUR BACKGROUND & COMMITMENT

Mehri & Skalet, PLLC (“M&S”) handles high-impact, complex litigation. Since our founding in 2001, we have used the law to advance our clients’ interests and to pioneer mission-driven cases. Our seasoned attorneys handle civil rights and consumer rights class actions; public nuisance claims on behalf of public school districts; whistleblower suits alleging fraud against the government, financial markets, investors, and consumers; cases involving corporate abuse in insurance, healthcare, and other areas; and individual cases with a broad impact.

M&S attorneys have decades of experience in litigation and issue advocacy, and strong ties with consumer, labor, whistleblower, and civil rights organizations. We have co-counseled cases with the Lawyers’ Committee for Civil Rights Under Law, the Washington Lawyers’ Committee for Civil Rights and Urban Affairs, the National Women’s Law Center, A Better Balance, the AARP Foundation, and the Center for Science in the Public Interest. We have collaborated on projects with the NAACP, the National Council of Women’s Organizations, the Center for Auto Safety, and Whistleblowers of America.

OUR PRACTICE AREAS

Civil Rights and Workers’ Rights

M&S is well-known for its civil rights practice. We represent employees in class anti-discrimination cases filed across the country. M&S also represents individual professionals who have reached the heights of their careers but continue to face discrimination from employers or potential employers. Relatedly, we represent

business owners of color and women business owners who face discrimination in the marketplace.

Illustrative Civil Rights and Workers' Rights Cases

*** *Chalmers v. City of New York*, No. 20-cv-03389 (S.D.N.Y.)**

M&S and co-counsel represent a certified class of New York City Fire Protection Inspectors and Associate Fire Protection Inspectors (FPIs) and their union, AFCSME District Council 37 Local 2507, in their race discrimination claims against the City of New York. The FPIs claim they have been paid substantially less each year than New York City's building inspectors and that the two jobs are substantially similar. The United States District Court for the Southern District of New York granted plaintiffs' motion for class certification, and the parties reached a settlement. A motion for preliminary approval of the \$29.2 million class settlement was filed in late August 2023.

*** *Howard v. Cook Cty. Sheriff's Office*, No. 17-cv-08146 (N.D. Ill.)**

M&S and co-counsel represented hundreds of women employed by the Cook County Jail as correctional officers, sheriff deputies, paramedics, nurses, and in other jobs. The suit documented a pattern of pervasive and disturbing sexual harassment by inmates directed at women working in the Jail and failures by Cook County Sheriff Tom Dart and the County to act to address it. The case settled for about \$31 million and substantial programmatic relief.

*** *McNeely v. Metropolitan Life Ins. Co.*, No. 1:18-cv-00885 (S.D.N.Y.)**

M&S litigated a case against MetLife on behalf of approximately 125 dental consultants who were misclassified as independent contractors and denied overtime

pay. In January 2020, the U.S. District Court for the Southern District of New York granted final approval of a \$3,390,000 settlement on behalf of the class.

*** *Roberts et al. v. The TJX Companies, Inc.*, No. 1:13-cv-13142 (D. Mass.)**

In 2021, after several years of litigation, M&S along with co-counsel, achieved a \$31.5 million settlement on behalf of a class of employees who sued the parent company of discount retailers Marshalls, TJ Maxx, and HomeGoods asserting that the employer improperly denied them overtime wages.

*** *Borders v. Wal-Mart Stores, Inc.*, No. 17-cv-00606 (S.D. Ill.)**

M&S and co-counsel at The National Women's Law Center and A Better Balance represented a nationwide settlement class of several thousand Walmart employees who alleged that the company's policies discriminated against pregnant workers, and that the company systemically failed to provide pregnant workers the same types of workplace accommodations available to others. The matter resulted in a groundbreaking, court-approved \$14 million settlement in April 2020.

*** *Brown v. Medicis Pharm. Corp.*, No. 13-cv-01345 (D.D.C.)**

M&S and co-counsel represented a class of over 200 women who alleged that Medicis's top executives created a sexually hostile environment for the women in its sales force and discriminated against them in pay and promotions. Under the court-approved settlement, Medicis agreed to pay a total of about \$7.1 million, an average of over \$30,000 per class member, and to provide programmatic relief.

*** *White v. Lynch*, EEOC Case No. 510-2012-00077X**

M&S represented a certified class of over 400 women alleging sexual

harassment, and that the federal Bureau of Prisons permitted the inmates at its largest correctional complex to create a hostile work environment based on sex over many years. The women alleged that many managers were hostile toward their presence in the workforce and that the agency did not adopt reasonable measures to prevent or deter the virtually incessant sexual harassment by the inmates. This case settled for \$20 million for the class of workers and meaningful injunctive relief aimed at reforming policies and practices to eliminate sexual harassment.

*** *Ramos v. SimplexGrinnell LP, No. 1:2007-cv-0981 (E.D.N.Y.)***

M&S, along with co-counsel, brought several lawsuits on behalf of current and former fire alarm and sprinkler system workers of SimplexGrinnell LP, who claimed they were not paid “prevailing wages” as required by many states for work on public projects. After obtaining class certification in 2011 in the largest of the cases, *Ramos v. SimplexGrinnell LP, No. 1:07-cv-981* (Eastern District of New York federal court), the class settled part of their claims in 2012 for \$5.525 million. The *Ramos* plaintiffs appealed their remaining claims to the U.S. Court of Appeals for the Second Circuit, which ruled in plaintiffs’ favor.

*** *Carter v. Wells Fargo Advisors, LLC, No. 09-cv-01752 (D.D.C.); Amochaev v. Smith Barney, No. 4:05-cv-01298-PJH (N.D. Cal.); Augst-Johnson v. Morgan Stanley & Co., Inc., No. 06-cv-01142 (D.D.C.)***

As part of our Women on Wall Street Project, M&S along with co-counsel filed class actions against Wachovia Securities, LLC, Smith Barney, and Morgan Stanley alleging that each company had engaged in systemic gender discrimination against its female financial advisors. Settlement was achieved in each case—with Wells Fargo

Advisors/Wachovia for \$32 million, with Smith Barney for \$33 million, and with Morgan Stanley & Co for \$47 million – exceeding \$114 million in total. The settlements also provided significant programmatic relief, including changes to internal company policies, and the appointment of independent diversity monitors.

*** *Norfllet v. John Hancock Life Ins. Co.*, No. 04-cv-01099 (D. Conn.)**

In 2004, M&S, along with co-counsel, initiated a ground-breaking class action against John Hancock Life Insurance for its company-wide policy prohibiting the sale of life insurance to African American consumers in the early to mid-20th century. The lawsuit also confronted John Hancock's practice of offering African Americans substandard and seriously inferior life insurance products when it did sell insurance to African Americans. The Court granted the Plaintiff's motion for class certification in 2007, and the parties reached a settlement in 2009, which created a \$24-million fund to pay claims to the class plus fees and costs. The settlement created a large *cy pres* fund of approximately \$15 million, which was distributed by a court-appointed committee to organizations that uplift Black communities.

*** *Robinson v. Ford Motor Co.*, Nos. 04-cv-00844, 04-cv-00845 (S.D. Ohio)**

M&S challenged Ford's procedures for selecting apprentices nationwide. The suit alleged that Ford had discriminated against Black workers in apprenticeship selection. A settlement was approved by the Court in 2005. The EEOC held a Commissioners' meeting in 2007 that focused on this settlement and eliminating bias in testing procedures.

*** Ingram v. Coca-Cola Co., No. 98-cv-03679 (N.D. Ga.)**

Cyrus Mehri represented a class of 2,200 Black employees that alleged race discrimination in promotions, compensation, and evaluations by Coca-Cola. In 2001, the Court approved a settlement agreement, valued at \$192.5 million and designed to ensure dramatic reform of Coca-Cola's employment practices. A court-appointed task force chaired by Alexis Herman, former U.S. Secretary of Labor, issued several annual task force reports highlighting the progress Coca-Cola made in complying with the settlement agreement.

*** Roberts v. Texaco, No. 94-cv-02015 (S.D.N.Y.)**

Cyrus Mehri represented six plaintiffs filed *Roberts v. Texaco* as a class action in 1994, alleging that Texaco discriminated against Black employees by failing to promote and adequately compensate them. The case was settled in 1996 for what was the largest sum ever allowed in a race discrimination case, \$176.1 million. Along with damages, the settlement called for pay raises for about 1,400 Black employees as well as systemic programmatic relief.

* * *

Whistleblower Litigation

M&S attorneys litigate cases under both the federal False Claims Act (FCA) and analogous state laws and advise whistleblowers who submit information to the Securities and Exchange Commission, the Internal Revenue Service, the U.S. Commodity Futures Trading Commission, the U.S. Department of Justice, the Federal Deposit Insurance Corporation, and the U.S. Treasury Department concerning

violations of standards maintained by those agencies. The firm also represents whistleblowers who have been subjected to workplace retaliation.

Illustrative Whistleblower Cases

***United States ex rel. Relator 1, Relator 2, Relator 3, and Relator 4 v. Bechtel Corporation, et al., No. 4:17-cv-05074-SMJ (E.D. Wash.)**

M&S and co-counsel represented four whistleblowers whose actions resulted in the government uncovering a ten-year period of overcharging for labor costs and related wrongdoing by construction giants Bechtel and AECOM. In 2020, the whistleblowers' efforts resulted in a \$57.75 million settlement between the government and the contractors, which is one of the largest involving a Department of Energy (DOE) facility. They received \$13.75 million, nearly 24% of the government's recovery, as their award. That percentage is among the highest ever awarded in cases where the government has intervened. The whistleblowers also reached mutually satisfactory resolutions of their individual whistleblower retaliation claims.

*** Busche v. URS Energy & Constr., Inc., DOL No. 10-1960-14-002**

This was a whistleblower retaliation case filed by a former engineer and manager working at the DOE's Hanford Waste Treatment Plant against URS Energy and Construction, Inc. and Bechtel National, Inc. (BNI). In 2016, URS, BNI, and Ms. Busche arrived at a mutually satisfactory resolution of her case.

*** Johnson v. Not-For-Profit Hosp. Corp. (Resolved Pre-Filing)**

This case concerned a claim of whistleblower retaliation by the Human Resources Director of the only public hospital in the District of Columbia. The case was favorably concluded in 2018.

*** Ferrigan v. City of Delray Beach, et al, No: 9:22-cv-81088 (S.D. Fla.)**

M&S and co-counsel represented Christine Ferrigan, a former Delray Beach Industrial Pretreatment Inspector, who alleged the City violated her federal and state constitutional rights to free speech and engaged in illegal retaliation when it terminated her position after courageously exposing dangerous water contamination in Delray Beach. Ms. Ferrigan's concerns were validated by the Florida Department of Health and the Palm Beach County Office of Inspector General. Ms. Ferrigan's claims were brought in federal court and in front of the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA). The federal case settled favorably in April 2023 followed by OSHA's "deeply troubling" determination that "the city harassed and ultimately fired an employee sworn to protect the public for doing their job."

The firm litigates other whistleblower matters that are either under seal or under investigation and cannot be disclosed.

* * *

Consumer Protection

M&S enforces the rights of consumers against various abuses. Our lawyers believe that consumers can ensure that the marketplace remains fair and efficient by using the class action vehicle to achieve relief on behalf of all persons affected by an unfair or deceptive practice. M&S also represents consumers in disputes with insurance companies, including people who claim insurance companies have refused

to pay or who have been overcharged, unfairly discriminated against, or unlawfully declined or misled.

Illustrative Consumer Protection Cases

****Coleman v. United Services Auto. Ass'n*, No. 3:21-cv-00217-RSH (S.D. Cal.)**

M&S represents a certified class of approximately 200,000 enlisted military personnel who allege that USAA charges lower-ranking military servicemembers higher premiums than it charges identically situated higher-ranking military personnel. Plaintiffs allege that USAA's practice violates a provision of California's Insurance Code that requires an insurance company family to offer policyholders who qualify as good drivers insurance from its lowest priced affiliate. The U.S. District Court for the Southern District of California certified the class to pursue this groundbreaking claim in December 2023.

****Mackmin v. Visa Inc.*, No. 1:11-cv-1831-RJL (D.D.C.)**

For more than a decade, M&S and co-counsel litigated an antitrust case on behalf of bank consumers who were hit with excessive ATM surcharges. The case alleged that Visa and MasterCard had an illegal price-fixing agreement that forbade ATM operators from charging lower fees for certain transactions. In 2022, the U.S. District Court for the District of Columbia granted final approval to the parties' \$66.7 million dollar settlement and awarded fees and costs to class counsel as well as service awards to the named plaintiffs.

* *Harris v. Farmers Ins. Exch., No. BC579498 (Cal. Super. Ct., L.A. Cty.)*

M&S and co-counsel litigated a class action complaint in California challenging Farmers Insurance Company's practice of charging its most loyal policyholders more than what was justified by the risk they present, based on their lack of price sensitivity. In August 2020, after multiple court proceedings, a proceeding before the California Insurance Department, and extensive negotiations, Judge Maren Nelson approved a \$15 million settlement which compensated long-term, Farmers policyholders who were overcharged.

* *Health Care Sharing Ministry Litigation*

M&S is litigating a series of cases charging health care sharing ministries (HCSMs) with illegally marketing sham health care coverage. Unlike true health insurance products, HCSM products do not guarantee payment or reimbursement of "members'" (policyholders') medical expenses, even for covered expenses. And they are unregulated. With the passage of the Affordable Care Act, the marketing and sale of HCSMs became big business. In 2014, there were fewer than 200,000 Americans enrolled in HCSMs. Today, there are a reported 1.5 million. This explosive growth has been fueled by fraudsters peddling fake products. Working with co-counsel, M&S has already achieved settlements to recover more than \$3 million for consumers in three of these suits and continues to litigate to recover millions more. *Duncan v. The Alieria Companies* (E.D. Cal.); *Albina v. The Alieria Companies* (E.D. Ky.); *Smith v. The Alieria Companies* (D. Colo.); *In re The Alieria Companies*, Case No. 21-11548, (Bankr. D. Del.).

* *Worth v. CVS Pharmacy, Inc., 16-cv-00498 (E.D.N.Y.)*

M&S was co-counsel with Center for Science in the Public Interest and another law firm on behalf of two consumers in a class action filed in federal court in the Eastern District of New York, alleging that CVS falsely marketed its Algal-900 DHA product to improve memory. Plaintiffs alleged that the study CVS relied on for its claim was conducted by the in-house scientists for another supplements company, which withdrew its own product from the market after the Federal Trade Commission warned that the study did not support its memory claims. In addition, Plaintiffs alleged that larger and more rigorous studies have consistently found no effect of DHA supplements on memory. That case settled in 2019 with refunds available to purchasers of the product.

* *Reverse Mortgages: Bennett v. Donovan, No. 11-cv-00498 (D.D.C.); Plunkett v. Castro, No. 14-cv-00326 (D.D.C.)*

M&S represented plaintiffs in a series of cases in federal court that resulted in three landmark reforms in the federal reverse mortgage program: (1) U.S. Department of Housing and Urban Development (HUD) revised the program in 2015 to allow surviving spouses of borrowers to obtain protection from foreclosure; (2) HUD rewrote its model mortgages in 2014 to protect spouses from foreclosure; and (3) HUD withdrew illegal “guidance” it had issued in 2008 that prevented borrowers from selling their homes to spouses or family members at fair market value.

M&S and AARP Foundation Litigation sued HUD in 2011 on behalf of three individuals, all of whom faced foreclosure soon after they lost their spouses. HUD immediately withdrew its illegal guidance restricting the borrower’s right to sell the

property. The Court of Appeals for the D.C. Circuit ruled in 2013 that Plaintiffs had standing to challenge HUD's illegal regulations, and also opined that HUD's regulations were illegal. Soon afterward, a federal district court ruled that HUD's regulations were illegal and remanded the matter to HUD to fashion a remedy. Beginning with mortgages issued in August 2014, all surviving spouses in the reverse mortgage program were eligible for protection from foreclosure. In June 2015, HUD announced a program allowing surviving spouses to stay in their homes by having the reverse mortgages assigned to HUD. Based on HUD's own estimates, this litigation likely benefitted tens of thousands of current borrowers and their families, and future borrowers in the program.

*** *Sonoda v. Amerisave Mortg. Corp.*, No. 11-cv-01803 (N.D. Cal.)**

M&S, along with co-counsel, litigated a class action in California against Amerisave Mortgage Corporation for violating the Truth in Lending Act through their deceptive advertising practices in the selling of residential mortgages. The suit alleged that Amerisave promised customers they could quickly request a "lock-in" of low advertised online rates, required the consumer to pay for a property appraisal prior to the rate being locked-in, and then allowed the lock-in period to expire, locking the customer into the agreement at a higher rate. The case settled for \$3.1 million, which was distributed to class members to compensate them for a portion of the improper fees they paid.

*** *In re MagSafe Apple Power Adapter Litig.*, No. 09-cv-01911 (N.D. Cal.)**

M&S served as co-lead class counsel on behalf of millions of consumers, alleging that Apple's MagSafe adapter, which powered its laptop computers, was defectively designed and would prematurely fray and fail to work. In 2015, a California federal court approved a settlement providing up to 100% cash refunds for adapters that failed in the first year of use, and a percentage of the purchase cost for adapters that failed up to three years after purchase. In addition, Apple provided a free, redesigned adapter for anyone who presented one at an Apple store.

* * *

Public Nuisance Claims on Behalf of Public School Districts

Public school districts are often on the frontlines of disastrous crises that frustrate their ability to educate the children of our communities. M&S has pioneered new legal theories using public nuisance claims to protect public school districts' rights against wrongdoers such as social media companies and opioid manufacturers, dispensers, distributors and consultants.

Illustrative Public Nuisance Cases

*** *In Purdue Pharma L.P. et al.*, No. 19-23649-RDD (Bankr. S.D.N.Y.)**

In 2019, M&S filed a class action complaint on behalf of Chicago Public Schools (CPS) in the multi-district opioid litigation underway in federal court in Cleveland, Ohio, seeking damages for expenses that have been imposed on public schools – primarily relating to special education, other educational supports, counseling, and employee health insurance – by opioid market participants. M&S has helped public

schools across the country create a groundbreaking Public School District Opioid Recovery Trust, which will be funded by Purdue, Mallinckrodt, and Endo three pharmaceutical companies that played a major role in the opioid crisis and who filed for Chapter 11 bankruptcy. These recoveries are expected to be about \$33.5 million from these three bankruptcy proceedings.

*** *In Re: McKinsey & Co., Inc., National Prescription Opiate Consultant Litigation, 21-MD-2996-CRB (N.D. Cal.)***

M&S and co-counsel, on behalf of public school districts in Maine, New York, Tennessee, West Virginia, Kentucky, Ohio, and Florida, brought lawsuits against McKinsey for the harm it caused School Districts These cases were transferred and consolidated in a multidistrict litigation (MDL) that is presided over by Judge Charles Breyer in the Northern District of California. Judge Breyer appointed M&S's founder, Cyrus Mehri, to the 10-member plaintiffs' steering committee of the MDL to represent the interests of public school districts. A settlement for \$23 million has been achieved.

*** *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, 22-MD-2047-YGR (N.D. Cal.)***

M&S and co-counsel, on behalf of Baltimore City School District, sued Meta Platforms, Inc., Instagram LLC, Snap, Inc., TikTok, Inc., ByteDance, Inc., YouTube LLC, Google LLC, and Alphabet Inc, and others alleging their social media platforms are defective because they are designed to maximize screen time and encourage addictive behavior in adolescents. As alleged, this conduct imposes significant costs on schools to address the various emotional and physical harms to their students caused by platforms and hampers schools' ability to fulfill their vital mission.

* * *

Sports Law

M&S's attorneys have a long history of promoting equity in the sports industry. M&S founding partner Cyrus Mehri, together with Johnnie L. Cochran, Jr., co-founded the Fritz Pollard Alliance, an affinity group for NFL coaches of color, and helped design the NFL's Rooney Rule. American University Professor and M&S of counsel attorney, N. Jeremi Duru, is an active member of the national sports law community and has written extensively on both sports and employment law. Mr. Mehri and Professor Duru represented the Fritz Pollard Alliance, the organization of coaches, scouts, and front office personnel of color in the NFL for approximately 15 years. They have also advised the Professional Footballers Association in the United Kingdom (the UK's soccer players union) in its efforts to increase diversity among managers in the UK soccer community.

OUR ATTORNEYS**Cyrus Mehri**

Cyrus Mehri is a founding partner of Mehri & Skalet. He litigates cases involving discrimination, civil and consumer rights, and corporate fraud. The business press has long followed Mr. Mehri's work. *The New York Times* stated, "Mr. Mehri's vision for corporate America involves sweeping change, not the piece meal kind." *Fast Company* said "He is something of a one-man army in the battle against business as usual . . . [H]is impact—both in terms of penalties and remedies—is undeniable." His work has been recognized in numerous books and articles, most recently in *Diversity*

Inc, authored by award winning author Pamela Newkirk. In 2021, the *Wall Street Journal* profiled Mr. Mehri in its Future of Work section and described Mr. Mehri as having fought “some of the most significant workplace race-discrimination lawsuits in U.S. history.”

Mr. Mehri’s reputation is well-earned. He has led and co-led some of the largest and most significant race and gender cases in U.S. history, including the two largest race discrimination class actions in history: *Roberts v. Texaco Inc.*, which settled in 1997 for \$176 million and *Ingram v. The Coca-Cola Company*, which settled in 2001 for \$192.5 million. Both settlements include historic programmatic relief, featuring independent Task Forces with sweeping powers to reform key human resources practices such as pay, promotions and evaluations. Trial Lawyers for Public Justice named Mr. Mehri a finalist for “Trial Lawyer of the Year” in 1997 and 2001 for his work on the Texaco and Coca-Cola matters respectively.

Currently, Mr. Mehri is leading a nationwide effort on behalf of public school districts adversely impacted by the opioid crisis due to rising special education and supplemental education costs to opioid-exposed children, including children diagnosed with neonatal opioid withdrawal syndrome. Mr. Mehri led the negotiations that resulted in an agreement to help establish the Public School District Special Education Trust totaling \$30.5 million from the Purdue and Mallinckrodt Bankruptcy proceedings. Judge Charles Breyer appointed Mr. Mehri to serve on the Plaintiffs Steering Committee on behalf of Independent School Districts nationwide in the McKinsey consulting company opioid litigation.

Mr. Mehri's work supports underrepresented groups in various settings. On April 6, 2004, Mr. Mehri, along with Martha Burk and the National Council of Women's Organizations, announced a project called "Women on Wall Street." The project focuses on gender discrimination in financial institutions. As a result of the project, in 2007, M&S announced a \$46 million settlement with Morgan Stanley on behalf of female financial consultants. In 2008, the firm announced a comparable \$33 million settlement with Smith Barney, and in 2011, the firm reached a comparable \$32 million settlement with Wachovia Securities/Wells Fargo Advisors. These settlements have sweeping reforms that fundamentally changed the allocation of business opportunities at these brokerage houses.

Furthermore, Mr. Mehri served as lead counsel in *Robinson v. Ford Motor Company*. The settlement created a record 279 highly coveted apprenticeship positions for African American employees as well as payment of \$10 million. In a May 2007 EEOC Commissioners meeting, Mr. Mehri and others testified about this settlement's significance on testing procedures in the workplace.

Additionally, Mr. Mehri uses his expertise to provide recommendations to the judicial nominations arena. In September 2008, Mr. Mehri testified before the Senate Judiciary Committee alongside Supreme Court litigant Lilly Ledbetter. Mr. Mehri's testimony called for diversifying the pool of potential judicial nominations not just in terms of race and gender but also in terms of life and work experience.

Mr. Mehri is also an instrumental advocate in sports law. On September 30, 2002, Mr. Mehri and Johnnie L. Cochran, Jr. released the report, "Black Coaches in the

National Football League: Superior Performance, Inferior Opportunities.” The report became the catalyst for the NFL’s creation of a Workplace Diversity Committee and the adoption of a comprehensive diversity program. The NFL reached a record number of African American head coaches. Mr. Mehri co-founded the Fritz Pollard Alliance, an affinity group for coaches of color, front office, scouting personnel and game day officials in the NFL. In 2007, the Miami-Dade County Office of the Mayor and Board of County Commissioners gave Mr. Mehri the “Distinguished Visitor” Award.

Mr. Mehri frequently authors or contributes to scholarly works. In 2020, following the murder of George Floyd, Mr. Mehri Co-Authored an article in the Atlantic with M&S Of Counsel retired federal judge U.W. Clemon and M&S Partner Josh Karsh calling for the revitalization of the nation’s first civil rights statue, now known as Section 1981. This directly led to the legislation in the U.S. Congress called the Economic Inclusion Civil Rights Act.

In October 2008, Mr. Mehri co-authored a paper—with M&S partner Ellen Eardley— called “21st Century Tools for Advancing Equal Opportunity: Recommendations for the Next Administration.” The American Constitution Society published this paper along with papers by several other authors including Senator Ted Kennedy and Former Attorney General Janet Reno. For the 2008 National Employment Law Association Convention, Mr. Mehri co-authored a paper, “A ‘Toolbox’ for Innovative Title VII Settlement Agreements.” Mr. Mehri also has co-authored an article in Fordham’s Journal of Corporate and Financial Law entitled “One Nation, Indivisible: The Use of Diversity Report Cards to Promote Transparency, Accountability, and

Workplace Fairness.” He also co-authored – with M&S partner Michael Lieder – a book chapter entitled “Addressing the Ever Increasing Standards for Statistical Evidence: A Plaintiff Attorney’s Perspective,” which was published in *Adverse Impact Analysis: Understanding Data, Statistics, and Risk* (2017). Mr. Mehri is a frequent guest on radio and TV, including NPR and the *New York Times* podcast, the Daily. He has recently published articles in *The Atlantic*, *Politico* and the *Washington Post*.

Mr. Mehri graduated from Cornell Law School in 1988, where he served as Articles Editor for the Cornell International Law Journal. After law school, he clerked for the Honorable John T. Nixon, U.S. District Judge for the Middle District of Tennessee. Since then, Mr. Mehri has received numerous awards. Mr. Mehri received the Outstanding Youth Alumnus Award from Hartwick College and the Alumni Award from Wooster School in Danbury, Connecticut “for becoming a beacon of good, positively affecting the lives of many.” Mr. Mehri gave the 2009 Commencement Speech at Hartwick College and the Founder’s Day Speech at Wooster School. The Pigskin Club of Washington, DC awarded Mr. Mehri the prestigious “Award of Excellence.” In March 2003, the Detroit City Council passed a testimonial resolution honoring Mr. Mehri and wishing him “continued success in changing the fabric of America.” In 2007, the Miami-Dade County Office of the Mayor and Board of County Commissioners gave Mr. Mehri the “Distinguished Visitor” Award. In 2019, Mr. Mehri accepted the Diversity and Trailblazing Award at the D&I Honors hosted by Diverse & Engaged during Congressional Black Caucus week. In 2021, Mr. Mehri received an

Honorary Doctor of Laws degree from Hartwick College. In 2023, Mr. Mehri joined the Board of Trustees of Hartwick College.

In 2017, Mr. Mehri co-founded the consulting company, Working IDEAL which assists leaders who seek to advance diversity, equity, and inclusion in their organizations.

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Ellen Eardley

Ellen Eardley is the managing partner of Mehri & Skalet. She practices civil rights and employment discrimination law and also offers diversity, equity, inclusion, and justice consulting services.

Ms. Eardley co-leads the firm's civil rights practice. She represents people who have experienced race discrimination, sex discrimination, sexual assault, and other civil rights violations in the workplace and at school. She represents over 500 plaintiffs who have experienced sexual harassment while working at the Cook County Jail in Chicago, *Howard v. Cook County Sheriff's Office*, No. 17-8146 (N.D. Ill.), which is one of the largest sexual harassment cases in history. Along with co-counsel from the National Women's Law Center and A Better Balance, Ms. Eardley was lead counsel in *Borders v. Wal-Mart Stores, Inc.*, a nationwide pregnancy discrimination class action in which a district court approved a \$14-million settlement.

A leader on issues of diversity, inclusion, equity, and justice (DEIJ), Ms. Eardley offers strategic consulting services to organizations, employers, schools, non-profits, and government entities. In collaboration with the Working IDEAL consulting

network, she provides racial equity assessments, conducts investigations of allegations of discrimination, and develops DEIJ plans intended to dismantle structural barriers to inclusion.

Ms. Eardley was formerly the Assistant Vice Chancellor for Civil Rights & Title IX at the University of Missouri. She served on both the Chancellor's and Provost's staffs and was responsible for addressing discrimination and sexual violence in a community of more than 60,000 people. She founded the University's first institutional equity office, creating a central place to address all forms of discrimination and sexual violence with an intersectional lens. Ms. Eardley was credited with building a team of highly qualified equity professionals, increasing transparency through annual reports, improving key equity-related university policies, and co-chairing university-wide task forces to address sexual violence as well as to improve accommodations for pregnant students. She increased campus resources for disability inclusion and fought to ensure that trans students could use their lived names on key documents, such as diplomas.

Before taking on her university administrator role, Ms. Eardley practiced law at M&S for eight years, where she was an associate and a partner. She taught Sex Discrimination Law at American University's Washington College of Law during this time. Ms. Eardley began her legal career as a fellow and counsel at the National Women's Law Center. She also was an associate at a labor and employment firm now known as McGillivray Steele Elkin, LLP. In addition to her law degree, Ms. Eardley holds a master's degree in women's and gender studies.

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Richard Condit

Richard Condit is a partner at M&S, and co-chairs the firm's Whistleblower Rights Practice. His practice includes cases involving whistleblower retaliation, disclosures to the SEC and other federal agencies, and false claims or fraud against the government or its contractors. Mr. Condit has over 30 years of experience working with whistleblowers of diverse backgrounds in a wide variety of industries, representing lawyers, doctors, bank executives, firefighters, social workers, police officers, engineers, and laborers. The subject matter of the issues raised by whistleblowers Mr. Condit has worked with are equally diverse, covering such problems as fraud against the government, nuclear safety, environmental protection, bank fraud, food safety, mortgage fraud, securities law or regulatory violations, public transit safety, and many others.

Most recently, Mr. Condit, along with co-counsel, represented four whistleblowers whose actions resulted in the government uncovering a ten-year period of overcharging for labor costs and related wrongdoing by construction giants Bechtel and AECOM. In 2020, their efforts resulted in a \$57.75 million settlement between the government and the contractors, which is one of the largest involving a U.S. Department of Energy facility. They received \$13.75 million, nearly 24% of the government's recovery and one of the highest ever received in a case in which the government has chosen to intervene.

Prior to joining M&S, Mr. Condit worked at the Government Accountability Project (GAP) – first from 1987-1995 and again in 2007. In his first stint at GAP, he

helped develop the organization's environmental whistleblower and citizen enforcement programs. When Mr. Condit returned to the organization, he served as Senior Counsel and lead GAP's in-house litigation of whistleblower and open government cases. Richard is also former General Counsel for Public Employees for Environmental Responsibility (PEER), where he led the group's whistleblower litigation efforts. Moreover, he previously served as an adjunct faculty member of the University of the District of Columbia David A. Clarke School of Law, teaching Whistleblower Law and Practice in the classroom and through the school's highly regarded clinical program. Mr. Condit is admitted to practice before the U.S. Supreme Court and multiple federal district courts. He has also appeared before several U.S. Courts of Appeal and regularly practices before the U.S. Department of Labor, the U.S. Office of Special Counsel, the U.S. Merit Systems Protection Board, and various state courts and agencies.

Mr. Condit's expertise is recognized by whistleblower law and support organizations. In 2021, he appeared at Whistleblowers of America's first Workplace Promise Institute conference and spoke on a panel focused on legal protections for whistleblowers. Mr. Condit also spoke at the Taxpayer's Against Fraud 21st Annual Conference. At the TAF conference, he moderated a panel that discussed the mental health challenges, stress, and trauma experienced by whistleblowers.

Mr. Condit's work was recognized in Tom Mueller's 2019 book, *Crisis of Conscience: Whistleblowing in the Age of Fraud*; former U.S. EPA senior criminal

enforcement lawyer Richard Emory's 2019 book, *Fighting Pollution and Climate Change*; and Chip Ward's 1999 book, *Canaries on the Rim – Living Downwind in the West*.

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Joshua Karsh

Mr. Karsh joined M&S in 2020, opening up the firm's Chicago office. In his 30 years of practice, Mr. Karsh has represented all kinds of clients—individual workers and nation states, community-based organizations and litigation classes with tens or hundreds of thousands of class members, sole proprietors, and large companies. He is a seasoned trial and appellate litigator: he has tried multiple cases to verdict (before both judges and juries), arbitrated and mediated cases, and briefed and argued appeals across the country.

Before joining M&S, Mr. Karsh was the Legal Director for the National Immigrant Justice Center. Before that, he was a partner and shareholder in a high-powered litigation boutique in Chicago, where he worked for almost twenty years.

Mr. Karsh is a graduate of the University of Chicago Law School and Yale University, and clerked for United States District Court Judge Hubert L. Will. He is a member of the American Law Institute (ALI), a Fellow of the College of Labor and Employment Lawyers, and has been heralded as an Illinois Super Lawyer® and listed on the Illinois Leading Lawyer Network List.

Mr. Karsh played a leading role in each of the following cases:

- *Cruz et al. v. Estados Unidos Mexicanos et al.* (N.D. Cal., No.01-0892-CRB).
Represented thousands of guest workers (braceros) in litigation against the Mexican

government and three Mexican state-owned banks to recover wages withheld from the workers between 1942 and 1946. Settlement of this class-action entitled 6,100 U.S.-resident braceros, or their surviving family members, to reparations. Reported at 387 F. Supp.2d 1057 (N.D. Cal. 2005).

- *Lewis v. City of Chicago* (N.D. Ill., No. 98 C 5596) (bench trial in 2004; victory in the U.S. Supreme Court in 2010; damages judgment and remedial injunction in 2012). Represented more than 6,000 African Americans who had been denied jobs as entry-level firefighters with the Chicago Fire Department because of their scores on a discriminatory, written hiring exam. Obtained a damages judgment and injunction creating 111 jobs for class members and awarding more than \$70 million in backpay and retroactive pension contributions. Reported at 2005 WL 639618 (N.D. Ill. March 22, 2005), 560 U.S. 205 (2010), and 643 F.3d 201 (7th Cir. 2011).
- *Howard v. Cook County Sheriff et al.* (N.D. Ill., No. 17 C 08146). Represented more than 500 women working at the Cook County Jail, bringing hostile work environment claims against the Jail for failing to protect them from sexual harassment by male detainees. Obtained a \$31 million settlement, plus programmatic relief, including the appointment of a retired federal judge as an outside monitor, to ensure the Jail's protection of these women in the future.
- *Gecker v. Flynn* (N.D. Ill., Bankr. Adv. No. 08 A 00972) (bench trials in 2010 and 2013). Represented a Chapter 7 bankruptcy trustee against seven defendant directors and officers of the defunct Emerald Casino, in breach-of-contract and breach-of-fiduciary-duty litigation, obtaining a \$272 million judgment in 2014,

which was affirmed on appeal in 2017. Reported at 867 F.3d 743 (7th Cir. 2017); 530 B.R. 44 (N.D. Ill. 2014).

- *Thornton Tp. High School Dist. 205 et al. v. Argo Comm. High School Dist. 217 et al.* (N.D. Ill., No. 06 C 2005). Represented several majority-African-American school districts challenging the decision made by eleven predominantly White high school districts to secede from the largest high school interscholastic conference in Illinois. The new arrangement they contemplated would have effectively ended regular-season competition between majority-White and majority-African-American high schools in the southwest suburbs of Chicago. This case was one of the first to use the “effects test” provisions of the Illinois Civil Rights Act of 2003 and settled on terms that assured continued regular-season competition and meetings between majority-white and majority-African-American high schools.
- *Ernst v. City of Chicago* (N.D. Ill., No. 08 C 4370) (jury trial on liability in 2014; appellate argument before the Seventh Circuit in 2016; bench trial on damages in 2017). Represented five women denied employment by the Chicago Fire Department based on their scores on a discriminatory physical test that disproportionately excluded women while bearing no demonstrable relationship to job performance. Reversing the district court’s adverse liability rulings, the Seventh Circuit directed entry of judgment in the women’s favor and remanded for a determination of damages, which were tried. Obtained judgments totaling

more than 4 million dollars, plus offers of reinstatement with full retroactive seniority and pension benefits. Reported at 837 F.3d 788 (7th Cir. 2016).

- *del Valle v. McGuffage et al.* (N.D. Ill., No. 01 C 796). Represented Latino and African American voters in a class action against seven local election jurisdictions and the Illinois State Board of Election Commissioners, challenging the use of flawed systems of recording and counting votes, as a violation of the Voting Rights Act and the Fourteenth Amendment. The use of these voting systems had consistently resulted in disproportionately high error rates and undercounting of votes, particularly in predominantly minority voting districts. The settlement in the case led to elimination of punch-card ballots and optical-scan voting systems that failed to provide error notification throughout Illinois.
- *Torres et al. v. Goddard, et al.*, (D. Arizona, No. CV 06-2482-PHX-SMM). Represented Western Union money-transfer customers challenging the Arizona Attorney General's interdiction and seizure of thousands of electronic fund transfers, followed by civil forfeitures of the funds, as violations of the Fourth Amendment and the Due Process and Commerce Clauses.
- *Jones v. Walgreen Co.* (N.D. Ill., No. 07-0097). Represented a nationwide class of women retail store management employees in a Title VII class action against the nation's largest drugstore chain. Obtained a \$17 million settlement, which also included injunctive relief requiring objective criteria for pay and promotion decisions and outside review of gender equity compliance efforts.

- *Bell et al. v. Woodward Governor Company*. (N.D. Ill., No. 03 C 50190). Represented minority employees in a Title VII class action alleging race and national-origin discrimination by a large manufacturing employer, resulting in a multi-million-dollar settlement, which also provided comprehensive injunctive relief. The injunctive relief included both appointment of a third-party monitor to assure Title VII compliance in the future and retention of workplace industrial-organizational experts to create and implement best practices for job-related compensation and promotional decisions going forward.
- *Trombetta v. Proviso School District 209 et al.* (N.D. Ill., No. 02 C 5895) (jury trial in 2004). Represented a school-district employee fired after exercising his First Amendment right to support the candidate of his choice in local school board elections. The jury verdict for compensatory and punitive damages was, at the time, one of the highest ever in a single-plaintiff civil rights action in the U.S. District Court for the Northern District of Illinois.
- *Jefferson v. Ingersoll Int'l, Inc.*, No. 98 C 50042 (N.D. Ill., Western Div.). Represented women and minorities bringing race and sex discrimination claims under Title VII, resulting in more than \$1 million in monetary relief and a wide range of injunctive measures. 195 F.3d 894 (7th Cir. 1999).
- *Jimenez v. GLK Foods* (E.D. Wis., No. 12 cv 209). Represented approximately 100 Mexican migrant workers in a class and collective action against the world's largest sauerkraut producer, principally for wage-and-hour violations and wrongful discharge. In 2016, obtained a precedent-setting ruling that workers

employed under the federal government's H-2B visa program are not terminable-at-will. In April 2017, obtained a judgment of \$837,000 for the workers. Reported at 2016 WL 2997498.

- *Rosiles-Perez et al. v. Superior Forestry Service, Inc.*, 250 F.R.D. 332 (M.D. Tenn. 2008) (settled in 2010). Represented more than 2,200 H-2B visa guest workers in a Rule 23 class and FLSA collective action to recover unpaid wages, resulting in a \$2.75 million settlement.
- *Lopez v. Fish Farms* (E.D. Tenn., No. 2:11-cv-00113). Represented fourteen Mexican migrant agricultural workers against a Tennessee tomato farm, bringing claims for retaliatory discharge. Settled for \$390,000.
- *Personal PAC v. McGuffage* (N.D. Ill., No. 12-CV-1043). Represented Personal PAC and two of its supporters in a successful First Amendment challenge to portions of Illinois' campaign finance law, resulting in a permanent injunction barring enforcement. Reported at 858 F. Supp.2d 963 (2012).
- *Goodman v. Ward* (Ill. Supreme Ct., No. 109796). Represented a judge before the Illinois Supreme Court in this election-law case, which presented a novel question of Illinois constitutional law regarding the contours of the requirement of residency for judicial office. Reported at 241 Ill.2d 398 (2011).

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Cleveland Lawrence III

Cleveland Lawrence III is a partner at M&S, where he is Co-Chair of the Whistleblower Rights Group. He is an expert on False Claims Act, whistleblower,

fraud, and compliance issues, and has been a thought leader in the *qui tam* community for more than a decade. At the firm, Mr. Lawrence has been lead counsel or had a significant role in several of the whistleblower cases discussed above, including the case against Bechtel and AECOM that resulted in a \$57.75 million settlement between the government and the contractors, which is one of the largest involving a U.S. Department of Energy facility. From 2008 to 2016, Mr. Lawrence led the Taxpayers Against Fraud Education Fund (TAFEF) and its sister organization, Taxpayers Against Fraud. In those capacities, he regularly met with whistleblowers, federal and state government officials, private attorneys, and the public to combat fraud against federal and state funds. He also served as editor in-chief of TAFEF's law journal, the False Claims Act & *Qui Tam* Quarterly Review, and managed annual national seminars on the IRS, SEC, and CFTC whistleblower programs.

A seasoned litigator, Mr. Lawrence also has experience as outside counsel, having handled a variety of fraud, compliance, ethics, and whistleblower issues—including as defense counsel. Prior to his service at TAFEF, Mr. Lawrence spent more than six years as an associate at Weil, Gotshal & Manges, LLP, where among other things, he defended clients against FCA lawsuits, and assisted clients facing internal investigations and administrative subpoenas from government agencies. In addition to these duties, he counseled corporate and individual clients in several other areas of litigation practice, including complex commercial law, products liability, bankruptcy, antitrust, class action, insurance coverage, healthcare, employment, and environmental law.

Throughout his career, Mr. Lawrence has worked with the highest levels of all three branches of Government to shape whistleblower law and policy. He has partnered with high-ranking officials from the U.S. Department of Justice to coordinate the nation's largest annual False Claims Act conference—which often featured Directors of the IRS, SEC, and CFTC whistleblower programs as well. In addition to arguing before federal district and circuit courts on behalf of his own whistleblower clients, Mr. Lawrence has authored and filed numerous amicus curiae briefs on behalf of TAFEF in federal and state courts across the country—including the United States Supreme Court. In addition, Mr. Lawrence has: testified before Congress and state legislatures regarding FCA and whistleblower-related legislation; represented a testifying witness during Congressional committee hearings; prepared draft and model federal and state legislation; and submitted multiple comment letters to federal agencies implementing Dodd-Frank and other whistleblower reward programs.

Mr. Lawrence has examined whistleblowing from multiple perspectives and frequently speaks about the topic to a variety of audiences, including conferences, seminars, and other educational events for whistleblowers and attorneys sponsored by the American Bar Association, the Federal Bar Association, the National Healthcare Anti-Fraud Association, TAF, and others; law students, graduate students, compliance officers, and other groups; and media outlets such as *Law360*, *POLITICO*, and *The CPA Journal*.

Mr. Lawrence received a B.A. from Georgetown University and he graduated, with honors, from The George Washington University Law School, where he was a

member of the Public Contracts Law Journal. A native of New Orleans, he is a founder and president of the Lagniappe Education Foundation, a 501(c)(3) non-profit organization that provides scholarship assistance to deserving college-bound graduates from his *alma mater*, Edna Karr High School.

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Michael Lieder

Michael Lieder is a partner at M&S who joined the firm in 2012. Since then, he has worked primarily on employment discrimination, wage and hour, and insurance class action litigation. He has been lead counsel or had a significant role in several of the lawsuits discussed above— *Borders v. Wal-Mart Stores, Inc.*, *Chalmers v. City of New York*, *Brown v. Medicis*, and *White v. Lynch* – in the wage and hour case against MetLife mentioned above, and several other concluded or ongoing cases.

Mr. Lieder’s work includes “Onward and Upward after *Wal-Mart v. Dukes*,” co-authored with M&S’s Cyrus Mehri, on successfully pursuing employment justice in the wake of *Wal-Mart v. Dukes*. He also co-authored—with M&S co-founder Cyrus Mehri—a book chapter entitled “Addressing the Ever Increasing Standards for Statistical Evidence: A Plaintiff Attorney’s Perspective” which was published in *Adverse Impact Analysis: Understanding Data, Statistics, and Risk* (2017).

Prior to joining M&S, Mr. Lieder was of counsel, a partner, and a member of Sprenger & Lang, PLLC. At that firm, he generally served as lead counsel or in another leading role in employment discrimination, ERISA, wage and hour, and consumer class action litigation, including the following prominent cases:

- *In re TV Writers Cases*, No. 268836 et al. (Cal. Super. Ct., L.A. Cty. 2011) (settled this age discrimination class action against major television networks, studios, and talent agencies on behalf of members of the Writers Guild of America for about \$70 million, believed to be the largest settlement of an age discrimination class action ever);
- *Whitaker v. 3M Co.*, (Minn. Sup. Ct., Ramsey Cty. 2011) (settled this age discrimination class action claiming discrimination primarily in potential ratings, training, and promotions for about \$16 million plus injunctive relief);
- *Seraphin v. SBC Internet Servs., Inc.*, No. CV 09-131-S-REB (D. Idaho 2011) (consumer class action);
- *Jarvoise v. RAND Corp.*, No. 1:96-CV-2680 (D.D.C. 2007) (settled this gender discrimination class action claiming discrimination in pay for about \$3 million);
- *Carlson v. C.H. Robinson Worldwide, Inc.*, No. CV-02-3780 (D. Minn. 2006) (settled this gender discrimination class action on behalf of about 230 women against a logistics company for \$15 million, about \$65,000 per class member, one of the largest per capita settlements ever of a gender discrimination class action);
- *Lucich v. New York Life Ins. Co.*, No. 01-1747 (S.D.N.Y. 2004) (settled this ERISA pension benefits class action on behalf of sales agents for \$16 million and agreement to make retirement benefits available to more agents);
- *Franklin v. First Union Corp.*, Nos. 3:99cv344 and 610 (E.D. Va. 2001) (settled this ERISA breach of fiduciary duty class action for about \$26 million in what is believed

to be the first successful challenge to plan fiduciaries selecting own underperforming funds in 401(k) plan);

- *Thornton v. National Railroad Passenger Corp.*, No. 98-890 (D.D.C. 2000) (settled this race discrimination class action for trackworkers for \$16 million and broad injunctive relief, most of which was incorporated into a collective bargaining agreement and is thereby enduring);
- *McLaurin v. National Railroad Passenger Corp.*, No. 98-2019 (D.D.C. 1999) (settled this race discrimination class action for managers and professionals for \$8 million and broad injunctive relief including salary adjustments for employees identified as underpaid in pay equity analysis);
- *Hyman v. First Union Corporation*, No. 94-1043 (D.D.C. 1997) (settled this age discrimination collective action for \$58.5 million, believed at the time to be the largest settlement of an age discrimination collective action and still possibly the largest per capita);
- *Burns v. Control Data Corporation*, No. M.D. 4-96-41 (D. Minn. 1997) (settled this age discrimination collective action for \$29 million);
- *In Re: Maytag Corporation/Dixie Narco Plant Closing Litigation*, No. 92-C-417 (W.V. Cir. Ct., Jefferson Cty 1995) (settled this breach of contract and fraud class action arising out of the closing of a factory for \$16.5 million); and
- *In re Pepco Employment Litigation*, No. 86-0603 (D.D.C. 1993) (settled this race discrimination class action for \$38.5 million and broad injunctive relief).

The settlements in many of the cases required comprehensive injunctive relief in addition to substantial payments to the class members. In many of these cases, Mr. Lieder worked closely with co-counsel from other firms.

Mr. Lieder is well known in the class action employment bar. He has written papers and spoken at seminars and webinars concerning certification of employment discrimination class actions, the impact of *Dukes* on certification of employment discrimination class actions, statistical evidence in employment discrimination cases, mediation of employment discrimination cases, the Age Discrimination in Employment Act, Rule 23(f) review of class action certification decisions, ERISA litigation, and wage-and-hour litigation. He also has authored several amicus briefs to the Supreme Court and Courts of Appeal. In 2007, he was named one of “500 Leading Plaintiffs’ Lawyers in America” by Lawdragon magazine, and in 2013, he was selected as a “Super Lawyer.”

Before beginning work at Sprenger & Lang in 1991, Mr. Lieder graduated magna cum laude from Georgetown University Law Center, where he was a Notes and Comments editor on the Georgetown Law Journal. Mr. Lieder also worked for six years as an associate at the Madison, Wisconsin office of Foley & Lardner LLP, and served as a visiting assistant professor for a year at the University of Toledo College of Law.

Mr. Lieder is an accomplished author with wide-ranging interests. He co-authored a book, *Wild Justice: The People of Geronimo vs. the United States*, published by Random House in 1997, which was favorably reviewed by the New York Times and the Washington Post, among other leading publications.

Mr. Lieder also wrote or co-authored five pieces published in various law journals:

- Class Actions Under ERISA, 10 Employee Rights & Employment Policy J. 665 (2006);
- Navajo Dispute Resolution and Promissory Obligations: Continuity & Change in the Largest Native American Nation, 18 Amer. Ind. L. Rev. 1 (1992);
- Constructing a New Action for Negligent Infliction of Economic Loss: Building on Cardozo & Coase, 66 Wash. L. Rev. 937 (1991);
- Religious Pluralism and Education in Historical Perspective: A Critique of the Supreme Court's Establishment Clause Jurisprudence, 22 Wake Forest L. Rev. 813 (1987); and
- Adjudication of Indian Water Rights Under the McCarran Amendment: Two Courts Are Better Than One, 71 Geo. L.J. 1023 (1983).

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Oluwadamilola Animashaun

Oluwadamilola Animashaun joined M&S as an associate in August 2023. Previously, Mr. Animashaun was a Greenfield Fellow at the union-rights law firm of Bredhoff & Kaiser. He clerked with the Stanford Law School Center for Racial Justice, the ACLU of Maryland, the DC Public Defender Service, and the Maryland Office of the Public Defender. He graduated from Howard University School of Law where he was a research and teaching assistant for Professor Josephine Ross.

Andie Forsee

Andie Forsee joined M&S as an associate in September 2023. Before joining M&S, Ms. Forsee was a legal fellow at Reprieve, where she supported civilian survivors of drone strikes through litigation and policy advocacy. She previously clerked for the U.S. Court of Appeals for the 8th Circuit. Ms. Forsee received her J.D. from Harvard Law School, where she organized student volunteers as co-president of the HLS Immigration Project and co-director of the International Refugee Assistance Project. Ms. Forsee advocated for the rights of civilians in conflict through the International Human Rights Clinic, a clinic with PAX Netherlands, and as a research assistant for both the Armed Conflict and Civilian Protection Initiative and the Program on International Law and Armed Conflict. She spent summers working with Brady United on gun trafficking and Oxfam on pandemic-era asylum rules.

Jane Kim

Jane Kim joined M&S as an associate in July 2023. Previously, Jane was a Seneca Falls Fellow with Public Justice and a public interest fellow with the California Department of Justice, Office of the Attorney General, Antitrust Section. Jane was a summer associate with Hausfeld, LLP. She clerked with or completed an externship with the Federal Trade Commission, the U.S. District Court for the Northern District of California, Housing and Economic Rights Advocates, and the South Korea Ministry of Justice, Human Rights Policy Division. She graduated from the University of California, Berkeley School of Law.

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Judge U.W. Clemon

Retired U.S. District Judge U.W. Clemon (Chief Judge N.D. Alabama), joined M&S as Of Counsel in 2017. Judge Clemon was Alabama's first black federal judge, serving as the Chief Judge of the Northern District of Alabama from 1999-2006. Joining M&S gives him a chance to return to his roots in civil rights and other public spirited and complex litigation.

Judge Clemon served as the trial judge during Lilly Ledbetter's successful trial against Goodyear. The Supreme Court created new legal standards and reversed Ms. Ledbetter's trial victory. In her dissent, Justice Ginsberg called on Congress to act to restore the law and the legal principles consistent with Judge Clemon's trial decisions. The Lilly Ledbetter bill became the first law that President Obama signed into law as President. Ms. Ledbetter has this to say about Judge Clemon: "There is no finer person or jurist than Judge U.W. Clemon. As the presiding judge, he managed my trial exactly how it should have been. He was fair to both sides. But for him, I may never have had my day in court and may never have had the opportunity to make history to change the law for the better for all Americans."

Judge Clemon serves on the plaintiffs' Steering Committee in perhaps the largest antitrust case in the nation, BlueCross Antitrust. Judge Clemon is also frequently deployed as a mediator, arbitrator or court-appointed Special Master including serving as Special Master in a historic M&S case, *Norflet v. John Hancock*.

As a student activist at Miles College, Judge Clemon confronted the infamous Eugene "Bull" Connor over Birmingham's segregation ordinances in 1962 and marched

with Dr. Martin Luther King in the following year. In 1968 he graduated from Columbia Law School, where he began a life-long relationship with the NAACP Legal Defense & Educational Fund, Inc.

Before his judicial appointment, Judge Clemon was a civil rights lawyer. He sued Coach Paul Bear Bryant in 1969 to desegregate the University of Alabama's football team, and has represented many plaintiffs in employment cases. He was the first African American elected to the Alabama State Senate since Reconstruction and served respectively as chairman of the Rules and Judiciary Committees.

He confronted Governor George C. Wallace on many race-related issues. After nearly thirty years of service, Judge Clemon retired from the federal bench in 2009.

Judge Clemon was profiled in the New York Times Magazine for his decades-long involvement in the debate over desegregation in Alabama public schools. Judge Clemon represented Black plaintiffs in a lawsuit against suburban Gardendale, Alabama, whose all-white council proposed plans to split the community's schools into its own district, separate from the more diverse schools in Jefferson County. The district judge found that race discrimination was a motivating factor, but allowed the split to go forward. Judge Clemon argued the case on appeal, and in February 2018 the decision was reversed.

* * *

N. Jeremi Duru

N. Jeremi Duru, a Professor of Law at American University's Washington College of Law, serves as Of Counsel to M&S. Before entering academia, Professor

Duru was an associate at M&S, where he represented plaintiffs' interests in employment discrimination and other civil rights matters.

Much of Professor Duru's work involved challenges to discriminatory employment practices in professional athletics. In recognition of this work, the National Bar Association honored Professor Duru with its 2005 Entertainment and Sports Lawyer of the Year award. Professor Duru has lectured and written extensively on sports law and employment law topics and, among other publications, is co-author of *Sports Law and Regulation: Cases, Materials, and Problems* (3d ed.) (Wolters Kluwer) and author of *Advancing the Ball: Race, Reformation, and the Quest for Equal Coaching Opportunity in the NFL* (Oxford University Press). In 2018, he received both the American University Faculty Award for Outstanding Teaching and the Washington College of Law Award for Excellence in Teaching.

After receiving his undergraduate education at Brown University, Professor Duru completed a joint-degree program at Harvard University, receiving a Master's degree in Public Policy from the John F. Kennedy School of Government and a Juris Doctorate from Harvard Law School. He then served as a law clerk to the Honorable Damon J. Keith of the United States Court of Appeals for the Sixth Circuit.

* * *

Steven A. Skalet

Steven A. Skalet is a founding partner of M&S and was its managing partner for 20 years. He has over 40 years of litigation and transactional experience in real estate, consumer fraud, bank fraud, discrimination, civil rights and class action litigation. He

retired as an equity partner and is currently Of Counsel to the firm and in that capacity maintains an interest in a variety of cases.

Mr. Skalet began his career with the Washington, D.C. firm of Melrod, Redman & Gartlan, where he worked on several American Civil Liberties Union cases, including a case granting women the right to employment with the U.S. Park Service as park police. From 1973 until the formation of M&S, Mr. Skalet practiced with Kass & Skalet, PLLC, and various iterations of the firm, a well-known real estate, litigation, complex business, and consumer protection firm. The firm's practice focused on real estate and litigation, including consumer class actions under the Truth-in-Lending and Equal Credit Opportunity acts. The firm represented many tenant associations who purchased their rental property under the District of Columbia Tenant Opportunity To Purchase Act, and represented many condominium, cooperative and homeowner associations. That firm grew to approximately 23 lawyers in 3 jurisdictions and, when it split up in 1995, was known as Kass, Skalet, Segan, Spevack & Van Grack, PLLC.

In 2001, Mr. Skalet and Cyrus Mehri started M&S, concentrating on complex litigation and class actions. The firm has developed a varied and successful litigation practice in state and federal courts. Since its inception Mr. Skalet has been lead counsel or co-lead counsel in successful class action cases against Dell, Inc., Mercury Marine, Hewlett Packard, Sony, Apple, Ford, Verizon, Mitsubishi, Morgan Stanley, and many other companies.

Mr. Skalet has been an advisor to the Federal Reserve Board on credit and banking matters. He has served on the Montgomery County Advisory Committee

reviewing the wholesale simplification of the Montgomery County Code. He also served on the District of Columbia Bar Committee responsible for drafting form commercial leases and the Montgomery County Board of Realtors committee responsible for drafting residential real estate contracts.

Mr. Skalet has actively participated in Community Associations Institute activities and was Chair of the District of Columbia Legislative Action Committee for many years. In 1999, and again in 2001, he was awarded the Public Advocate Award for his work on District of Columbia legislation. Mr. Skalet had been a long-serving director of the Studio Theatre in Washington, DC and the Public Justice law firm, one of the country's largest public interest law firms.

Mr. Skalet graduated from the University of Pennsylvania School of Law in 1971 and the University of Rochester in 1968.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CASE NO. 1:11-cv-01831-RJL

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Action Pending in United States
District Court for the District of
Columbia

No. 1:11-cv-01831-RJL

DECLARATION OF DENNIS W. CARLTON

I, Dennis W. Carlton, declare as follows:

1. I am the David McDaniel Keller Professor of Economics Emeritus at the Booth School of Business of the University of Chicago. I received my A.B. in Applied Mathematics and Economics from Harvard University and my M.S. in Operations Research and Ph.D. in Economics from the Massachusetts Institute of Technology. I have served on the faculties of the Law School and the Department of Economics at the University of Chicago and the Department of Economics at the Massachusetts Institute of Technology. I am also currently a Senior Managing Director at Compass Lexecon.

2. On September 19, 2019, I submitted an expert report in support of Plaintiffs' motion for class certification. Subsequently, I submitted a rebuttal to several analyses from Prof. Glenn Hubbard and Mr. Tony Hayes, who had submitted expert reports as Defendants' class-certification experts. I also sat for a deposition regarding my expert analyses, excerpts of which I understand from counsel this Court considered along with my reports when deciding Plaintiffs' class certification motion.

3. In connection with their recent fee petition, I understand from counsel that Plaintiffs request reimbursement of expenses out of the settlement fund. One of those expenses is the \$9.839 million that Compass Lexecon billed for roughly five years of work from early 2016 to late 2020 and again in 2024 prior to the settling of the case. I have been asked by counsel to provide this declaration in order to explain the work I and my team at Compass Lexecon performed for Plaintiffs and the now-certified class, including why that work proved to be complex and time-consuming, even compared to other high-profile, high-stakes antitrust class actions.

4. My team's first tasks in this case included advising on Plaintiffs' discovery efforts, including what types of documents and data would best help me to analyze the effects and impact of Defendants' access-fee rules, and from which entities to seek data. A single ATM transaction involves multiple different entities, including the ATM network provider, the issuing bank, the acquiring bank, the ATM operator, and (sometimes) other entities. There are many firms of each type, *e.g.*, network providers and banks; collectively, hundreds of different firms participated in this industry during the relevant period for the issues raised in this matter. The flow of funds between these entities is similarly complex, with fees being set, charged and received in multiple directions and in a complex array of relationships. Given this inherent complexity, it was clear that discovery from the Defendants alone was not enough to analyze the allegation in this case. My team therefore advised on which entities to seek discovery from, and what should be sought from each type of entity.

5. After Plaintiffs issued discovery requests (with my team's input) to Defendants, a series of letters were exchanged between Plaintiffs' counsel and Defendants' counsel regarding the availability and format of Defendants' proposed production. Compass Lexecon provided advice, analysis and follow-up questions throughout that process. From just Defendants alone, this required a substantial amount of time and effort, involving advice on the discovery requests and multiple rounds of data analysis leading to data-specific questions and answers that enabled me and my staff to make sense of and analyze the data accurately.

6. The Defendants, however, were not the only entities whose data and documents were involved in constructing an informative picture of the ATM industry. Accordingly, with Compass Lexecon's input, Plaintiffs sought discovery from nearly two dozen third parties,

including other major ATM network providers and certain key payment processors. This third-party discovery also involved extensive time and effort.

7. Once Plaintiffs received data from the different discovery targets in the case, our task as economists was to review, reconcile, and, where necessary, standardize that data so that I and my staff could use it in our analyses to assess the effects of Defendants' access-fee rules. Data sets – especially large and complex ones covering lengthy periods of time and many parties – generally require substantial review and reconciliation before being suitable for further analysis. That is particularly the case when attempting to analyze and reconcile data sets from multiple parties. For example, the banks alone produced billions of transactions across multiple productions, sometimes correcting previous productions. In total we processed and analyzed over 3.6 terabytes of raw data from banks, networks, and processors.

8. On the reconciliation side, the effort involved in getting data sets from different discovery targets to line up with one another was substantial. As a simple example, two data sets from two different discovery targets may each contain hundreds of thousands of names of counter-parties. However, the naming conventions are rarely consistent across discovery targets, and can be further complicated by typographical errors and other entry mistakes. Discovery targets may track information differently, or may use different accounting treatments, or may allocate elements differently. Compass Lexecon explored and reconciled each of these potential sources of discrepancies. The overall task of reviewing and reconciling the produced data therefore required substantial attention to detail, including multiples rounds of checks to confirm. In total, with the assistance of counsel, Compass Lexecon received, reviewed, and analyzed over 27,000 files.

9. Furthermore, all of this effort was subject to change (often multiple times) depending on explanations from the producing party regarding the data. During the review and reconciliation process, Compass Lexecon assisted counsel with drafting questions for dozens of communications with the producing parties, and the responses to those questions in certain cases required substantial additional work and/or revisions to prior work when our understanding of the data changed. This review and reconciliation process, thus, was an important first step for my statistical analyses.

10. Following these data efforts, the next task was for me with assistance from my team to prepare and submit my opening expert report. That process included multiple different work streams, all of which were time-consuming and document- and data-intensive. On the document side, Compass Lexecon worked through (with assistance from counsel) thousands of files that the many different entities produced; reviewed key depositions; and researched the relevant academic literature. On the data side, after extensive analysis, I presented a report containing statistical analyses for the Court to consider for its eventual class-certification decision. This type of econometric work is time-consuming and complex, requiring substantial expertise and attention to detail, including checks and double-checks. The value of that work also is not limited to class certification proceedings. Compass Lexecon's substantial data and econometric work yielded cleaned datasets and analytic foundations that I used as a basis for analyses of merits issues that I undertook before settlements were reached with Visa and MasterCard.

11. In addition to conducting my own econometric analyses, I responded to over 100 regression models submitted by Defendants' expert, Prof. Glenn Hubbard. Those regressions were based on a different dataset and methodology than I had used, which required substantial

analyses to understand, replicate, and critique. I also extended Prof. Hubbard's analyses, incorporating additional data that Prof. Hubbard had not used, as well as providing several other empirical analyses of the data. The results of this time-consuming and laborious process featured prominently in my rebuttal report and Plaintiffs' class-certification reply brief.

12. As an illustration of the complexity of such empirical work, I noted in my rebuttal report that Prof. Hubbard had made a conceptual error in some of his regressions. Explaining how Prof. Hubbard erred required a detailed mathematical proof spanning three pages of text. *See* ECF No. 217-19, Appendix B. The complexity of the explanation of this single error highlights the complexity of the underlying analyses and why they were so time consuming. This is just one example of the type of work that went into my own initial analyses, as well as the type of work underlying my response to Prof. Hubbard's analyses.

13. Finally, prior to settling, in anticipation of filing a merits report, I updated foundational datasets and analyses prepared during the class certification phase using new data productions from Visa and Mastercard. This required more review, reconciliation, and, where necessary, standardization of the data so that I and my staff could use the data to update my analyses of the effects of Defendants' access-fee rules.

14. Overall, the work I and my staff performed for this case was of the type Compass Lexecon performs in a number of cases in which I am retained to act as a testifying economic expert for an antitrust class action. Compared to other antitrust class actions I have worked on, the extent and complexity of the data and documents involved were unusually high. However, the substantial effort devoted to the analyses allowed me to provide this Court with what I believe was a thorough and accurate study of the ATM industry and the effects of the challenged restraints.

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

Executed October 31, 2024 in Bethesda, Maryland.

Dennis W. Carlton

Dennis W. Carlton

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CASE NO. 1:11-cv-01831-RJL

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Action Pending in United States
District Court for the District of
Columbia

No. 1:11-cv-01831-RJL

REVISED DECLARATION OF ALAN S. FRANKEL

I, Alan S. Frankel, declare as follows:

1. I am Chairman of Coherent Economics, LLC, which I founded in 2007. I received a B.A. in economics in 1982, an M.A. in economics in 1985, and a Ph.D. in economics in 1986, each from the University of Chicago. My primary field of concentration in the Ph.D. program was Industrial Organization. I am a Senior Editor of the Antitrust Law Journal, the leading professional journal dedicated to legal and economic issues arising in antitrust, competition, and consumer protection disputes. I am a member of the U.S. Advisory Board of the Institute for Consumer Antitrust Studies, and I am an Adjunct Professor and teach a course in Law & Economics at the Loyola University Chicago School of Law.

2. I began studying competition in and among payment card networks – including credit card, debit card, and ATM networks – in the 1980s. Since then, I have authored or coauthored numerous articles in professional publications concerning competition issues arising in payment card networks, which have been cited by economists, regulators, and others in many jurisdictions. I have spoken about competition in payment card networks and related issues at professional conferences on dozens of occasions, including at events sponsored by various central banks, bar associations, universities, and industry groups across the U.S. and abroad. I have published academic articles concerning ATM networks and other payment card networks, and I have been retained by government competition authorities including the United States Department of Justice, the U.K. Office of Fair Trading, the Canadian Commissioner of Competition, the New Zealand Commerce Commission, and the Chilean Fiscalía Nacional Económica, and by private parties in the United States, Europe, and Australia, concerning ATM or other payment card networks.

3. On September 20, 2019, Dr. Dennis Carlton submitted an expert report in support of Plaintiffs' motion for class certification, and thereafter submitted a rebuttal report responding to certain analyses from Glenn Hubbard, Defendants class certification expert. I and others on my staff at Coherent Economics provided extensive support to Dr. Carlton in the preparation of these reports. We also provided support to class counsel as consulting experts to assist them in prosecuting this litigation.

4. In connection with their recent fee petition, I understand that Plaintiffs request reimbursement of expenses out of the settlement fund. One of those expenses is the unreimbursed portion of the \$3,474,109.10 that I and my colleagues at Coherent Economics billed for our work in this case. So that the Court may better assess Plaintiffs' request, I provide this declaration in order to explain the work Coherent Economics performed for Plaintiffs and the now-certified class.

5. As detailed above, a focus of my career as an expert economist has been on competition in payment card systems. At the outset of this matter and throughout the case, I provided my unique expertise on this topic to support class counsel and Dr. Carlton's work. Additionally, my staff aided Dr. Carlton and the staff of Compass Lexecon by developing discovery requests, reviewing relevant produced and public documents, processing multiple large datasets, and synthesizing that work into Dr. Carlton's expert reports and exhibits.

6. Our early work in this matter focused primarily on developing discovery requests, receiving data and document production from Defendants and third-parties, reviewing in detail the documents and data received, and engaging in several rounds of correspondence with Defendants and third-parties to assure ourselves and the team at Compass Lexecon that we not only received the information we needed to conduct an analysis of the issues in this matter, but

also understood and could process what we had received. The data were voluminous, arranged in a variety of formats, and complex.

7. This time-consuming and multi-faceted effort of document and data gathering and analysis involved not only Defendant card networks (Visa and Mastercard) and Defendant banks (Bank of America, Wells Fargo, and Chase), but also several third-party ATM network providers and key payment processors.

8. Each network, bank, ATM provider and processor has its own record-keeping methods and unique internal terminology concerning its data. Coherent Economics personnel converted the differently organized and formatted datasets that we received from various parties and non-parties into a standardized and manageable format for further analysis. This was a time- and labor-intensive process requiring Coherent personnel to review data documentation, develop methods to combine and compare the data correctly, and prepare the data for further use by us and by Dr. Carlton. This process was further complicated by the sheer amount of data produced in this matter. The Coherent Economics team processed multi-terabyte files containing transaction-level data from some of the largest banks in the country. Multiple rounds of updates or supplements from the producing parties were also processed and integrated carefully into our existing databases, with appropriate quality control checks.

9. Coherent Economics coordinated all data processing, analysis, and quality control work with the staff of Compass Lexecon.

10. In addition to data processing and analysis, the Coherent Economics team supported Dr. Carlton in preparation of his opening report. This involved document, deposition, and literature review, additional data collection and processing from public data sources,

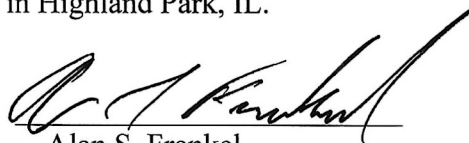
construction and audit of Dr. Carlton's regression analysis, and generally assuring the quality of the text and exhibits presented in that report.

11. Coherent Economics also participated in the preparation of Dr. Carlton's reply to Mr. Hubbard. Coherent personnel coordinated efforts with the staff of Compass Lexecon to replicate Mr. Hubbard's data analysis work and undertake the additional data processing projects needed to prepare Dr. Carlton's reply report.

12. In summary, the complex nature of this matter and the sheer scope and size of the data and documents produced required a major commitment of time and labor. However, the work performed by Coherent Economics was essential for Dr. Carlton to provide an accurate and reliable opinion in this matter.

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

Executed November 1, 2024 in Highland Park, IL.


Alan S. Frankel

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**DECLARATION OF ANDREW MACKMIN IN SUPPORT OF MOTION FOR AWARD
OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

I, Andrew Mackmin, declare as follows:

1. I am a class representative in the above-entitled action. I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify competently thereto.

2. As a class representative, I understand that it is my responsibility to be informed of the work done by my attorneys on the case, to make my own judgment about the fairness of any settlements, and that I am required to consider the interests of all members of the Class in addition to my own. I am aware that I am free to disagree with my attorneys about the merits of a settlement and make my views known to the Court.

3. I became a plaintiff in this litigation in January 2012, more than a decade ago. Throughout the history of the case, I have diligently performed my duty to assist counsel in prosecuting the lawsuit by investing significant time and effort to fulfill my role as a class representative. I have remained informed regarding the status of the litigation by monitoring its progress and communicating with my attorneys, including by reviewing pleadings and correspondence.

4. I have also invested significant time facilitating the discovery process. At the direction of counsel, I took steps to preserve documents of potential relevance to this case. I subsequently reviewed discovery requests from defendants, including 46 document requests and 26 interrogatories. I discussed these discovery requests with my counsel and reviewed proposed responses for accuracy. To fulfill my discovery obligations, I also gathered potentially responsive documents for my counsel's further review. I understand that my counsel ultimately produced 258 documents, spanning 1331 pages, to the defendants.

5. In December 2019, I sat for a full-day deposition. In the days leading up to my deposition, I reviewed case filings and documents while meeting with my counsel to discuss the deposition process and prepare. Following my deposition, I reviewed the transcript for accuracy and executed an errata making certain changes.

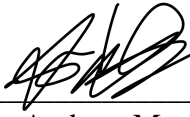
6. In sum, I estimate that I have spent approximately 200 hours fulfilling my obligations as a class representative over the decade I have been involved in this case. Throughout my time as a plaintiff in this case, my attorneys have never made any promises regarding compensation for my service, and I willingly agreed to participate in this case with no guarantee of personal benefit. I understand, however, that my attorneys are requesting that the Court authorize an award in the amount of \$10,000 for my participation as a class representative. While recognizing that the Court has complete discretion to determine whether any service award should be provided, I believe the amount requested by my counsel is warranted given the time and effort I have devoted to this case.

7. I have reviewed the settlements with the Network Defendants, discussed it with my attorneys, and I approve the settlement terms both as an individual and as a representative of the Class. I understand that, under the settlement, the Network Defendants will make cash payments totaling \$197.5 million. I further understand that the Network Defendants agreed to assist the notice and claims process to facilitate administration of the settlement and distribution of funds to class members. In exchange, the settlement contemplates that settlement class members will release the Network Defendants from claims that were or could have been brought in this action.

8. I believe the settlements were reached through arms' length negotiations, and reflect my counsel's independent determination that the settlement terms are fair, reasonable, and in the best interests of the Class. I agree with that determination.

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

Executed November 6, 2024 in Grand Island, New York

A handwritten signature in black ink, appearing to read 'AM', is written above a horizontal line.

Andrew Mackmin

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**DECLARATION OF SAM OSBORN IN SUPPORT OF MOTION FOR AWARD
OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

I, Sam Osborn, declare as follows:

1. I am a class representative in the above-entitled action. I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify competently thereto.

2. As a class representative, I understand that it is my responsibility to be informed of the work done by my attorneys on the case, to make my own judgment about the fairness of any settlements, and that I am required to consider the interests of all members of the Class in addition to my own. I am aware that I am free to disagree with my attorneys about the merits of a settlement and make my views known to the Court.

3. I became a plaintiff in this litigation in January 2012, more than a decade ago. Throughout the history of the case, I have diligently performed my duty to assist counsel in prosecuting the lawsuit by investing significant time and effort to fulfill my role as a class representative. I have remained informed regarding the status of the litigation by monitoring its progress and communicating with my attorneys, including by reviewing pleadings and correspondence.

4. I have also invested significant time facilitating the discovery process. At the direction of counsel, I took steps to preserve documents of potential relevance to this case. I subsequently reviewed discovery requests from defendants, including 46 document requests and 26 interrogatories. I discussed these discovery requests with my counsel and reviewed proposed responses for accuracy. To fulfill my discovery obligations, I also gathered potentially responsive documents for my counsel's further review. I understand that my counsel ultimately produced 258 documents, spanning 1331 pages, to the defendants.

5. In December 2019, I sat for a full-day deposition. In the days leading up to my deposition, I reviewed case filings and documents while meeting with my counsel to discuss the deposition process and prepare. Following my deposition, I reviewed the transcript for accuracy and executed an errata making certain changes.

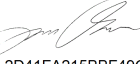
6. In sum, I estimate that I have spent approximately 150-200 hours fulfilling my obligations as a class representative over the decade I have been involved in this case. Throughout my time as a plaintiff in this case, my attorneys have never made any promises regarding compensation for my service, and I willingly agreed to participate in this case with no guarantee of personal benefit. I understand, however, that my attorneys are requesting that the Court authorize an award in the amount of \$10,000 for my participation as a class representative. While recognizing that the Court has complete discretion to determine whether any service award should be provided, I believe the amount requested by my counsel is warranted given the time and effort I have devoted to this case.

7. I have reviewed the settlements with the Network Defendants, discussed it with my attorneys, and I approve the settlement terms both as an individual and as a representative of the Class. I understand that, under the settlement, the Network Defendants will make cash payments totaling \$197.5 million. I further understand that the Network Defendants agreed to assist the notice and claims process to facilitate administration of the settlement and distribution of funds to class members. In exchange, the settlement contemplates that settlement class members will release the Network Defendants from claims that were or could have been brought in this action.

8. I believe the settlements were reached through arms' length negotiations, and reflect my counsel's independent determination that the settlement terms are fair, reasonable, and in the best interests of the Class. I agree with that determination.

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

Executed November 5th 2024 in Washington, D.C.

DocuSigned by:

2D41FA215BBE49C

Sam Osborn

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

Plaintiffs,

v.

VISA INC., *et al.*,

Defendants.

Civil Action No. 1:11-cv-1831-RJL
Assign Date: 8/4/2015
Description: Antitrust – Class Action

**[PROPOSED] ORDER GRANTING *MACKMIN* CONSUMER PLAINTIFFS' MOTION
FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS FOR CLASS REPRESENTATIVES**

This matter comes before the Court on the *Mackmin* Consumer Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives ("Motion"). The Court, having considered the Motion, and all papers filed in support thereof and opposition thereto, and the argument of counsel, and good cause appearing, hereby GRANTS the motion and ORDERS that:

1. Class Counsel are awarded attorneys' fees of **\$59,250,000**, together with a proportional share of interest earned on the Settlement Fund for the same time period until disbursed to Class Counsel.
2. Class Counsel are awarded reimbursement of their litigation costs and expenses in the amount of **\$4,322,524**.
3. Class Representatives Andrew Mackmin and Sam Osborn shall each receive a service award of **\$10,000**.
4. The attorneys' fees awarded, reimbursement of litigation costs and expenses, and the service awards shall be paid from the Settlement Fund and the interest earned thereon.

IT IS SO ORDERED.

DATED: _____

HONORABLE RICHARD J. LEON
UNITED STATES DISTRICT COURT JUDGE

Presented by:

By: /s/ Steve W. Berman
Steve W. Berman (*pro hac vice*)
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Steven A. Skalet (D.C. Bar No. 359804)
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sskalet@findjustice.com

*Co-Lead Class Counsel for the
Mackmin Consumer Plaintiffs*