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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ANGEL LUIS RODRIGUEZ, JR., individually
and as a representative of the class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC.

Defendant.

Case No.: A-23-869000-B

Dept. No.: 16

HEARING NOT REQUESTED

**PLAINTIFF'S UNOPPOSED
MOTION & MEMORANDUM
IN SUPPORT OF UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
ACTION SETTLEMENT &
PRELIMINARY
CERTIFICATION OF
SETTLEMENT CLASS, ON
ORDER SHORTENING TIME**

Plaintiff Angel Luis Rodriguez, Jr. (“Plaintiff”), on behalf of himself and the Settlement Class defined below, moves for preliminary approval of a class action settlement between Plaintiff and Defendant National Credit Center, LLC (“Defendant” or “NCC,” together with Plaintiff, the “Parties”) (the “Settlement”). Plaintiff respectfully moves this Court, pursuant to Nev. R. Civ. P. 23(e), to: (1) certify the Settlement Class for settlement purposes, (2) preliminarily approve the Settlement, (3) approve the Notice Plan and direct notice to be distributed to Settlement Class Members, (4) appoint Plaintiff as Class Representative, Plaintiff’s Counsel as Class Counsel, and Continental DataLogix as the Settlement Administrator (the “Administrator”), and (5) schedule a Final Approval Hearing at least 77 days after the date on which the Court enters the Preliminary Approval Order, so that Notice can be accomplished. Defendant does not oppose the relief sought in this Motion. This Motion is brought and based upon the attached Memorandum of Points and Authorities, as well as the Declarations and Exhibits filed concurrently in support.

Dated: June 19, 2024

By: /s/ Richard K. Hy
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**DECLARATION OF RICHARD K. HY, ESQ. IN SUPPORT OF REQUEST TO
CONSIDER UNOPPOSED MOTION ON AN ORDER SHORTENING TIME**

I, Richard K. Hy, Esq., declare as follows:

I am duly admitted to practice law in the state of Nevada and am an attorney with the law firm of Eglet Adams Eglet Ham Henriod, counsel for Plaintiff in the above-captioned matter. I make this declaration on personal, firsthand knowledge and, if called and sworn as a witness, I could and would testify competently thereto. I have personal knowledge of the facts stated herein and submit this declaration.

I make this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement & Preliminary Certification of Settlement Class.

The Parties have worked diligently to resolve this matter, which has been pending for over a year.

The Parties reached a classwide resolution in principle in January 2024. The Parties submitted a stipulation to remand the case from the US District Court for the District of Nevada to this Court on February 16, 2024. The Stipulation was not executed until May 7, 2024, three months after it was submitted. Accordingly, the settlement approval process was already delayed as the Parties awaited remand.

After remand, Plaintiff acted quickly to prepare the instant Motion, which was then submitted to Defendant for review and comment so that it may be submitted as unopposed as a means to expedite approval and to commence Notice of the Settlement to the approximately 400,000-440,000 members of the proposed Settlement Class.

As the Motion is submitted unopposed, there is no need for the usual briefing schedule prior to a hearing, as it will only further delay settlement approval and service of the Notice of Settlement to Class Members.

Shortening the time for hearing is in the best interests of the Court, Settlement Class Members, the Parties, and counsel, and will serve the interests of efficiency and justice, as it will allow the lengthy settlement approval and notice process to begin as soon as possible.

1 Considering the foregoing, good cause exists to hear the instant Motion on shortened
2 time.

3 I declare under penalty of perjury that the foregoing is true and correct to the best of my
4 knowledge.

5 Executed this 19th day of June, 2024.

6
7 By: /s/ Richard K. Hy
8 RICHARD K. HY, ESQ.
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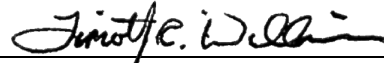
ORDER SHORTENING TIME

After considering the Declaration of Richard K. Hy, Esq., and good cause appearing, the Court, pursuant to EDCR 2.60, grants the Order Shortening Time and sets the **PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT & PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS, ON ORDER SHORTENING TIME** for hearing on the 10th day of July, 2024, at 1:30 PM. in Department 16, or as soon thereafter as the Court deems necessary.

Plaintiff shall serve this order upon Defendant within 48 hours of its return to them, from this Court.

~~DATED~~ this _____ day of _____, 2024.

Dated this 20th day of June, 2024



DISTRICT COURT JUDGE

SE

Submitted By:

6DB DD2 A8E3 C048
Timothy C. Williams
District Court Judge

/s/ Richard K. Hy

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MEMORANDUM

Only after litigating this case for more than a year, engaging in several months of contentious discovery, and participating in three mediation sessions with a third-party neutral, the Parties have reached an excellent class action settlement to resolve this matter. Plaintiff, individually and on behalf of those similarly situated, has alleged that NCC violated the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”) by inaccurately reporting that Plaintiff and hundreds of thousands of other consumers were a possible match to an individual (or individuals) on the Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List (“OFAC List”). Although NCC denies Plaintiff’s allegations, and disclaims any wrongdoing, after many months of hard-fought discovery and negotiations, the Parties have finally reached a resolution that will resolve the claims of Plaintiff and Class Members. The resulting Settlement, which provides impressive monetary and injunctive relief, should be preliminarily approved.

Under the Settlement, Defendant will provide a total of **\$30 million** in monetary consideration. To Plaintiff’s knowledge, this makes the Settlement the fourth-largest ever recovery in the over fifty-year history of the FCRA. The Settlement provides for automatic pro rata payments to all Class Members (and possible additional pro rata distributions, as well), and also allows Class Members to file a Claim Form to receive a further payment of up to \$1,500, if they attest to having experienced consequential harm as a result of Defendant’s reporting. On top of this substantial monetary relief, Plaintiff and Class Counsel have secured important injunctive relief that directly addresses Defendant’s challenged conduct. In exchange for the meaningful relief provided, Class Members will release only claims that are the subject of this action.

Further, the Settlement includes a robust Notice Plan, designed to reach the large and diverse Settlement Class. The Notice Plan requires that Class Members be sent Notice via both mail and email, in both English and Spanish. In line with best practices, the Settlement also allows Class Members to elect to receive their payments electronically (as opposed to paper check), and requires the Administrator to send Class Members reminder Notices regarding their right to elect electronic payment and/or to file a Claim Form to receive an additional payment.

All told, the Settlement is a win not only for the Parties—who wish to resolve their dispute—but also for hundreds of thousands of consumers. It clearly warrants approval under Nevada law, and the Motion should be granted. First, the Settlement Class should be certified, as the requirements of Nev. R. Civ. P. 23 are met. Second, the Settlement—which was achieved only after sufficient discovery by experienced counsel and extensive arms-length negotiations, provides significant monetary and injunctive relief to Class Members, and avoids the significant risks to recovery that Class Members would have faced in continued litigation—should be preliminarily approved. Finally, because the proposed Notice Plan satisfies Nev. R. Civ. P. 23(d)(3), it should be approved and Notice should be disseminated to the Class.

BACKGROUND

I. Procedural History

A. The Pleadings and Subsequent Procedural History

On April 14, 2023, Plaintiff filed this class action in the District Court of Clark County, Nevada, alleging that NCC violated the FCRA by failing to follow reasonable procedures to assure maximum possible accuracy in its consumer reporting. (*See generally* Compl.) Specifically, Plaintiff alleged that NCC issued a consumer report to his prospective car dealership, Parkway Ford, that inaccurately identified him as a match to the OFAC List. (*Id.* ¶¶ 30-54.) Plaintiff alleged that NCC’s conduct affected numerous consumers in addition to himself. (*Id.* ¶¶ 62-71.)

On May 10, 2023, NCC removed the case, which thereafter proceeded in federal court for nearly a year. (ECF No. 1, Def.’s Not. of Removal.) During this time, Defendant filed its Answer, and the Parties negotiated a protective order and fully briefed Plaintiff’s then-opposed motion to remand, which was later withdrawn. (ECF No. 9, Def.’s Ans.; ECF No. 29, Prot. Order; ECF No. 32, Plf.’s Mot. for Remand; ECF No. 35, Plf.’s Not. of Withdrawal of Mot. for Remand.) More recently, after having reached a settlement in principle, the Parties jointly stipulated to remand the case for settlement purposes. (ECF No. 40, Stip. to Remand.) As set forth in the stipulation, the Parties sought remand to this Court in order to ensure the finality of the Settlement. (*Id.* ¶¶ 4, 10-11.) Specifically, because Article III standing concerns do not apply in Nevada state court, presenting the Settlement in this Court ensures greater efficiency and certainty. (*Id.* ¶¶ 10, 13.) *See also Nat’l Ass’n of Mut. Ins. Companies v. Dep’t of Bus. & Indus., Div. of Ins.*, 139 Nev. Adv. Op.

3, 524 P.3d 470, 476 (2023) (“The Nevada Constitution does not include the ‘case or controversy’ requirement stated in Article III of the United States Constitution, so we are not strictly bound to federal constitutional standing requirements.”). On May 7, 2024, Magistrate Judge Brenda Weksler entered an order granting the Parties’ stipulation. (ECF No. 46, Order Granting Stip. to Remand.)

B. Discovery

The Parties engaged in voluminous and adversarial discovery before reaching the Settlement. After the Parties exchanged initial disclosures, Plaintiff served multiple sets of written discovery (including requests for production (“RFPs”), interrogatories, and a request for admission), and analyzed NCC’s responses thereto. (Declaration of E. Michelle Drake (“Drake Decl.” or “Drake Declaration”) ¶ 5.) Plaintiff also responded to NCC’s written discovery requests—26 RFPs and 21 interrogatories—and produced, *inter alia*, sensitive financial documents and personal text messages. Each Party challenged the other’s initial responses to written discovery requests, leading the Parties to engage in lengthy meet-and-confers. (*Id.* ¶¶ 6-7.) Ultimately, NCC provided multiple rounds of supplemental responses to both Plaintiff’s RFPs and to his interrogatories, and it produced additional documents. (*Id.* ¶ 8.) Before the Parties resolved Plaintiff’s claims, disputes had crystallized—and Plaintiff was preparing to move to compel—on a number of issues, including NCC’s net worth and its pre-tax profits. (*Id.* ¶ 7.)

For the financial-related materials that Defendant did willingly produce, Plaintiff retained an expert forensic and financial consultant to analyze the documents. (*Id.* ¶ 9.) This analysis formed the basis for Plaintiff’s Counsel’s strategy in settlement negotiations and the eventual resolution of this matter. (*Id.*) Plaintiff also negotiated the production of multiple iterations of complex data sets consisting of millions of data points on hundreds of thousands of consumers, as well as the code behind Defendant’s matching algorithms, and retained experts to analyze both. (*Id.* ¶ 10.) By analyzing this data and working with experts—including a Ph.D. computer scientist with specialized expertise in “entity resolution,” who reviewed and critiqued Defendant’s source code and was prepared to offer his opinions at trial—Plaintiff learned the precise details of how NCC had matched consumers to the OFAC List during the Class Period. (*Id.*)

In addition, Plaintiff completed a Fed. R. Civ. P. 30(b)(6) deposition of NCC, and had scheduled—and begun preparing for—several depositions of NCC’s current and former

employees. (*Id.* ¶ 11.) Finally, third-party discovery in this case has been extensive, with Plaintiff issuing subpoenas (for documents and/or testimony) to seven third parties, including Parkway Ford and SNH Capital Partners (Defendant’s parent company). (*Id.* ¶ 12.) Plaintiff met and conferred with counsel for many of these third parties and negotiated the production of—and thereafter closely analyzed—responsive documents. (*Id.*)

C. Settlement Negotiations

Parallel to their discovery efforts, the Parties began discussing possible classwide resolution of this matter in fall 2023. (Drake Decl. ¶ 13.) This involved the Parties negotiating Defendant’s production of various materials that Plaintiff requested in order to consider classwide resolution, including individual-level data on potential Class Members as well as information on NCC’s finances. (*Id.*) The Parties engaged in their first full-day, remote mediation session with third-party neutral Rodney Max on October 27, 2023. (*Id.* ¶ 14.) After Defendant produced more of the consumer data and information that Plaintiff had requested for settlement purposes, the Parties completed a second full-day, remote mediation with Mr. Max on December 11, 2023. (*Id.* ¶¶ 14, 15.) Finally, on January 12, 2024, the Parties engaged in third full-day mediation with Mr. Max, this time in-person. (*Id.* ¶ 15.) At this third mediation, the Parties reached a settlement in principle to resolve all of Plaintiff’s claims against Defendant on a class basis. (*Id.*)

In the following months, the Parties continued to engage in arms’ length negotiations in order to agree to and formalize the precise terms of their agreement. (*Id.* ¶ 16.) Ultimately, on June 11, 2024, the Parties executed the Settlement Agreement.¹ (*Id.*; *see also* SA.)

II. Settlement Details

A. The Proposed Settlement Class

The Settlement Class in this case is defined as follows:

All individuals who were the subject of an NCC OFAC Screen Defendant disseminated to a third party from May 5, 2020, through the Execution Date.²

¹ The Settlement Agreement (“SA”) with Exhibits is attached as Exhibit 1 to the Drake Declaration.

² “NCC OFAC Screen” means Defendant’s proprietary product where it returns a response if the applicant’s identifying information appears to match information obtained from the OFAC’s list of Specially Designated Nationals. (SA ¶ 2.26.) “Execution Date” means the date that the last Party executes the Settlement Agreement. (*Id.* ¶ 2.16.)

(*Id.* ¶ 2.37.) The Parties estimate that there are between 400,000-440,000 Settlement Class Members. (*Id.* ¶ 4.1.)³

B. No Admission of Liability

NCC denies Plaintiff's allegations of wrongful conduct, and the Settlement Agreement shall not be construed as an admission as to, *inter alia*, the validity of Plaintiff's claims nor the applicability of the FCRA to the NCC OFAC Screen. (*Id.* ¶ 1.)

C. Consideration Provided to Settlement Class Members

i. Payments to Settlement Class Members

NCC will provide a total of \$30 million in monetary consideration. First, NCC will pay \$27 million into the Gross Settlement Fund. (SA ¶ 5.2.1.) Most costs and expenses associated with the Settlement—including attorneys' fees and costs, any service award, and the first two payments for settlement administration costs, which together total \$535,000—shall be paid out of the Gross Settlement Fund. (*Id.* ¶ 2.21.) Each Settlement Class Member will automatically receive a Pro Rata Award from the Gross Settlement Fund, less Court-approved deductions (the "Net Settlement Fund"), so long as (1) the Class Member's Mail Notices were not both returned as undeliverable,

³ As set forth in the Settlement Agreement, Defendant has produced data to Plaintiffs regarding all members of the Class whose reports were issued through August 31, 2023. Plaintiff's expert has identified 398,792 individuals in that data set. (Drake Decl. Ex. 2 ¶ 20.) NCC is obligated to provide data on individuals who were the subject of additional reports (from September 1, 2023-the Execution Date) (the "Supplemental Data") within fourteen days of the Execution Date. (SA ¶ 4.1) Defendant has represented that the Supplemental Data will encompass approximately 25,000 additional individuals. (Drake Decl. ¶ 17.) Arriving at the precise number of individuals in the Settlement Class requires deduplicating the data, a more-complex-than-usual task given the nature of this case and the resulting prevalence of common names in the data. (Drake Decl. Ex. 2 ¶¶ 15-21.) The Parties have agreed that the Administrator will perform a final deduplication prior to initiating Notice. (SA ¶ 4.1.) Because the Administrator will be obtaining additional data, including, for example, up-to-date mailing addresses, for purposes of sending Notice, and because that data will be incorporated in any future deduplication efforts, the Parties fully expect that the precise number of individual Class Members will vary from the number of individual Class Members identified to date. That said, while the precise number of Class Members will undoubtedly change to some degree, Plaintiff is confident that 420,000 is a reasonable estimate of the total number of Class Members. (Drake Decl. ¶ 17.) Plaintiff has extensively analyzed Defendant's data, and is aware of the rate at which NCC was reporting possible OFAC matches, as well as the date when Defendant's practices changed; therefore, Plaintiff has been able to confirm the reasonability of NCC's representations regarding the number of individuals who will be included in the Supplemental Data. (*Id.*) Plaintiff will include the final number of Class Members in his Motion for Final Settlement Approval. (*Id.*)

1 or (2) the Class Member's Mail Notice were returned as undeliverable, but the Class Member
2 returned a Payment Election Form. (*Id.* ¶ 5.2.3.) It is estimated that the Pro Rata Award for each
3 Settlement Class Member will be approximately \$38-\$42. (Drake Decl. ¶ 18.)

4 Second, Defendant will pay \$3 million into the Supplemental Settlement Fund, which will
5 be combined with any funds remaining in the Net Settlement Fund after initial Pro Rata Awards
6 are made (i.e., the total sum of Pro Rata Award checks that are not negotiated by a certain date),
7 less any additional costs of settlement administration beyond the first \$535,000 (the "Residual
8 Settlement Fund"). Each Class Member who submits a valid Claim Form asserting that they
9 experienced harm as a result of Defendant's OFAC reporting shall receive an Actual Damages
10 Award from the Residual Settlement Fund, in addition to their Pro Rata Award. (SA ¶ 5.2.4.) For
11 each valid Claim Form that is submitted, the Administrator will review the substance of the claim
12 and assign the proper number of "points" associated with the claim. (*Id.*; *see also* Declaration of
13 Ritesh Patel ("Patel Decl.") ¶ 23.) Specifically, claims for emotional harm are worth two points,
14 claims that a transaction was delayed which are not supported by documentation are worth three
15 points, and claims that a transaction was delayed or denied which are supported by documentation
16 will be worth four points. (SA ¶ 5.2.4.) The value of a point will be the lesser of (1) the number
17 determined by dividing the total amount of the Residual Settlement Fund by the total number of
18 points assigned to claims submitted by approved Claimants, or (2) \$375. (*Id.*) Because the greatest
19 number of points a Claimant can receive is four, Claimants will have an opportunity to receive
20 \$1,500, in addition to the value of their Pro Rata Award. (*Id.*) Claim Forms must be submitted
21 electronically or postmarked by the Claims Deadline, which will be 60 days after the Final
22 Approval Order is entered. (*Id.* ¶ 2.6.)

23 If the total amount of approved Actual Damages Awards is less than the amount in the
24 Residual Settlement Fund, the Administrator will distribute the remaining funds, on a pro rata
25 basis, as an additional payment to each Class Member whose Pro Rata Award was (1) received
26 electronically or (2) cashed by paper check. (*Id.* ¶ 5.2.6.) Should such redistribution be infeasible,
27 any residual amounts left in the Net Settlement Fund and Supplemental Settlement Fund shall be
28 donated to Public Justice as a *cy pres* recipient. (*Id.* ¶ 5.2.7.) No amount of the Net Settlement
Fund or Supplemental Settlement Fund will revert to NCC. (*Id.* ¶ 5.2.1.)

ii. Defendant's Practice Changes

NCC has additionally agreed to injunctive relief in the form of practice changes that will improve its matching criteria for its OFAC reporting, as well as the language of its reports. Specifically, Defendant shall maintain procedures designed to ensure that it only includes OFAC information on a consumer's report if the consumer who is the subject of the report has (1) an exact name match AND (2) a match on at least (a) year of birth, (b) address, or (c) Social Security Number. (*Id.* ¶ 5.1.1.) Moreover, in any reports that identify a consumer as a possible match to the OFAC List, Defendant shall include a disclosure regarding the limited meaning of any such match. (*Id.*) Together, these changes will help ensure that Defendant's OFAC reporting is more accurate moving forward. It is difficult to precisely quantify the full value of these changes to consumers because there are multiple components of potential damages, including lost time, emotional distress, delay, and potentially lost financial opportunities. Using class numbers and reasonable assumptions, economic and financial consultant Stan V. Smith has calculated, "to a reasonable degree of economic and professional certainty" that the value of the injunctive relief in the Settlement is at least \$18 million dollars. (Drake Decl. Ex. 3 ¶¶ 21, 25.)

D. Release of Claims

The release of claims is limited only to the claims that were the subject of this litigation. Specifically, in exchange for the Settlement's benefits, Class Members will release claims that they have "under the FCRA, any federal law or the law of any state...resulting from, arising out of, or related in any way to any and all allegations in the Complaint in this action, including Defendant's reporting of an NCC OFAC Screen." (SA ¶¶ 2.8, 5.3.2.)

E. The Proposed Notice Plan

After consulting with and obtaining bids from three settlement administrators, the Parties request that Continental DataLogix be appointed as the Administrator, and that it be responsible for implementing the Notice Plan. (*See id.* ¶¶ 2.35, 3.2; *see also* Patel Decl.) Recognizing that the Settlement Class spans many years, and encompassed an ethnically diverse population, Plaintiff's Counsel worked closely with the Administrator to ensure that the Notice Plan will reach as many consumers as possible. (Drake Decl. ¶ 19.)

1 The Administrator will take numerous steps—before issuing Mail Notice, and even after
2 Final Approval—to ensure that payments reach Settlement Class Members. First, after receiving
3 the Class Notice List, and prior to sending any notice, the Administrator shall take several steps to
4 increase the deliverability of both Mail and Email Notices by, for example, update mailing
5 addresses through the United States Postal Service’s (“USPS”) National Change of Address
6 database and subjecting email addresses through a cleansing process. (Patel Decl. ¶¶ 10-15.) The
7 Administrator will thereafter send the Mail Notice, which will be in both English and Spanish. (*Id.*
8 ¶ 11; *see also id.*, SA Ex. E.) For Settlement Class Members whose Mail Notices are returned as
9 undeliverable, the Administrator will re-mail the Mail Notice to the extent an alternative mailing
10 address can be reasonably located. (Patel Decl. ¶ 12.)

11 Further, the Administrator will send all Class Members for whom an email address has
12 been located the Email Notice. (*Id.* ¶ 13; *id.*, SA Ex. B.) Class Members will also receive targeted
13 Reminder Email Notices. (Patel Decl. ¶ 16.) For Settlement Class Members whose Mail Notice is,
14 despite the foregoing, returned as undeliverable, the Administrator will send at least two Email
15 Notices before the Final Approval Hearing, informing such Class Members that the Administrator
16 has been unable to reach them by mail, and needs more information in order to issue their payment.
17 (SA Ex. H.) Moreover, *after* the Court grants Final Approval, the Administrator shall send to all
18 Class Members on the Class Notice List who have not submitted a Payment Election Form and
19 for whom an email address has been located, up to two Reminder Email Notices, tailored to their
20 unique circumstances. (Patel Decl. ¶ 16; SA Ex. G.) Such reminder notices, sent *after* final
21 approval and when payment is no longer contingent, are effective in increasing the number of
22 individuals who actually receive payments that are owed to them. (Patel Decl. ¶ 17.) All Email
23 and Reminder Email Notices will be sent in both English and Spanish. (*Id.* ¶ 16.)

24 The Administrator will establish the Settlement Website, which shall provide Settlement
25 Class Members with relevant documents, including the Long Form Notice, and the ability to
26 submit Claim Forms and Payment Election Forms online. (*Id.* ¶¶ 18-19; *see also* SA Exs. A (Claim
27 Form), D (Long Form Notice), E (Payment Election Form.) The Administrator will also establish
28 an email address and toll-free telephone number for Class Members seeking more information
about the Settlement. (Patel Decl. ¶¶ 20-21.) The telephone number will lead Class Members to

an Interactive Voice Response system in English, Spanish, and Arabic, and provide Class Members the opportunity to leave a message requesting a return phone call. (*Id.* ¶ 20.)

F. Opt Outs and Objections

Each Notice will inform Settlement Class Members of their right to opt-out of, or object to, the Settlement and of the associated customary deadlines. (SA Exs. B, D, E, G, and H.) Settlement Class Members who choose to opt out must send, by the Opt-Out and Objection Deadlines, a written statement to the Administrator that indicates their desire to be excluded from the Settlement, is signed by the Settlement Class Member, and includes their name, address, and phone number. (SA ¶ 6.1.1.) To properly object, a Settlement Class Member must file their objection with the Court and serve a copy on the Administrator by the Opt-Out and Objection Deadlines. (*Id.* ¶ 6.2.) The objection must include the Settlement Class Member's name, address, phone number, and signature, and include a notation that it is for the above-captioned matter. (*Id.*) Additionally, the objection must contain the basis for any objections with specificity, including documentation, and if the objector is represented by counsel, it must state that counsel's contact information and whether they intend to appear at the Final Approval Hearing. (*Id.*)

Prior to the Final Approval Hearing, the Administrator will provide a declaration for filing with the Court, identifying the total number of individuals to whom Notice was sent, and also identifying any opt-outs and objections received. (*Id.* ¶¶ 6.1.2, 6.2.)

G. Service Award, Attorneys' Fees and Costs, and Settlement Administration Costs

Plaintiff will request up to \$25,000 from the Gross Settlement Fund as a Service Award in recognition of his service to the Settlement Class, and in exchange for the broad, general release of all claims he is providing to Defendant. (*Id.* ¶¶ 7.3.2, 5.3.1.) Class Counsel will also move the Court to approve up to one-third of the total monetary consideration provided by Defendant as attorneys' fees, as well as reimbursement for documented out-of-pocket expenses. (*Id.* ¶ 7.3.1.) Approval of the Settlement Agreement is not contingent upon the approval of the full amount of any requested fees, costs, or Service Award. (*Id.*)

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LEGAL STANDARDS

I. Class Certification

“A class may be certified if a plaintiff has met all four requirements of Nevada Rule of Civil Procedure 23(a)...” *Dubric v. A Cab, LLC*, 2020 WL 13582416, at *4 (Nev. Dist. Ct. Oct. 11, 2020) (citations omitted). Rule 23(a) requires that: “(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.” Nev. R. Civ. P. 23(a). Meanwhile, Rule 23(c)(3) provides that “[a]n action may be maintained as a class action if the prerequisites of [Nev. R. Civ. P. 23(a)] are satisfied, and in addition[,] the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.” Nev. R. Civ. P. 23(c)(3).

II. Preliminary Approval

Courts recognize a strong judicial policy favoring settlements, particularly in the context of complex class litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008); *John W. Muije, Ltd. v. A N. Las Vegas Cab Co.*, 106 Nev. 664, 667, 799 P.2d 559, 561 (1990) (“Early settlement saves time and money for the court system, the parties, and the taxpayers.”).

Nevada’s Rules of Civil Procedure, which provide that “[a] class action must not be dismissed or compromised without the approval of the court,” Nev. R. Civ. P. 23(f), do not set forth a specific standard for class action settlement approval. *Compare* Fed. R. Civ. P. 23(e)(2) (stating that a class settlement must be “fair, reasonable, and adequate” and enumerating factors to be considered in analysis).

While courts in Nevada consider some of the same factors that federal courts in the Ninth Circuit take into account, the Nevada Supreme Court has specifically declined to adopt any particular multi-factor test in evaluating whether to approve a class action settlement. *Murray v. Dubric*, 514 P.3d 1081, 2022 WL 3335982, at *2 (Nev. 2022) (unpublished table disposition) (declining to adopt Ninth Circuit’s eight-factor test and upholding approval of settlement because “record demonstrates that respondents reached the settlement as the result of lengthy negotiations

after conducting a significant amount of discovery and with the assistance of both a jointly retained expert and an experienced judicial officer”). Because the Nevada Rules of Civil Procedure and Nevada courts have not adopted any particular test, and because there is little guidance from state law on the class action settlement approval process, it is appropriate for Nevada courts to consider federal authority regarding settlement approval, while also recognizing that the relevant federal rule imposes a higher standard for approval than Nev. R. Civ. P. 23. *See Shuette v. Beazer Homes Holdings Corp.*, 124 P.3d 530, 538 (Nev. 2005); *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002); *Roe 1 v. Shepard*, 539 P.3d 661, 2023 WL 8251386, at *2 (Nev. 2023) (unpublished table disposition).

As explained in the leading treatise on class actions, Newberg and Rubenstein on Class Actions (“Newberg Treatise”), courts generally employ a “three-stage process” for settlement approval, which consists of preliminary approval, notice, and final approval. *See* 4 Newberg and Rubenstein on Class Actions § 13:10 (6th ed.). During preliminary approval, “[t]he court’s primary objective at that point is to establish whether to direct notice of the proposed settlement to the class, invite the class’s reaction, and schedule a final fairness hearing.” *Id.* If the court preliminary approves the settlement, notice is sent out to the settlement class and the settlement class members may object to or exclude themselves from the settlement. *Id.* During the last stage, final approval, the court holds a hearing after class members have had an opportunity to voice any concerns about the settlement, and thereafter decides whether to finally approve the settlement. *Id.*

Over the years, courts developed numerous factors to consider when approving a settlement. The Newberg Treatise indicates that courts have generally considered the following factors at the preliminary approval stage: (1) the amount of the settlement in light of the class’s potential recovery, discounted by the likelihood of plaintiffs prevailing at trial; (2) the extent to which the parties have engaged in sufficient discovery to evaluate the merits of the case; (3) the complexity and potential costs of trial; (4) the recommendations of experienced counsel that settlement is appropriate; (5) and in some instances, the capacity for the defendant to withstand a

larger judgment. 4 Newberg and Rubenstein on Class Actions § 13:15 (6th ed.).⁴ The Newberg Treatise also lays out the following procedural factors in considering preliminary approval:

The primary procedural factor courts have considered at preliminary approval is whether the agreement arose out of arms-length, non-collusive negotiations. Courts look to the procedural posture of the case at settlement for indications that the agreement is the product of legitimate, arms-length negotiations. Where the proposed settlement is preceded by a lengthy period of adversarial litigation involving substantial discovery, a court is likely to conclude that settlement negotiations occurred at arms-length. Courts have also found collusion less likely when settlement negotiations are conducted by a third-party mediator.

Id § 13:14 (6th ed.) (internal citations omitted). In a similar vein, the Ninth Circuit has instructed courts to consider:

the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement.

Hanlon v. Chrysler Corp., 150 F.3d 1011, 1026 (9th Cir. 1998).

The Settlement clearly meets the standard used by the Nevada Supreme Court in *Murray*. Although not mandatory, the numerous other factors identified by the Newberg Treatise, as well as the Ninth Circuit, also weigh in favor of approval. Accordingly, the Settlement should be approved.

III. Class Notice

Nev. R. Civ. P. 23(f) requires courts to direct notice of a proposed class settlement to the class members “in such manner as the court directs.” “In any class action maintained under Rule 23(c)(3), the court should direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Nev. R. Civ. P. 23(d)(3). Such notice must advise class members that:

(A) the court will exclude the member from the class if the member so requests by a specified date;

(B) the judgment, whether favorable or not, will include all members who do not request exclusion; and

⁴ Courts also consider the number and content of objections when considering settlement approval. *Id*. Because notice has not yet gone out to the Class, there are no objections here.

(C) any member who does not request exclusion may, if the member desires, enter an appearance through the member's counsel.

Nev. R. Civ. P. 23(d)(3)(A-C).

ARGUMENT

The Motion should be granted as each requirement for preliminary approval is met. First, the Settlement Class satisfies Nev. R. Civ. P. 23 and should be certified. Second, the Settlement should be preliminarily approved because it was reached only after sufficient discovery and arms-length negotiations facilitated by a mediator, provides meaningful relief to the Class, and allows Class Members to avoid the significant risks to recovery that they would have faced in continued litigation. Finally, the proposed Notice Plan satisfies Nev. R. Civ. P. 23(d)(3), and Notice should be disseminated to the Class. For these reasons, the Court should grant the Motion.

I. The Settlement Class Should Be Certified

Here, the Settlement Class satisfies the requirements of both Rule 23(a) and Rule 23(c)(3), and should be certified for settlement purposes.

A. The Settlement Class Satisfies Nev. R. Civ. P. 23(a)

i. The Settlement Class is Numerous

The Parties agree that the Settlement Class has approximately 400,000-440,000 members. Numerosity is thus easily satisfied. *See Shuette*, 124 P.3d at 537 (holding that numerosity is generally satisfied when there are at least 40 or more class members); *see also Rannis v. Recchia*, 380 F. App'x 646, 651 (9th Cir. 2010).

ii. There Are Common Questions of Law and Fact

"Questions are common to the class when their answers as to one class member hold true for all class members." *Shuette*, 124 P.3d. at 538. This element requires that plaintiffs demonstrate that their claims "depend upon a common contention," the resolution of which "will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011); *see also id.* at 359 ("We quite agree that for purposes of Rule 23(a)(2) '[e]ven a single [common] question' will do[.]" (citation omitted)).

The Settlement Class raises common factual and legal questions. Such questions include, for example, whether Defendant's OFAC reporting is subject to the FCRA and whether

Defendant’s use of partial name-only matching to identify matches to the OFAC List was a reasonable procedure to assure maximum possible accuracy. These questions are capable of classwide resolution, and thus satisfy commonality. *See, e.g., Fernandez v. CoreLogic Credco, LLC*, No. 20-1262, 2024 WL 538585, at *6 (S.D. Cal. Feb. 9, 2024) (finding commonality satisfied where issues common to class included “whether Defendant's OFAC reports should be considered consumer reports under the FCRA” and “whether Defendant's name-only matching procedure was reasonable to ensure the maximum possible accuracy of the information furnished by Defendant”). In addition, the Settlement Class raises common legal issues of FCRA liability and willfulness—which are also common issues. *Id.* (finding that question of whether defendant’s violation of the FCRA was willful was a common question). Commonality is thus satisfied.

iii. Plaintiff’s Claims Are Typical of the Settlement Class

“Generally, the typicality prerequisite concentrates on the defendants’ actions, not on the plaintiffs’ conduct.” *Shuette*, 124 P.3d at 538. The typicality test is “whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (citation omitted). Typicality does not require identical facts or injuries. *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014). *See also Shuette*, 124 P.3d at 539 (“[T]he representatives’ claims need not be identical, and class action certification will not be prevented by mere factual variations among class members’ underlying individual claims.”).

Plaintiff’s claims are typical of those of the Settlement Class. Like every member of the Class, he was the subject of a report, disseminated to a third party, that he alleges inaccurately matched him to the OFAC List based on Defendant’s use of a name-only matching algorithm. (*See generally* Compl.) Thus, Plaintiff challenges conduct that was not unique to him, and he and the members of the Settlement Class alleges to “have been injured by the same course of conduct.” *Hanon*, 976 F.2d at 508. *See also Fernandez*, 2024 WL 538585, at *7 (finding typicality satisfied where “it is alleged Defendant prepared and disseminated OFAC reports to third parties that falsely identified Plaintiff and each putative class member as ‘possible matches’ to the OFAC SDN list”); *Watt v. Nevada Property 1, LLC*, 2010 WL 9545041, at *2 (Nev. Dist. Ct. Feb. 26, 2010) (“The

Class Representatives' claims are typical of the Settlement Class' claims because they are based on the same injury caused by the same alleged conduct of Defendants.''). Further, under the FCRA, all Class Members (even those who did not experience financial harm as a result of Defendant's reporting) are eligible for statutory damages if they can demonstrate a willful violation. *See* 15 U.S.C. § 1681n. Typicality is satisfied.

iv. Plaintiff and Class Counsel Will Adequately Represent the Class

Adequacy turns on two questions: (1) whether the class representative's interests are common with, and not antagonistic to, the class's interests; and (2) whether the class representative is "able to prosecute the action vigorously through qualified counsel." *Whiteway v. FedEx Kinko's Office and PrintSrvs., Inc.*, 2006 WL 2642528, at *7 (N.D. Cal. Sept. 14, 2006) (citation omitted). Both are satisfied here, as Plaintiff and his Counsel are more than adequate, and have vigorously litigated this matter to reach a settlement that provides substantial relief to the Settlement Class.

First, Plaintiff has been actively involved in investigating and litigating this case for nearly one-and-a-half years. (Drake Decl. ¶ 20.) Plaintiff helped investigate his claims, reviewed and approved the Complaint, responded to voluminous discovery requests, stayed in close communication with Class Counsel throughout the litigation and settlement negotiations, and reviewed and approved the Settlement Agreement. (*Id.*) Plaintiff has no conflict with Settlement Class Members, as each has the same interest in receiving relief.

Second, proposed Class Counsel have likewise zealously represented the Settlement Class. Class Counsel, who have been appointed as lead counsel in dozens of FCRA class actions, have diligently investigated and litigated the claims at issue here, harnessing their collective decades-worth of FCRA and class action experience to, for example, negotiate the production of (and thereafter analyze) voluminous data, and secure historic monetary relief and important injunctive relief for the Settlement Class. (*Id.* ¶¶ 21, 23-32.) For over a year of labor-intensive litigation, with no guarantee of a successful resolution, Class Counsel have demonstrated remarkable commitment to the Settlement Class. Not only has Class Counsel not yet been compensated for any of their (substantial) time spent on this matter, but they have advanced all expenses—all without any guarantee that they would receive *any* reimbursement or compensation. (*Id.* ¶ 21.)

In sum, Plaintiff and proposed Class Counsel have shown laudable dedication to the Class. Adequacy is met. *See Fernandez*, 2024 WL 538585, at *8 (finding Class Counsel from Berger Montague PC adequate in class action case, brought under the FCRA, alleging inaccurate OFAC reporting); *Watt*, 2010 WL 9545041, at *2 (“The Class Representatives and Class Counsel have competently and vigorously litigated the case thus far, and there is no reason to doubt that they will continue to represent the best interests of the Class Members.”).

B. The Settlement Class Satisfies Nev. R. Civ. P. 23(c)(3)

i. Common Issues Predominate Over Individualized Issues

“[T]he focus of the predominance inquiry” is whether “a proposed class is ‘sufficiently cohesive to warrant adjudication by representation.’” *Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 568 U.S. 455, 469 (2013) (citation omitted). It “asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the noncommon, aggregation-defeating, individual issues.” *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) (citation omitted).

Here, numerous common questions predominate, including: (1) whether Defendant’s OFAC Screens are subject to the FCRA; (2) whether Defendant’s partial name-only OFAC matching violated 15 U.S.C. § 1681e(b); (3) whether Defendant’s conduct was willful; and (4) the proper measure of statutory and punitive damages. As numerous courts have concluded when faced with similar claims, such questions predominate over individualized issues. *See, e.g., Fernandez*, 2024 WL 538585, at *8 (finding predominance satisfied where “there are three core questions common to all settlement classes, namely: ‘(1) whether [Defendant’s] conduct violated the applicable provision of the FCRA[]; (2) whether [Defendant’s] conduct was willful; and (3) the proper measure of statutory and punitive damages,’”). Predominance is satisfied.

ii. Class Treatment is a Superior Means of Resolving This Matter

Matters “pertinent” to a finding of superiority include: (1) class members’ interests in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of any litigation concerning the controversy already begun by or against class members; (3) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (4) the likely difficulties in managing a class action. Nev. R. Civ. P. 23(c)(3)(A-D).

Here, the above factors support certification. First, individual members of the Settlement Class do not have an interest in controlling the prosecution of this case. *See* 7 Newberg on Class Actions § 21:4 (6th ed. 2022) (“FCRA matters remain good candidates for class actions — they tend to involve a large number of harmed individuals with small claims, often disbursed throughout the country. Absent a class suit, many FCRA violations would remain un-remedied.”). Second, Plaintiff’s Counsel are unaware of any suits brought on an individual basis against Defendant related to its OFAC reporting. *See In re China Intell. Lighting & Elecs., Inc. Sec. Litig.*, 2013 WL 5789237, at *6 (C.D. Cal. Oct. 25, 2013). And, to the extent that any such suits are filed, or any consumers have significant damages, those consumers may exclude themselves from the class action and proceed individually. *See Murray v. GMAC Mortg. Corp.*, 434 F.3d 948, 953 (7th Cir. 2006). The Court should thus “ha[ve] no difficulty concluding that a class suit is superior to individual lawsuits” here. *Patel*, 308 F.R.D. at 310.

Superiority is met. *See Fernandez*, 2024 WL 538585, at *9 (“In this instance, the class-action is superior because (1) individual members of the classes have no interest in controlling the prosecution of this case; (2) Plaintiff’s counsel is unaware of any similar suits brought against Defendant related to its OFAC reports and consumer disclosures; and (3) bringing all potential class member’s claims in one action saves judicial resources.”).

II. The Proposed Settlement Should Be Preliminarily Approved

In light of guidance from Nevada caselaw, federal authority, and the Newberg Treatise, and considering both procedural and substantive factors, it is clear that the Settlement here warrants preliminary approval. Most significantly, the Settlement: (1) was reached only after the completion of sufficient discovery, such that counsel had a firm grasp on the strengths and weaknesses of the case; (2) was the result of extensive arms-length negotiations with a third-party neutral; (3) provides exceptional monetary and injunctive relief for Settlement Class Members; and (4) allows Plaintiff and Class Members to obtain such relief, when their risks to any recovery whatsoever through litigation were significant. The Settlement should be preliminarily approved.

///

A. The Settlement Was Reached Only After Significant Discovery, and Has the Support of Both Parties' Counsel

Here, the Settlement was reached only after several months of formal discovery, which involved, *inter alia*: the exchange of initial disclosures; both Parties propounding and responding to written discovery requests; the exchange of a substantial volume of documents; significant third-party discovery; the negotiation, production, and analysis of voluminous consumer data; Plaintiff's retention of three experts to analyze such data, as well as Defendant's OFAC matching algorithm and financial documents; and a Fed. R. Civ. P. 30(b)(6) deposition.

Under these circumstances, the Parties' "'counsel had a good grasp on the merits of their case before settlement talks began,' which weighs in favor of granting preliminary approval." *Andersen v. Briad Rest. Grp., LLC*, 2022 WL 181262, at *5 (D. Nev. Jan. 19, 2022) (citation omitted) (preliminarily approving settlement where the parties had exchanged initial disclosures and written discovery, defendant had produced data, plaintiff had retained an expert forensic and financial consultant to analyze defendant's records, and plaintiff had deposed defendant's Rule 30(b)(6) witnesses). *See also Smith v. One Nevada Credit Union*, 2018 WL 4407251, at *7 (D. Nev. Sept. 16, 2018) (granting preliminary approval where plaintiff had served written discovery requests and completed defendant's Rule 30(b)(6) deposition, and the parties had also engaged in two mediation sessions); *Watt*, 2010 WL 9545041, at *3 (preliminarily approving settlement where "counsel in this case had adequate information regarding the merits of the case to enter into informed negotiations and to demonstrate to this Court the fairness of the settlement"); *Martin v. Sysco Corp.*, 2019 WL 3253878, at *5 (E.D. Cal. July 19, 2019) (granting preliminary approval where parties had served written discovery and plaintiff had taken Rule 30(b)(6) deposition, concluding that "the parties possess sufficient information to make an informed decision").

In light of their informed negotiation positions, counsel for both Parties support the Settlement—another fact that is entitled to considerable weight. *See Blount v. Host Healthcare, Inc.*, 2022 WL 1094616, *3 (S.D. Cal. April 12, 2022). Plaintiff's Counsel are comprised of attorneys from Berger Montague PC and Eglet Adams. Berger Montague attorneys are experienced and skilled in consumer class actions, and FCRA actions in particular. (Drake Decl. ¶¶ 23-32.) They have expertise in litigating FCRA claims involving OFAC reporting, specifically,

1 and were recently appointed class counsel in a case involving claims similar to those brought here.
2 *See Fernandez*, 2024 WL 538585, at *16. Meanwhile, Eglet Adams is highly experienced in class
3 action litigation and has an impeccable reputation in the local community. (Drake Decl. ¶ 33.)

4 In light of their collective experience, Class Counsel attest that the Settlement warrants
5 approval. (*Id.* ¶ 34.) *See Smith*, 2018 WL 4407251, at *7 (preliminarily approving class action
6 settlement where “Plaintiff’s Counsel asserts that the Proposed Settlement is fundamentally fair”
7 and “the Court is satisfied that Plaintiff’s Counsel have extensive experience including personal
8 involvement in complex class action suits and settlements in consumer rights cases”); *Shelton v.*
9 *Hal Hays Constr., Inc.*, 2017 WL 1439683, at *7 (C.D. Cal. Jan. 25, 2017) (granting preliminary
10 approval where class counsel, who “has ample experience litigating wage-and-hour class actions
11 similar to this case,” declared that “the ‘settlement is fair, reasonable, and adequate, and in the best
12 interests of the Plaintiff and all members of the classes affected by it’”) (internal citation omitted).

13 NCC is represented by experienced counsel who support the Settlement, too. Hudson
14 Cook, LLP is a well-respected defense firm, with a specialty in credit reporting. (*See generally*
15 *hudsoncook.com.*) “[Their] litigators have represented large national banks, mortgage servicers,
16 debt collectors, installment and small dollar lenders, background screeners, auto lenders, and a
17 variety of other financial services companies facing civil lawsuits filed on behalf of consumers.”
18 (*Id.*) Likewise, Lewis Roca Rothgerber Christie LLP is a highly regarded defense firm. (*See*
19 *generally lewisroca.com.*)

20 That the Settlement has the support of experienced counsel for both Parties—who had a
21 good grasp on the merits of the case when the Settlement was reached—weighs in favor of
22 preliminary approval. *See, e.g., Watt*, 2010 WL 9545041, at *3 (granting preliminary approval
23 where “Class Counsel and Defendants’ counsel in this case have strong reputations in the legal
24 community and are experienced and qualified in handling [relevant] litigation”); *Felix v. WM.*
25 *Bolthouse Farms, Inc.*, 2020 WL 68577, at *8 (E.D. Cal. Jan. 7, 2020) (granting preliminary
26 approval where plaintiff’s counsel, which “regularly litigates and tries FCRA class actions, and
27 have considerable experience settling such actions,” and defense counsel, “which operates a
28 highly-respected nationwide class action defense practice,” both supported settlement).

B. The Settlement Was Negotiated at Arms-Length with an Experienced Mediator, and Includes No Signs of Collusion

In addition, the fact that the Settlement was reached only after three mediation sessions with a third-party neutral further weighs in favor of preliminary approval. *See, e.g., Acuna v. So. Nev. T.B.A. Supply Co.*, 324 F.R.D. 367, 383 (D. Nev. 2018) (“The fact that the settlement was achieved during a mediation conference presided over by a neutral mediator is a factor supporting the reasonableness of the proposed settlement.”); *Gamble v. Boyd Gaming Corp.*, 2016 WL 3693743, at *5 (D. Nev. July 11, 2016) (preliminarily approving settlement “that the parties reached...after hours of negotiations with a third-party neutral”).

Further, there are no signs of collusion. *See Briseño v. Henderson*, 998 F.3d 1014, 1023 (9th Cir. 2021) (identifying signs of collusion as disproportionate attorneys’ fees, a “clear sailing” agreement, and a reversionary settlement). First, the Settlement Agreement does not provide for disproportionate attorneys’ fees. Instead, Class Counsel may move the Court to approve up to one-third of the total monetary consideration provided by Defendant as attorneys’ fees. (SA ¶ 7.3.1.) Nevada courts routinely find fee awards in this amount reasonable. *See, e.g., Neville, Jr. v. Terrible Herbst, Inc.*, 2021 WL 7907388, at *1 (Nev. Dist. Ct. Oct. 15, 2021) (granting final approval of class action settlement in which attorneys received one-third of gross settlement amount in fees); *Young v. Gallery Night Club, LLC*, 2014 WL 2663170, at *3 (Nev. Dist. Ct. Feb. 21, 2014) (same); *Lupei v. Optisource Intern., Inc.*, 2014 WL 4064120, at *4 (Nev. Dist. Ct. Feb. 06, 2014) (same). In fact, “Nevada courts have issued fee awards up to the 40% range.” *Shepard v. Shac, LLC*, 2022 WL 17223174, at *6 (Nev. Dist. Ct. Sep. 28, 2022) (collecting cases).

Next, “the Proposed Settlement does not provide for a ‘clear sailing’ provision by which class counsel is compensated from a fund separate from that available to the Putative Class.” *Smith*, 2018 WL 4407251, at *7. Instead, Class Counsel will separately move the Court for an award of fees and costs. *See also Hardy*, 2024 WL 1354416, at *7. Finally, “[t]he third warning sign—whether the parties have arranged for fees not awarded to the class to revert to defendant rather than be added to the settlement fund—is not present here.” *Id.* (citation omitted). (See SA ¶ 5.2.1.)

All in all, the Settlement was negotiated at arms-length with the assistance of an experienced mediator, and there are no signs of collusion. It should be preliminarily approved.

1 *See Valdez v. Sierra Communications, Co.*, 2013 WL 6223514, at *1 (Nev. Dist. Ct. Nov. 01,
2 2013) (granting preliminary approval of settlement that was “the result of protracted arms-length
3 negotiations between experienced counsel”); *Barth v. Heart Check America*, 2012 WL 10130292,
4 at *2 (Nev. Dist. Ct. June 22, 2012) (preliminarily approving settlement that was “the product of
5 informed arms-length bargaining by counsel” and “contains no obvious deficiencies”).

6 **C. The Settlement Provides Excellent Relief for the Class**

7 The Settlement further warrants preliminary approval because it provides meaningful relief
8 to the Class. “In assessing the consideration obtained by class members in a class action settlement,
9 ‘[i]t is the complete package taken as a whole, rather than the individual component parts, that
10 must be examined for overall fairness.’” *Smith*, 2018 WL 4407251, at *6 (quoting *Officers for*
11 *Justice v. Civil Service Com’n of City & Cnty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982)).
12 Here, the complete package of the Settlement warrants preliminary approval.

13 As discussed above, to Plaintiff’s knowledge, the proposed total settlement amount of \$30
14 million is the fourth-largest recovery in the history of the FCRA.⁵ Even considering the large class
15 size here, this result is still larger than many FCRA settlements reached on behalf of comparable
16 or even larger classes. *See, e.g., Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066, ECF No. 121
17 (S.D. Ohio Jul. 25, 2017) (finally approving settlement with \$15 million common fund to be
18 distributed among 654,436 class members); *Duncan v. JPMorgan Chase Bank, N.A.*, 2016 WL
19 4411551, at *1 (W.D. Tex. June 17, 2016) (finally approving settlement with \$8.75 million
20 common fund for approximately 2.2 million class members); *Domonoske v. Bank of Am., N.A.*,
21 790 F. Supp. 2d 466, 477 (W.D. Va. 2011) (finally approving settlement with \$9.95 million
22 common fund for 3,025,689 class members).

23 Not only that, but the Settlement uses the “FCRA gold standard, providing direct cash
24 payments with no claim required and barring reversion back to [Defendant].” *Reyes v. Experian*
25 *Info. Sols., Inc.*, 856 F. App’x 108, 110 (9th Cir. 2021) (affirming final approval of class action
26 settlement with similar settlement structure). *All Settlement Class Members will automatically*
27 *receive a cash payment of approximately \$38-\$42, and, for those whose initial payment was*
28

⁵ The Settlement amount is also larger than any FCRA recovery achieved by the Federal Trade Commission or the Consumer Financial Protection Bureau. (Drake Decl. ¶ 35.)

received electronically or cashed by check, a likely subsequent distribution, as well. (Drake Decl. ¶ 18.) Further, those who complete a simple Claim Form attesting to having been harmed by NCC’s reporting will receive an additional payment of up to \$1,500. This is an impressive result, particularly in light of the fact that the FCRA allows for statutory damages of \$100 to \$1,000 for each willful violation. 15 U.S.C. § 1681n(a)(1). *See, e.g., Stewart v. Accurate Background, LLC*, 2024 WL 1221968, at *2 (N.D. Cal. Mar. 20, 2024) (granting final approval of FCRA class action settlement in which all class members will receive an automatic payment, those who submit a “simple attestation of harm” will receive additional payment, and no amount will revert to defendant); *Fernandez*, 2024 WL 538585, at *14 (in class action alleging inaccurate OFAC reporting, concluding that “the relief provided to the class is more than adequate,” and preliminarily approving settlement, where most class members would receive \$47, with the possibility of an additional payment).

Additionally, and importantly, the Settlement includes significant injunctive relief: practice changes by Defendant to directly address Plaintiff’s claims regarding Defendant’s OFAC reporting. The value of the Settlement’s injunctive relief—estimated to be \$18 million dollars, Drake Decl. Ex. 3 ¶ 21—should be considered as part of the value of the Settlement, and further supports preliminary approval. *See Fernandez*, 2024 WL 538585, at *15 (granting preliminary approval of class action settlement in case alleging violations of the FCRA over inaccurate OFAC reporting where, in addition to monetary relief, “Defendant will improve its matching criteria for its ProScan OFAC reporting and the formatting of its reports.”). Notably, this injunctive relief could only have been achieved in the settlement context, as courts generally hold that the FCRA does not provide private plaintiffs with an avenue to seek litigated injunctive relief. *See, e.g., Washington v. CSC Credit Servs. Inc.*, 199 F.3d 263, 268 (5th Cir. 2000); *Ramirez v. MGM Mirage, Inc.*, 524 F. Supp. 2d 1226, 1236-37 (D. Nev. 2007) (“The only circuit and most district courts that have considered the issue have held a private litigant may not pursue injunctive relief under the FCRA... The Court concludes that given the FCRA’s plain language and structure, an individual consumer cannot pursue injunctive relief under § 1681n.”).

D. There Were Significant Risks to Recovery

Finally, although Plaintiff is confident in the strength of his case, Defendant is confident in its defenses, as well. The reality is that it was far from certain that Plaintiff would successfully certify a class, prove Defendant's liability, and recover damages on behalf of Class Members. These risks further weigh in favor of preliminary approval.

First, while Plaintiff believes that he would prevail on his motion for class certification, there is still a very realistic possibility that such a motion—which NCC would surely and vociferously contest—would fail. *See, e.g., Grimm v. Am. Eagle Airlines, Inc.*, 2014 WL 12746376, at *10 (C.D. Cal. Sept. 24, 2014) (“Because there is no certified class for any purpose other than the proposed Settlement and Defendant will likely oppose certification if the case proceeds, Plaintiffs necessarily risk losing class action status.”); *Harris v. U.S. Physical Therapy, Inc.*, 2012 WL 3277278, at *6 (D. Nev. July 18, 2012), *R&R adopted*, 2012 WL 3277276 (D. Nev. Aug. 9, 2012) (granting preliminary approval where “[t]he parties agree that there is a risk that the class certification motion could be denied.”).

Second, on the merits, Defendant has consistently maintained that its OFAC reports do not constitute “consumer reports,” as defined under the FCRA, and that Defendant therefore has no obligation to assure the maximum possible accuracy of their contents. (*See, e.g.*, ECF No. 9, Def.’s Ans. ¶¶ 3, 5, 33, 37, 48, 55-58.) Defendant also claims that its report on Plaintiff was not inaccurate. (*See id.* ¶ 5 (denying Plaintiff’s allegation that “[t]he consumer report that Defendant disseminated to Parkway was grossly inaccurate.”).) Although Plaintiff disagrees wholeheartedly, NCC’s arguments nonetheless posed additional risks to protracted litigation. Plaintiff’s risks on the merits are not hypothetical. Indeed, in April 2024, a federal district court granted summary judgment to a consumer reporting agency, finding that the “OFAC Indicators” included in the agency’s report on plaintiff were not “inaccurate” under the FCRA, even though they contained a “Warning” indicating that plaintiff was on the OFAC List. *See Torres v. Equifax Information Solutions, LLC*, No. 1:21-CV-02056, ECF No. 203 at 5-6, 13-18 (E.D. Pa. April 17, 2024).

Third, a FCRA plaintiff can recover statutory damages only where the defendant has acted willfully. 15 U.S.C. § 1681n(a)(1). If this matter were fully litigated, in addition to its merits arguments, Defendant would have contested whether any of its alleged violations of the FCRA

were willful. Proving willfulness under the FCRA is an “onerous task with a highly uncertain outcome,” thereby posing a real risk to any recovery at all. *Domonoske*, 790 F. Supp. 2d at 475-76 (finally approving FCRA settlement and observing that “given the difficulties of proving willfulness or even negligence with actual damages [under the FCRA], there was a substantial risk of nonpayment”). *See also Smith*, 2018 WL 4407251, at *6 (preliminarily approving FCRA class action settlement where “Plaintiff’s counsel acknowledges that even if it were able to prove Defendant’s conduct was unlawful, Plaintiff faces challenges in ‘proving that Defendant’s actions were willful and proving the damages, if any, sustained by the class members.’”) (internal citation omitted); *Harris*, 2012 WL 3277278, at *4 (preliminarily approving FCRA class action settlement where there was a “real danger that [plaintiff] will not be able to prove wilfulness [*sic*] and end up with nothing”) (cleaned up, citations omitted). In fact, FCRA plaintiffs can lose on this standard even after a successful verdict at trial. *See Smith v. LexisNexis Screening Sols., Inc.*, 837 F.3d 604, 611 (6th Cir. 2016).

Finally, yet another risk to recovery is the fact that NCC has represented to Plaintiff that it has no insurance coverage applicable to the claims here. (Drake Decl. ¶ 22.) *See, e.g., Andrews Farms v. Calcot, Ltd.*, 2011 WL 2923886, at *11 (E.D. Cal. July 18, 2011) (preliminarily approving settlement where one risk of continued litigation was that plaintiff would not be able to “recover[] a large sum of money from defendants, who have no insurance coverage”); *Oslan v. L. Offs. Of Mitchell N. Kay*, 232 F. Supp. 2d 436, 443 (E.D. Pa. 2002) (“Defendant has no insurance policy that would cover these claims...The ability of the Defendant to withstand a greater judgment if the Class was successful at trial is uncertain; therefore this factor weighs in favor of the proposed settlement.”).

Because the Settlement avoids significant litigation risks, as well as the substantial delay and costs that Class Members would have faced before benefiting from an adversarially-obtained judgment, preliminary approval is warranted. *See Dubric*, 2020 WL 13582416, at *3 (granting preliminary approval, explaining that settlement fund “is believed to be fair in light of the uncertainty of litigation, the uncertainty that any individual class member could succeed on a claim against Defendants, and the risk of pushing Defendants to financial collapse with a series of individual judgments against the company, depriving many class members of *any* recovery in the

process”) (emphasis in original); *Schmidt v. Red Rock Fin. Servs., LLC*, 2013 WL 5656085, at *4 (D. Nev. Oct. 15, 2013) (granting preliminary approval where, although “Plaintiffs [] believe that the claims asserted in this action have merit and that the evidence developed to date supports their claims...the Parties recognize and acknowledge the expense and time associated with continuing with further proceedings, including trial, appeals and ancillary actions”).

III. The Proposed Notice Plan Satisfies Nev. R. Civ. P. 23(d)(3)

Finally, because the Notice Plan easily satisfies all of the requirements of Nev. R. Civ. P. 23(d)(3), the Court should direct Notice to be distributed to the Class.

As discussed above, the Administrator will make reasonable efforts to provide Notice to each Settlement Class Member by, for example, seeking to obtain updated contact information and sending all Mail and Email Notices in both English and Spanish (with materials available in Arabic on the Settlement Website, as well) and, where possible and applicable, sending multiple Email Notices. *See supra* § II.E. Moreover, the Notices themselves advise Class Members of the information enumerated in Nev. R. Civ. P. 23(d)(3)(A-C). (*See* SA Exs. B, D, E, G, and H.) In fact, the Notices far *exceed* the requirements of Rule 23(d)(3) by providing much more information about the case, including basic information about the case, as well as details on the attorneys’ fees and Service Award that Class Counsel (and Plaintiff) will seek. (*Id.*)

The Notice Plan thus meets the requirements of Nev. R. Civ. P. 23(d)(3), and the Court should direct Notice, as outlined therein, to be distributed to Settlement Class Members. *See, e.g., Dubric*, 2020 WL 13582416, at *2 (granting preliminary approval of settlement where “[t]he Agreement provides that the parties will directly mail a Notice of Proposed Settlement and Right to Opt Out to all class members whose address information can be ascertained by Defendants” and “[t]he terms of the proposed Agreement, including the right to comment on or object to the settlement, or to opt out of the class entirely, will be disseminated to the class members.”); *Neville, Jr. v. Terrible Herbst, Inc.*, 2021 WL 7907397, at *1 (Nev. Dist. Ct. May 12, 2021) (approving notice plan where “individual notices will be mailed to all Class Members whose identities are known to the parties,” describing such notice as “the best notice practicable”).

CONCLUSION

Based on the foregoing, the Court should grant the Motion and enter the Preliminary Approval Order.

Dated: June 19, 2024

By: /s/ Richard K. Hy
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ROBERT M. ADAMS, ESQ.
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET ADAMS EGLET HAM HENRIOD, and that on June 19, 2024, I caused the foregoing **PLAINTIFF'S UNOPPOSED MOTION & MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT & PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS, ON ORDER SHORTENING TIME** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ Jennifer Lopez
An Employee of EGLET ADAMS EGLET HAM HENRIOD

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Angel Rodriguez, Jr., Plaintiff(s) | CASE NO: A-23-869000-B
7 vs. | DEPT. NO. Department 16
8 National Credit Center, LLC.,
9 Defendant(s)


10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order Shortening Time was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 6/20/2024

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24
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DECL
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DISTRICT COURT

CLARK COUNTY, NEVADA

ANGEL LUIS RODRIGUEZ, JR., individually
and as a representative of the class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC.

Defendant.

Case No.: A-23-869000-B
Dept. No.: 16

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

EGLET ADAMS

EGLET HAM HENRIOD

I, E. Michelle Drake, declare as follows:

1. I am counsel of record for Plaintiff in this action.

2. The matters set forth herein are within my personal knowledge and if sworn as a witness I could competently testify regarding them.

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

4. Attached hereto as Exhibits are true and correct copies of the following:

EXHIBIT 1: Settlement Agreement;

EXHIBIT 2: June 13, 2024 Declaration of Jonathan Jaffe¹;

EXHIBIT 3: June 13, 2024 Declaration of Stan V. Smith, Ph.D.

EXHIBIT 4: Firm Resume; and

EXHIBIT 5: Personal Resume

5. During discovery in this matter, Plaintiff served multiple sets of written discovery, including requests for production, interrogatories, and a request for admission. After receiving Defendant's responses, Plaintiff and Counsel analyzed those responses.

6. Defendant also propounded written discovery requests on Plaintiff, including twenty-six requests for production and twenty-one interrogatories. With his written responses, Plaintiff produced numerous documents, including sensitive financial documents and personal text messages.

7. Both Parties challenged each other's initial responses to written discovery requests, leading the Parties to engage in lengthy meet-and-confers. Prior to settlement, the remaining disputes were known, and Plaintiff was preparing to move to compel on a number of issues, including on NCC's net worth and pre-tax profits.

8. NCC also provided multiple rounds of supplemental responses to both Plaintiff's RFPs and interrogatories, and produced additional documents.

9. For the financial-related productions from NCC, Plaintiff retained an expert

¹ The exhibits to Mr. Jaffe's Declaration contain only code and data. Although these exhibits are not being filed with the Court at this time (but can be provided upon request), the underlying data has been provided to the Settlement Administrator.

1 forensic and financial consultant to analyze the documents. This analysis formed the basis for
2 Plaintiff's Counsel's strategy in settlement negotiations and the eventual resolution of this matter.

3 10. Plaintiff also negotiated the production of multiple iterations of complex data sets
4 consisting of millions of data points on hundreds of thousands of consumers as well as the code
5 behind Defendant's relevant algorithms. Plaintiff retained experts to assist with analyzing these
6 materials as well. One such expert, a Ph.D. computer scientist with specialized expertise in "entity
7 resolution," reviewed and critiqued Defendant's source code and was prepared to offer his
8 opinions at trial. Through this expert's analysis, Plaintiff learned the precise details of how NCC
9 had matched consumers to the OFAC List during the Class Period.

10 11. Plaintiff also took a Fed. R. Civ. P. 30(b)(6) deposition of NCC. At the time the
11 settlement was reached, Plaintiff had also scheduled and begun preparing for several additional
12 depositions of NCC current and former employees.

13 12. Plaintiff issued subpoenas to seven third parties as well, including Parkway Ford
14 and SNH Capital Partners (NCC's parent company), conducted resulting meet-and-confers on
15 responses to those subpoenas, and analyzed the resulting productions.

16 13. The Parties began discussing possible classwide resolution of this matter in fall
17 2023. These discussions involved negotiating NCC's production of various materials, including
18 individual-level data on potential class members, as well as information on NCC's finances.

19 14. On October 27, 2023, the Parties engaged in a full-day, remote mediation session
20 with third party neutral Rodney Max. Following this session, NCC produced more consumer data
21 and other information for settlement purposes.

22 15. On December 11, 2023, the Parties engaged in a second full-day remote mediation
23 with Mr. Max. On January 12, 2024, the Parties engaged in a third full-day in-person mediation
24 with Mr. Max, at which the Parties reached a settlement in principle.

25 16. The Parties then continued arms-length negotiations to formalize the settlement
26 terms and, on June 11, 2024, executed the Settlement Agreement.

27 17. Defendant has represented to Counsel that the Supplemental Data will contain
28 approximately 25,000 additional individuals. While the precise number of individual Settlement
Class Members is not yet confirmed (but Plaintiff will be able to provide with his Motion for Final

1 Approval), Plaintiff is confident that 420,000 is a reasonable estimate of the total number of
2 Settlement Class Members. Plaintiff has extensively analyzed Defendant's data on these numbers
3 and is aware of the rate of possible matches to matches to the Office of Foreign Assets Control
4 Specially Designated Nationals List (the "OFAC List"), the date Defendant's practices changed,
5 and therefore, can confirm the reasonability of NCC's representations regarding the Supplemental
6 Data.

7 18. It is estimated that the Pro Rata Award for each Settlement Class Member will be
8 approximately \$38-\$42. It is also expected that a second payment, made on a pro rata basis, will
9 be made to each Class Member whose Pro Rata Award was (1) received electronically or (2)
10 cashed by paper check.

11 19. In drafting the Settlement Agreement and Exhibits, my firm worked closely with
12 the Administrator to ensure the Notice Plan will reach as many consumers as possible. I have
13 substantial experience in working with notice administrators to formulate effective notice plans,
14 including in the Big Three Public Records Litigation. *Clark v. Trans Union, LLC*, No. 3:15-cv-
15 00391 (E.D. Va.); *Clark v. Experian Info. Sols., Inc.*, No. 3:16-cv-00032 (E.D. Va.); *Thomas v.*
16 *Equifax Info. Services, LLC*, No. 3:18-cv-00684 (E.D. Va.).

17 20. Named Plaintiff Rodriguez has remained committed to class members' best
18 interests throughout litigation and settlement negotiation process. Over the past nearly one-and-
19 a-half years, he reviewed the complaint, remained abreast of developments in the case, responded
20 to written discovery, and produced documents. Mr. Rodriguez remained involved in and abreast
21 of settlement negotiations, and ultimately reviewed and approved the Settlement Agreement. He
22 has no known conflicts with the Settlement Class.

23 21. In this action, we have diligently investigated and litigated the claims at issue here,
24 including, among other things, researching and drafting the complaint, propounding and
25 responding to multiple sets of written discovery, producing documents, conferring on multiple
26 discovery disputes, reviewing Defendant's productions, negotiating and analyzing Defendant's
27 data productions including with expert assistance, taking a deposition of Defendant, navigating
28 third party discovery, and ultimately successfully negotiating classwide relief and working to draft
the Settlement Agreement and notices. We did this all with no guarantee of a successful resolution,

1 and having taken this case on a contingency fee basis, with no guarantee of payment for our time
2 or reimbursement of advanced costs, for which we, to date, have received no compensation for.

3 22. NCC has represented to Plaintiff that it has no insurance coverage applicable to the
4 claims here.

5 **Counsel's Qualifications & Experience**

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

10 24. Berger Montague specializes in class action litigation and is one of the preeminent
11 class action law firms in the United States. The firm currently consists of over 70 attorneys who
12 primarily represent plaintiffs in complex civil litigation, and class action litigation, in federal and
13 state courts. Berger Montague has played lead roles in major class action cases for over 50 years,
14 and has obtained settlement and recoveries totaling well over \$30 billion for its clients and the
15 classes they have represented.

16 25. I serve as co-chair of the firm's Consumer Protection & Mass Tort Department,
17 and as chair of the Background Checks and Credit Reporting Department. My practice focuses on
18 protecting consumers' rights when they are injured by improper credit reporting, and other illegal
19 business practices. I currently serve as lead or co-lead counsel in dozens of class action consumer
20 protection cases in federal and state courts across the country, including numerous cases brought
21 pursuant to the Fair Credit Reporting Act ("FCRA"). Berger Montague's Background Checks and
22 Credit Reporting Department litigates on behalf of consumers nationwide to protect them against
23 violations of their rights under the FCRA and other laws that govern credit reports and background
24 checks. In particular, Berger Montague has developed an expertise in recent years representing
25 consumers who have been inaccurately reported as matches to the OFAC List.

26 26. I serve on the Board of the Southern Center for Human Rights, the Board of Public
27 Justice, am a member of the Partner's Council of the National Consumer Law Center, am a former
28 Co-Chair of the Consumer Litigation Section for the Minnesota State Bar Association, and a
former Board Member of the National Association of Consumer Advocates. I have previously

1 served as a member of the Ethics Committee for the National Association of Consumer Advocates,
2 and as Treasurer and At-Large Council Member for the Consumer Litigation Section of the
3 Minnesota State Bar Association. I was also an appointee to the Federal Practice Committee in
4 2010 by the U.S. District Court for the District of Minnesota.

5 27. I was named to the LawDragon 500 Leading Plaintiff Financial Lawyers List for
6 2019, and a 2020 Elite Woman of the Plaintiffs Bar by the National Law Journal. I am consistently
7 named to the annual lists of The Best Lawyers of America, Top 50 Women Minnesota Super
8 Lawyers, and Super Lawyers. I have been quoted in the New York Times, and the National Law
9 Journal, and have had prior cases named as “Lawsuits of the Year” by Minnesota Law & Politics.

10 28. I present frequently at national and local conferences on class actions, consumer
11 protection, and Fair Credit Reporting Act-related topics, and I co-authored a book chapter on
12 background checks and related issues, “Financial and Criminal Background Checks,” Job
13 Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May
14 2014, and the forthcoming 2d. ed. I was a contributing author to “Consumer Law,” The Complete
15 Lawyer’s Quick Answer Book, Minnesota Continuing Legal Education Publication, 2d. ed., 2019,
16 and “Chapter 1: Case and Claims Selection, Other First Considerations,” Consumer Class Actions,
17 National Consumer Law Center, 10th ed., 2019. My recent speaking engagements have included:

18 “National FCRA Landscape,” National Association of Consumer Advocates Spring
19 Training, May 2022.

20 “Sealing, Expungement and FCRA: Criminal Records Reporting in a New Era,” Equal
21 Justice Conference, May 2022.

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

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

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

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

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

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

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

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

10 United States Supreme Court, 2017

11 State Bar of Georgia, 2001

12 Georgia Supreme Court, 2006

13 Minnesota Supreme Court, 2007

14 U.S. Court of Appeals for the Eighth Circuit, 2010

15 U.S. Court of Appeals for the First Circuit, 2011

16 U.S. Court of Appeals for the Seventh Circuit, 2014

17 U.S. Court of Appeals for the Ninth Circuit, 2015

18 U.S. Court of Appeals for the Tenth Circuit, 2018

19 U.S. Court of Appeals for the Third Circuit, 2019

20 U.S. District Court for the Northern District of Georgia, 2007

21 U.S. District Court for the District of Minnesota, 2007

22 U.S. District Court for the Eastern District of Wisconsin, 2011

23 U.S. District Court for the Western District of Texas, 2011

24 U.S. District Court for the Western District of Wisconsin, 2015

25 U.S. District Court for the Eastern District of Michigan, 2015

26 U.S. District Court for the Central District of Illinois, 2016

27 U.S. District Court for the Southern District of Texas, 2017

28 U.S. District Court for the Western District of New York, 2017

1 U.S. District Court for the Western District of Michigan, 2018

2 U.S. District Court for the Northern District of Illinois, 2020

3
4 30. I have served as lead, or co-lead, class counsel in numerous notable consumer
5 protection matters, including, but not limited to, the following:

6
7 *In re GEICO Customer Data Breach Litig.*, No. 21-cv-2210 (E.D.N.Y.) Appointed as
8 Interim Co-Lead Counsel on behalf of putative class in data disclosure action.

9
10 *Gambles v. Sterling Infosystems, Inc.*, No. 15-cv-9746 (S.D.N.Y.) FCRA class action,
11 alleging violations by consumer reporting agency, resulting in a gross settlement of \$15
12 million, one of the largest FCRA settlements to date.

13
14 *In re: JUUL Labs, Inc. Mktg., Sales Practices, & Prod. Liab. Litig.*, No. 19-md-2913 (N.D.
15 Cal.). Appointed to Plaintiffs' Steering Committee in multi-district litigation consolidated
16 class action, regarding the marketing and sales practices of dangerous e-cigarettes to
17 consumers.

18
19 *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.*,
20 No. 19-md-2904 (D.N.J.). Appointed to the Plaintiff's Quest Track Steering Committee
21 in multi-district litigation consolidated class action, regarding the breach of consumers'
22 medical information.

23
24 *In re: TransUnion Rental Screening Sols., Inc. FCRA Litig.*, No. 1:20-md-02933-JPB
25 (N.D. Ga.). Appointed as Interim Lead Counsel for the classes in multi-district litigation
26 consolidated class action, regarding violations of the Fair Credit Reporting Act.

27
28 *Thomas v. Equifax Info. Services, LLC*, No. 18-cv-684 (E.D. Va.). FCRA class action,
alleging violations by credit bureau, providing nationwide resolution of class action claims
asserted across multiple jurisdictions, including injunctive relief, and an uncapped
mediation program for millions of consumers.

Clark v. Experian Info. Sols., Inc., No. 16-cv-32 (E.D. Va.). FCRA class action, alleging
violations by credit bureau, providing a nationwide resolution of class action claims
asserted by 32 plaintiffs in 16 jurisdictions, including injunctive relief and an uncapped
mediation program, for millions of consumers.

Clark/Anderson v. Trans Union, LLC, No. 15-cv-391 & No. 16-cv-558 (E.D. Va.). FCRA
consolidated class action, alleging violations by credit bureau, providing groundbreaking
injunctive relief, and an opportunity to recover monetary relief, for millions of consumers.

1
2 *Rilley v. MoneyMutual, LLC*, No. 16-cv-4001 (D. Minn.). Court certified a litigation class
3 of over 20,000 Minnesota consumers alleging that MoneyMutual violated Minnesota
4 payday lending regulations, resulting in \$2,000,000 settlement with notable injunctive
relief.

5 *Lee v. The Hertz Corp.*, No. CGC-15-547520 (Cal. Super. Ct., San Fran. Cnty.). FCRA
6 class action, alleging violations by employer, resulting in \$1.619 million settlement.

7 *Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066 (S.D. Ohio). FCRA class action, alleging
8 violations by employer, resulting in a \$15 million settlement.

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

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

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

17 *Howell v. Checkr, Inc.*, No. 17-cv-4305 (N.D. Cal.). FCRA class action, alleging violations
18 by consumer reporting agency, resulting in a \$4.46 million settlement.

19 *Brown v. Delhaize America, LLC*, No. 14-cv-195 (M.D.N.C.). FCRA class action, alleging
20 violations by employer, resulting in \$2.99 million settlement.

21 *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146 (Cal. Super. Ct., San Fran. Cnty.). FCRA
22 class action, alleging violations by employer, resulting in a \$2.5 million settlement.

23 *Singleton v. Domino's Pizza, LLC*, No. 11-cv-1823 (D. Md.). FCRA class action, alleging
24 violations by employer, resulting in a \$2.5 million settlement.

25 *Heaton v. Social Finance, Inc.*, No. 14-cv-5191 (N.D. Cal.). FCRA class action, alleging
26 violations by lender, resulting in a \$2.5 million settlement.

27 *Terrell v. Costco Wholesale Corp.*, No. 10-2-33915-9 (Wash. Super. Ct., King Cnty.).
28 FCRA class action, alleging violations by employer, resulting in a \$2.49 million settlement.

Halvorson v. TalentBin, Inc., No. 15-cv-5166 (N.D. Cal.). FCRA class action, alleging
violations by online data aggregator, resulting in a \$1.15 million settlement.

1
2 *Legrand v. IntelliCorp Records, Inc.*, No. 15-cv-2091 (N.D. Ohio). FCRA class action,
3 alleging violations by consumer reporting agency, resulting in a \$1.1 million settlement.

4
5 *In re Target Corp. Customer Data Security Breach Litig.*, MDL No. 14-2522 (D. Minn.).
6 Data security breach class action, resulting in a \$10 million settlement for consumers.

7
8 31. My litigation efforts and experience have received judicial acknowledgement and
9 praise throughout the years of my practice. Examples of such recognition include:

10
11 From Judge Paul A. Engelmayer, United States District Court, Southern District of New
12 York:

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

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

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

20
21 You're very articulate on this issue. ... Obviously, you're very thoughtful and you have
22 given it a great deal of thought. ... And I appreciate your ability to respond to my questions
23 off the cuff. ... It shows that you have given these issues a lot of thought ... I have to say
24 that your thoughtfulness this morning has somewhat diminished my concerns [regarding
25 high multiplier on attorney fees]... You're demonstrating credibility by a mile as you
26 go....You are extraordinarily impressive. And I thank you for being here, and for your
27 candid, noninvasive [sic] response to every question I have. I was extremely skeptical at
28 the outset this morning. You have allayed all of my concerns and have persuaded me that
this is an important issue, and that you have done a great service to the class. And for that

1 reason, I am going to approve your settlement in all respects... And I congratulate you on
2 your excellent work.

3
4 Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146.

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

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

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

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

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

15
16 June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*,
17 No. 16-cv-1066.

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

19
20 [T]he class representatives and their counsel more than adequately protected the class's
21 interests. ... [T]he comprehensive nature of the settlement in turn, reflects the adequacy,
22 indeed the superiority, of the representation the class received from its named Plaintiffs
23 and from class counsel.

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

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

28 The high quality of [plaintiffs' counsel]'s representation strongly supports approval of the
requested fees. The Court has previously commended counsel for their excellent

1 lawyering. ...The point is worth reiterating here. [Plaintiffs' counsel] was energetic,
2 effective, and creative throughout this long litigation. The Court found [Plaintiffs'
3 counsel]'s briefs and arguments first-rate. And the documents and deposition transcripts
4 which the Court reviewed in the course of resolving motions revealed the firm's far-sighted
5 and strategic approach to discovery. ... Further, unlike in many class actions, plaintiffs'
6 counsel did not build their case by piggybacking on regulatory investigation or settlement.
7 ... The lawyers [] can genuinely claim to have been the authors of their clients' success.

8
9 Sept. 22, 2015, Final Approval Order, *Hart v. RCI Hospitality Holdings, Inc.*, No. 09-cv-
10 3043.

11
12 From Magistrate Judge Laurel Beeler, United States District Court, N.D. Cal.:

13
14 Counsel have worked vigorously to identify and investigate the claims in this case, and, as
15 this litigation has revealed, understand the applicable law and have represented their clients
16 vigorously and effectively.

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

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

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

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

23
24 From Judge Deborah Chasanow, United States District Court, D. Md.:

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

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

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

2
3 [Plaintiffs' Counsel] has demonstrated it is able fairly and adequately to represent the
4 interests of the putative class.

5
6 July 23, 2013, Order Appointing Interim Lead Counsel, *Ernst v. DISH Network, LLC*, No.
7 12-cv-8794.

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

9
10 Plaintiffs' counsel are adequate legal representatives for the class. They have done work
11 identifying and investigating potential claims, have handled class actions in the past, know
12 the applicable law, and have the resources necessary to represent the class. The class will
13 be fairly and adequately represented.

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

16
17 32. Class Counsel on this matter additionally includes:

18 John G. Albanese. Mr. Albanese is a Shareholder with Berger Montague, in the firm's
19 Consumer Protection Department, with a concentration on Fair Credit Reporting Act class
20 actions. Mr. Albanese is regularly invited to speak on consumer law and litigation issues,
21 and frequently represents consumer advocacy groups as *amici curiae* at the appellate level.
22 He has been named a Super Lawyers Rising Star since 2017, and by Best Lawyers as One
23 to Watch, in 2021. He is a graduate of Columbia Law School, where he was a managing
24 editor of the Columbia Law Review. Mr. Albanese clerked for Magistrate Judge Geraldine
25 Brown in the Northern District of Illinois. He also has a B.A. from Georgetown University.
26 He has served as class counsel in over 20 class actions.
27
28

1 Sophia M. Rios. Ms. Rios manages the Firm's San Diego office and practices in the
2 Consumer Protection, and Antitrust practice groups. Ms. Rios advocates on behalf of a
3 broad range of clients, including HIV Prevention patients, persons wrongly reported as
4 possible terrorists and drug traffickers when applying for credit, persons who receive
5 unwanted marketing text messages, and people who were overcharged on foreign
6 transactions when using their Visa or Mastercard debit and credit cards. Ms. Rios is
7 committed to furthering diversity and inclusion in law firms. She serves on the Firm's
8 Diversity, Equity & Inclusion Task Force and has participated in the Leadership Council
9 on Legal Diversity's Pathfinder Program. She was named by Best Lawyers as One to
10 Watch in 2022 and 2023, and to San Diego's Top 40 Under 40 Business Professionals in
11 2020. She is a graduate of Stanford Law School, where she served as an extern Legal
12 Adviser in the Office of Commissioner Julie Brill at the Federal Trade Commission in
13 Washington, DC, co-founded the Stanford Critical Law Society, and was a Lead Article
14 Editor for the Stanford Environmental Law Journal. Ms. Rios has a B.A. and a B.S. from
15 UC Berkeley.
16

17
18 Ariana B. Kiener. Ms. Kiener is an Associate with the firm's Consumer Protection
19 Department, working primarily on class actions, and with a focus on Fair Credit Reporting
20 Act matters. Ms. Kiener is a graduate of Mitchell Hamline School of Law, finishing ranked
21 first in her class. While at law school, Ms. Kiener served with the Mitchell Hamline
22 Employment Discrimination Mediation Representation Clinic as a Certified Student
23 Attorney and Student Director. Prior to law school, Ms. Kiener worked in education,
24 including as a Fulbright Scholar in Thailand, and as a communications director for an
25 education advocacy non-profit. She has a B.A. from Carleton College.
26

27 Zachary M. Vaughan. Mr. Vaughan is a Senior Counsel at the Firm with the Consumer
28 Protection Department, focused on class actions. Mr. Vaughan worked in this matter

1 throughout the expert analysis process and assisted with complex data analysis for
2 settlement purposes.

3 33. Eglet Adams is highly experienced in class action litigation and has an impeccable
4 reputation in the local community.

5 34. In light of our collective experience, Plaintiff's Counsel attest that the Settlement
6 warrants approval.

7 35. My firm engages in daily monitoring of all FCRA filings, and rigorously tracks
8 FCRA class action settlements, including resolutions achieved by governmental entities. We have
9 engaged in this monitoring for the past eight years of my tenure at Berger Montague. I also
10 engaged in this practice at the law firm where I worked prior to joining Berger Montague. To my
11 knowledge, this settlement is the fourth-largest recovery achieved in any FCRA case. The
12 Settlement amount is also larger than any FCRA recovery achieved by the Federal Trade
13 Commission or Consumer Financial Protection Bureau. (See [https://www.ftc.gov/news-](https://www.ftc.gov/news-events/news/press-releases/2021/04/smart-home-monitoring-company-vivint-will-pay-20-million-settle-ftc-charges-it-misused-consumer)
14 [events/news/press-releases/2021/04/smart-home-monitoring-company-vivint-will-pay-20-](https://www.ftc.gov/news-events/news/press-releases/2021/04/smart-home-monitoring-company-vivint-will-pay-20-million-settle-ftc-charges-it-misused-consumer)
15 [million-settle-ftc-charges-it-misused-consumer](https://www.ftc.gov/news-events/news/press-releases/2021/04/smart-home-monitoring-company-vivint-will-pay-20-million-settle-ftc-charges-it-misused-consumer) (stating that \$20 million deal to settle FTC
16 allegations of FCRA violations was "the largest to date for an FTC FCRA case");
17 [https://www.cnn.com/2023/10/12/transunion-settles-with-ftc-cfpb-for-23-million-in-housing-](https://www.cnn.com/2023/10/12/transunion-settles-with-ftc-cfpb-for-23-million-in-housing-case.html)
18 [case.html](https://www.cnn.com/2023/10/12/transunion-settles-with-ftc-cfpb-for-23-million-in-housing-case.html) (announcing \$23 million settlement between FTC, CFPB, and TransUnion and its
19 subsidiary over alleged FCRA violations, violations which, notably, Class Counsel pursued in a
20 separate action before the CFPB or FTC filed suit).)

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

22 Executed on this 13th day of June, 2024 at Minneapolis, Minnesota.

23
24 /s/E. Michelle Drake

25 E. Michelle Drake
26
27
28



1 **APEN**
2 ROBERT T. EGLET, ESQ.
3 Nevada Bar No. 3402
4 ROBERT M. ADAMS, ESQ.
5 Nevada Bar No. 6551
6 RICHARD K. HY, ESQ.
7 Nevada Bar No. 12406
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13 E-Mail: eservice@egletlaw.com

14 E. MICHELLE DRAKE, ESQ.*
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17 Minnesota Bar No. 0395882
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19 Minnesota Bar No. 0402365
20 **BERGER MONTAGUE PC**
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22 Minneapolis, MN 55413
23 Telephone: (612) 594-5999
24 Facsimile: (612) 584-4470
25 emdrake@bm.net
26 jalbanese@bm.net
27 akiener@bm.net
28 *pro hac vice forthcoming
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

21 ANGEL LUIS RODRIGUEZ, JR., individually
22 and as a representative of the class,

23 Plaintiff,

24 vs.

25 NATIONAL CREDIT CENTER, LLC.

26 Defendant.

Case No.: A-23-869000-B
Dept. No.: 16

**APPENDIX TO THE
DECLARATION OF E.
MICHELLE DRAKE IN
SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
& PRELIMINARY
CERTIFICATION OF
SETTLEMENT CLASS**

EGLET ADAMS

EGLET HAM HENRIOD

Exhibit No.	Description	Bates No.
EXHIBIT 1	Settlement Agreement	PLTF00001-PLTF00079
EXHIBIT 2	June 13, 2024 Declaration of Jonathan Jaffe (Redacted) (Unredacted is filed under seal)	PLTF00080-PLTF000100
EXHIBIT 3	June 13, 2024 Declaration of Stan V. Smith, Ph.D.	PLTF000101-PLTF00107
EXHIBIT 4	Firm Resume	PLTF00108-PLTF00201
EXHIBIT 5	Personal Resume	PLTF00202-PLTF00209

DATED June 20, 2024.

/s/ Richard K. Hy

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Nevada Bar No. 3402

ROBERT M. ADAMS, ESQ.

Nevada Bar No. 6551

RICHARD K. HY, ESQ.

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**pro hac vice forthcoming*

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET ADAMS EGLET HAM HENRIOD, and that on June 20, 2024, I caused the foregoing **APPENDIX TO THE DECLARATION OF E. MICHELLE DRAKE IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT & PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS** be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ Jennifer Lopez

An Employee of EGLET ADAMS
EGLET HAM HENRIOD

EXHIBIT 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,
vs.

NATIONAL CREDIT CENTER, LLC,
Defendant.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by the Parties, in the case captioned *Angel Luis Rodriguez, Jr. v. National Credit Center, LLC*, No. A-23-869000-B, pending in the District Court of Clark County, Nevada (the “Litigation”).

1. RECITALS

WHEREAS, on April 14, 2023, Plaintiff Angel Luis Rodriguez, Jr. (“Plaintiff”) brought a proposed class action against National Credit Center, LLC (“Defendant”) in the District Court of Clark County, Nevada, alleging that Defendant violated the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, by inaccurately reporting that Plaintiff and class members’ were persons on the Office of Foreign Asset Control’s (“OFAC”) Specially Designated Nationals (“SDN”) and Blocked Persons List NCC OFAC Screen,

WHEREAS, Defendant removed to the United States District Court for the District of Nevada on May 10, 2023;

WHEREAS, the Parties requested that United States District Court for the District of Nevada remand the action to the District Court of Clark County, Nevada (“Court”);

WHEREAS, the United States District Court for the District of Nevada remanded the action to this Court on May 6, 2024;

WHEREAS, Defendant denies each and every one of the allegations of wrongful conduct and damages made by the Plaintiff, Defendant has asserted numerous defenses to Plaintiff’s claims, Defendant disclaims any wrongdoing or liability whatsoever;

WHEREAS, this Settlement Agreement has been reached after the Parties exchanged substantial documents and information, and it is the product of sustained, arms-length settlement negotiations and formal mediation; and

WHEREAS, Plaintiff, Defendant, and their counsel have agreed to resolve this matter as a class action settlement according to the terms of this Settlement Agreement.

NOW, THEREFORE, it is hereby stipulated and agreed by the undersigned that this matter and all claims of the Settlement Class be settled, compromised, and dismissed on the merits and with prejudice as to Defendant, subject to Court approval, on the terms and conditions set forth herein.

2. **DEFINITIONS**

For the purposes of this Settlement Agreement, including the recitals stated above, the following terms will have the following meanings:

2.1 “Actual Damages Award” means the payments provided to Claimants who file valid claims for actual damages.

2.2 “Attorneys’ Fees and Costs” shall mean the amount of attorneys’ fees and costs awarded by the Court. Class Counsel shall not request an attorneys’ fee in excess of one-third of the total monetary consideration to be provided by Defendant as set forth herein. In addition to that amount, Class Counsel may also seek an amount for costs and other expenses that does not exceed Class Counsel’s actually incurred costs and other expenses.

2.3 “Claimant” means a Settlement Class Member who submits a Claim Form.

2.4 “Class Counsel” means E. Michelle Drake, John Albanese, Ariana Kiener, Zachary Vaughan, and Sophia Rios of Berger Montague PC and Robert T. Eglet and Richard K. Hy of Eglet Adams representing the Plaintiff, and if appointed by the Court, the Settlement Class.

2.5 “Claim Form” means the claim form substantially in the form attached hereto as **Exhibit A**. As set forth further herein, a Claim Form is required only for those Settlement Class Members who are seeking an Actual Damages Award.

2.6 “Claims Deadline” means sixty (60) days after the Final Approval Order is entered.

2.7 “Claims Period” means the period that begins on the Settlement Notice Date and ends on the Claims Deadline.

2.8 “Class Released Claims” means all claims, rights, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys’ fees of any nature whatsoever arising before the Effective Date of the settlement, whether known or unknown, matured or unmatured, foreseen or unforeseen, suspected or unsuspected, accrued or unaccrued, which he or she ever had or now has under the FCRA, any federal law or the law of any state, including statutory and common law, or under any other principle of law or equity resulting from, arising out of, or related in any way to any and all allegations in the Complaint in this action, including Defendant’s reporting of an NCC OFAC Screen. For purposes of clarity, but not limitation, the Class Released Claims include any form of equitable relief, actual damages, statutory damages, and/or punitive damages sought from the Released Parties.

2.9 “Costs of Settlement Administration” means the Court approved schedule of costs for settlement administration. The precise amount of these costs will vary depending on, among other things, check cashing rates and whether there is a redistribution. Class Counsel and Defense Counsel must both provide written approval prior to any Costs of Settlement Administration being disbursed to the Settlement Administrator. Class Counsel and Defense Counsel must also approve all calculations performed herein based on Costs of Settlement Administration.

2.10 “Court” means the Court where this Litigation is pending at the time of Final Approval.

2.11 “Defendant” means National Credit Center, LLC.

2.12 “Defense Counsel” means National Credit Center, LLC’s attorneys, Jennifer L. Sarvadi, Julia K. Whitelock, and Christopher Jorgenson.

2.13 “Effective Date” is the date on which the Court’s entry of the Final Approval Order and the Court’s order regarding Attorneys’ Fees and Costs have all become final, i.e., the earliest of the

following dates: (i) if no objections have been filed and Plaintiff's counsel indicates that they do not plan to appeal any award of Attorneys' Fees and Costs, (ii) if an objection is filed and not withdrawn, one (1) business day after the expiration of the thirty (30) day deadlines to file a civil appeal if no appeal has been filed; or (iii) if an appeal is taken, three (3) business days after a final determination of any such motion or appeal that permits the consummation of the settlement. For purposes of this definition, the term "appeal" includes all writ proceedings.

2.14 "Email Notice" means the notice to be emailed to Settlement Class Members substantially in the form of **Exhibit B** and to be approved by the Court.

2.15 "Escrow Account" means an interest-bearing account at a financial institution to be identified by the Settlement Administrator and approved by Defendant in which the Settlement Funds shall be deposited.

2.16 "Execution Date" means the date that the last Party executes this Settlement Agreement and Release.

2.17 "FCRA" means the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x.

2.18 "Final Approval Order" means a final order and judgment as entered by the Court, giving final approval of the Settlement Agreement and dismissing with prejudice Plaintiff's claims and entering a judgment according to the terms set forth in this Settlement Agreement.

2.19 "Final Approval Hearing" is the hearing the Court schedules to make a final determination as to whether this settlement is fair, reasonable, and adequate.

2.20 "Funding Date" means the later of seven (7) business days after the Effective Date or December 2, 2024.

2.21 "Gross Settlement Fund" means the initial monetary relief which Defendant shall provide for the benefit of the Settlement Class, as further described in Section 5.2.1 plus any interest earned on the fund while it is in escrow.

2.22 “Initial Settlement Administration Payment” means the \$275,000 payment that Defendant will advance to the Settlement Administrator to enable the Settlement Administrator to effectuate the notice plan.

2.23 “Long Form Notice” means the notice substantially in the form of **Exhibit D** and to be posted to the Settlement Website.

2.24 “Mail Notice” means the notice to be mailed to Settlement Class Members, substantially in the form of **Exhibit E**.

2.25 “Net Settlement Fund” means the Gross Settlement Fund, less a) Attorneys’ Fees and Costs b) Plaintiff’s Service Award, c) the Initial Settlement Administration Payment, and d) the Second Settlement Administration Payment.

2.26 “NCC OFAC Screen” means Defendant’s proprietary product where it returns a response if the applicant’s identifying information appears to match information obtained from the OFAC’s list of Specially Designated Nationals.

2.27 “Payment Election Form” means the form that the Settlement Administrator will provide to enable all Settlement Class Members to, at their option and if submitted by the Claims Deadline, request payment at a different address or in a form other than a paper check, such as, for example, by Venmo or Paypal, attached hereto as **Exhibit I**.

2.28 “Plaintiff” means Angel Luis Rodriguez, Jr.

2.29 “Preliminary Approval” and “Preliminary Approval Order” mean the Court’s order proposed in the form attached hereto as **Exhibit F** preliminarily certifying the Settlement Class for settlement purposes, preliminarily approving the proposed settlement, approving and directing the Settlement Class Notice Plan, appointing a Settlement Administrator, and appointing Class Counsel.

2.30 “Pro Rata Award” means a pro rata amount of money paid from the Net Settlement Fund to all Settlement Class Members that are Eligible for Payment, as further described in Sections 5.2.2 and 5.2.3.

2.31 “Reminder Email Notice(s)” means notice in a form substantially similar to **Exhibit G** that will be emailed to the members of the Settlement Class who have not submitted a Payment Election Form as of the Effective Date.

2.32 “Released Parties” means National Credit Center, LLC and its past, present, and future employees, parents, subsidiaries, affiliate corporations, including but not limited to each such its members, officers, directors, employees, agents, personal representatives, insurers, attorneys, and assigns.

2.33 “Residual Settlement Fund” means the amounts associated with Pro Rata Award checks that are not negotiated before their expiration date (90 days following the date the check is mailed per 5.2.3), plus the Supplemental Settlement Fund, less any Costs of Settlement Administration that exceed the Initial Settlement Administration Payment and Second Settlement Administration Payment.

2.34 “Second Settlement Administration Payment” means the \$260,000 payment that will be made to the Settlement Administrator from the Gross Settlement Fund, to reimburse the Settlement Administrator for the initial costs associated with the distribution Pro Rata Awards.

2.35 “Settlement Administrator” means, subject to Court approval, Continental DataLogix LLC.

2.36 “Settlement Agreement” means this Settlement Agreement and Release, including all attached Exhibits.

2.37 “Settlement Class” or “Settlement Class Members” means all individuals who were the subject of an NCC OFAC Screen Defendant disseminated to a third party from May 5, 2020, through

the Execution Date. The Settlement Class does not include counsel of record (and their respective law firms) for any of the Parties and/or employees of Defendant.

2.38 “Settlement Class Notice List” means the list of those consumers to whom notice shall be sent, as set forth in Sections 4.2.1 and 4.2.2.

2.39 “Settlement Funds” shall mean the Gross Settlement Fund and the Supplemental Settlement Fund.

2.40 “Settlement Website” means the Internet website to be established by the Settlement Administrator, as set forth in Section 4.2.3.

2.41 “Settlement Notice Date” means ten (10) days after the Court enters the Preliminary Approval Order.

2.42 “Service Award” means the one-time payment to the Plaintiff, for the risk, time, and resources that he has put into representing the Settlement Class, as set forth in Section 7.3.2.

2.43 “Supplemental Funding Date” means the later of 120 days after entry of the Final Approval Order or June 30, 2025.

2.44 “Supplemental Settlement Fund” means the supplemental monetary relief which Defendant shall provide for the benefit of the Settlement Class, as further described in Section 5.2.1.

2.45 “Undeliverable Mail Email Notice” means the notice, substantially in the form of **Exhibit H**, to be emailed to Settlement Class Members who are designated as “Mail Notice Undeliverable”.

3. PRELIMINARY APPROVAL

3.1 Motion for Preliminary Approval of Settlement

Within fourteen (14) days of a decision on the Parties’ stipulation to remand, or the Execution Date, whichever is later, Plaintiff will file a Motion for Preliminary Approval of the Proposed Settlement and Preliminary Certification of the Settlement Class. The Motion for

Preliminary Approval of the Proposed Settlement shall be filed in the District Court for Clark County, Nevada.

The Motion for Preliminary Approval of the Proposed Settlement and Preliminary Certification of the Settlement Class shall seek the Court's entry of the Preliminary Approval Order, attached as **Exhibit F**, that would, for settlement purposes only:

- a) preliminarily approve this Settlement Agreement;
- b) certify the Settlement Class;
- c) appoint Plaintiff and Class Counsel to represent the Settlement Class;
- d) direct that notice be distributed to the Settlement Class as described in the proposed notice plan; and
- e) appoint the Settlement Administrator.

3.2 **Settlement Administrator Responsibilities**

The Settlement Administrator's responsibilities shall include, but are not limited to: compiling the Settlement Class Notice List, updating mailing addresses for Settlement Class Members, administering the notice plan, obtaining new addresses for returned mail, using commercially reasonable methods to obtain and determine email addresses for Settlement Class Members, setting up and maintaining a Settlement Website and toll-free telephone number, fielding inquiries about the Settlement Agreement, processing and reviewing Claims Forms, directing the distribution of all settlement funds, and any other tasks reasonably required to effectuate the settlement. The Settlement Administrator will provide to counsel for the Parties copies of objections and requests for exclusions within one business day of receipt of same, weekly updates on claims filings and returned mail (any updates on claims filings shall not include information that identifies the NCC customer), and weekly updates on the status of disbursements and cashed checks. The Settlement Administrator will also provide updates on the aforementioned

issues or any other matters related to settlement administration at such other intervals or times as requested by counsel for either Party. In connection with the motion for final approval of the settlement, the Settlement Administrator shall provide a sworn declaration setting forth compliance with the notice plan set forth in this Settlement Agreement and providing such information as may be requested by Class Counsel, Defendant, or the Court.

4. NOTICE TO THE SETTLEMENT CLASS

4.1 The Settlement Class Notice List

Based on records analyzed to date, the Parties estimate that Defendant's records will reflect between 400,000 - 440,000 Settlement Class Members (the "Estimated Range"). Defendant has already provided Class Counsel with Class Data through August 31, 2023 (the "Initial Class Data"). The Initial Class Data includes for each Settlement Class Member during the Initial Class Data period: (i) contact information and inquiry information that is available in Defendant's records; (ii) the date on which the NCC OFAC Screen was provided to Defendant's customer, and (iii) the product ordered by the customer. Within seven (7) days of the Execution Date, Class Counsel shall provide the Initial Class Data to the Settlement Administrator.

Within fourteen (14) days of the Execution Date, Defendant shall provide to the Settlement Administrator and Class Counsel additional Class Data (the "Supplemental Class Data") identifying class members in the Supplemental Class Period as well as to supplement the Initial Class Data so that the following information is available to the Settlement Administrator for each Settlement Class Member: (i) contact information that is available in Defendant's records, (ii) the date on which the NCC OFAC Screen was provided to Defendant's customer, and (iii) Defendant's customer identification number that reflects which customer obtained the NCC OFAC Screen.

Within ten (10) days of the Settlement Notice Date, Defendant shall provide to the Settlement Administrator a "key" identifying Defendant's customer identification numbers and

the corresponding name of Defendant's customer ("Customer Key"). The Settlement Administrator shall maintain the Customer Key in strict confidence, and shall not provide the Customer Key or any information derived therefrom to any third party, including Class Counsel.

The Settlement Administrator shall analyze and, if necessary, further de-duplicate the list, and use reasonable practices to locate additional and updated contact information for Settlement Class Members as necessary to effectuate the notice plan, including email addresses. The resulting list is the Settlement Class Notice List, which shall be provided to Class Counsel and Defense Counsel upon request. If either Party disagrees with the identification of consumers comprising the Settlement Class Notice List, the Settlement Administrator shall provide to the Party's counsel the methodology used to de-duplicate the list, together with the resulting list. If either Party identifies errors with respect to the de-duplication methodology or results, the Party shall alert the other Party's counsel and the Settlement Administrator to resolve the perceived error. In any event, the Settlement Administrator has final authority to determine the appropriateness of the identification of consumers to be included in the list.

Within fourteen (14) days of the Execution Date, Defendant will advance the Initial Settlement Administration Payment to the Settlement Administrator to enable the Settlement Administrator to effectuate the notice plan. The amount of the advance payment shall be subtracted from the amount due by Defendant on the Funding Date.

4.2 **Settlement Class Notice Plan**

4.2.1 **Mail Notice**

No later than the Settlement Notice Date, the Settlement Administrator will commence sending the Mail Notice via U.S. mail, postage prepaid to all individuals on the Settlement Class Notice List. Mail Notice shall be provided in both English and Spanish to all Class Members to whom Notice is mailed.

Prior to mailing, the Settlement Administrator shall use reasonable commercial means to secure and deduplicate the list. The Settlement Administrator shall treat the list as Confidential pursuant to the Protective Order and shall use commercially reasonable means to identify each class member's most up to date address entry, to identify each class member's most comprehensive personal identifying information, to eliminate "test" or other invalid data, and to update the list to include utilize the U.S. Postal Office's National Change of Address System. The Settlement Administrator may also request forwarding service or change service to the last known address reflected in the Class List. The Settlement Administrator will re-mail the Mail Notice via standard U.S. Mail, postage prepaid, to those Settlement Class Members whose Notices were returned as undeliverable to the extent an alternative mailing address can be reasonably located. The Settlement Administrator will first attempt to re-mail the Mail Notice to the extent that it received an address change notification from the U.S. Postal Service. If an address change notification form is not provided by the U.S. Postal Service, the Settlement Administrator may attempt to obtain an updated address through additional reasonable and appropriate methods.

The Settlement Administrator shall designate any Settlement Class Member as "Mail Notice Undeliverable" in the event that the Settlement Class Member's mail notice is returned and not successfully remailed.

4.2.2 Email Notice

No later than the Settlement Notice Date, the Settlement Administrator shall send all Settlement Class Members for whom an email address has been located the Email Notice. The Email Notice shall be provided in both English and Spanish to all Settlement Class Members to whom the Email Notice is sent.

If a Settlement Class Member is designated as Mail Notice Undeliverable and the Settlement Administrator has located an email address for that Settlement Class Member, the

Settlement Administrator shall send such individual the Undeliverable Mail Email Notice (attached hereto as **Exhibit H**) at least twice before the Final Approval Hearing. The Undeliverable Mail Email Notice shall be provided in both English and Spanish to all Settlement Class Members to whom the Undeliverable Mail Email Notice is sent.

Three (3) days after the Effective Date, and again fourteen (14) days after the Effective Date, the Settlement Administrator shall send to all Settlement Class Members on the Settlement Class Notice List who have not submitted a Payment Election Form and for whom an email address has been located, as appropriate, either the Standard Reminder Email Notice (attached hereto as **Exhibit G**) or the Undeliverable Mail Reminder Notice (attached hereto as **Exhibit H**). All Reminder Email Notices shall be provided in both English and Spanish to all Settlement Class Members to whom the Reminder Email Notice is sent.

4.2.3 Settlement Website

The Settlement Administrator will create and maintain the Settlement Website to be activated no later than five (5) days prior to the Settlement Notice Date. The Settlement Administrator's responsibilities will also include securing a URL approved by the Parties.

The Settlement Website will post important settlement documents, including the Complaint, the Long Form Notice, the Settlement Agreement, Plaintiff's Motion for Attorneys' Fees, Costs, and Service Award, and the Preliminary Approval Order. A version of the Mail Notice or Email Notice in Arabic may also be posted to the Settlement Website. In addition, the Settlement Website will include a Payment Election Form and Claim Form that can be submitted on the website, a section for frequently asked questions, and procedural information regarding the status of the settlement and any distribution.

The Settlement Administrator will terminate the Settlement Website either: (1) sixty (60) days after the deadline for all Settlement Class Members to negotiate their last check has passed;

or (2) thirty (30) days after the date on which the settlement is terminated or otherwise not approved by the Court.

4.2.4 Telephone and Email Assistance

The Settlement Administrator shall provide a telephone number and an email address to be included in the Notice and Settlement Website for Settlement Class Members seeking information about the settlement. The telephone number shall lead Settlement Class Members to an Interactive Voice Response system in English, Spanish, and Arabic, and shall also provide Settlement Class Members with the opportunity to leave a message requesting a return phone call. As appropriate, the Settlement Administrator shall direct Settlement Class Members seeking advice to Class Counsel, who shall be responsible for answering such questions or otherwise assisting Settlement Class Members.

5. SETTLEMENT CONSIDERATION

5.1 Settlement Class Injunctive Relief

5.1.1 Defendant's Consent to Entry of Order Providing Injunctive Relief

Part of the consideration provided by Defendant in connection with this settlement is the commitment to change its OFAC screening practices and procedures. This relief is the result of this lawsuit. Defendant consents to the entry of an Order contemporaneously with the proposed Final Approval Order providing injunctive relief on the below terms.

Defendant agrees that by no later than the Effective Date and continuing for four years after (the "Injunctive Relief Period"), and to the extent Defendant continues to disseminate a proprietary OFAC screening product, Defendant shall maintain procedures designed to ensure that it only responds to NCC OFAC Screen requests with "potential match" (or words to that effect) if the information provided in the OFAC inquiry has an exact name match (meaning, the last name

and first name exactly match where both names are provided by a customer and are also available in the SDN List) AND a match on at least one of the following: a) year of birth, b) address, or c) Social Security Number.

Defendant agrees that by no later than 60 days after the Effective Date, Defendant shall also provide a disclosure related to the NCC OFAC Screen to its customers. Where reasonably feasible, this disclosure shall be provided in the OFAC screening results themselves. Where providing it in that format is not reasonably feasible, the disclosure shall be provided to Defendant's customers via letter on at least a semi-annual basis. The disclosure shall contain the below language and shall require those customers to disseminate the disclosure to all recipients or users of the NCC OFAC Screen:

The personal identifying information you shared with us in connection with this application reflects the same name and at least one other personal identifier (year of birth, address or Social Security Number) as an individual on the OFAC List. This does not mean this individual is on the OFAC List. Prior to taking any action based on this screening, and pursuant to your agreement with NCC, you must review the individual's identifiers and compare them to the individual on the OFAC List who has similar identifiers. Information about how to perform this comparison can be found at <https://ofac.treasury.gov/faqs/topic/1591>.

5.2 Settlement Class Monetary Relief

5.2.1 Settlement Funds

The total monetary consideration to be paid by Defendant is thirty million dollars (\$30,000,000.000). In no event will any amount revert to Defendant, nor shall Defendant be required to pay anything more than this amount in connection with the settlement.

The Gross Settlement Fund of twenty-seven million dollars (\$27,000,000.00) shall be paid by Defendant to the Settlement Administrator on or before the Funding Date (the Initial Settlement Administration Payment referenced in Section 4.1 above plus a payment of \$26,725,000.00).

The Supplemental Settlement Fund of three million dollars (\$3,000,000.00) shall be paid by Defendant to the Settlement Administrator on or before the Supplemental Funding Date.

5.2.2 Settlement Class Members Eligible for a Pro Rata Award

All Settlement Class Members are eligible for a Pro Rata Award. Settlement Class Members shall not be required to return a Claim Form in order to receive a Pro Rata Award.

5.2.3 Pro Rata Awards Payments to Settlement Class Members

Each Settlement Class Member whose 1) Mail notices are not all returned as undeliverable or 2) whose mail notice was returned as undeliverable, but who returned a Payment Election Form shall receive a Pro Rata Award. The amount of the Pro Rata Award will be calculated by dividing the Net Settlement Fund by the number of class members who are entitled to receive a Pro Rata Award. Pro Rata Award payments shall be sent by the Settlement Administrator no later than thirty (30) days after the Effective Date. Payment shall be issued by check, unless the Settlement Class Member has returned a Payment Election Form electing an alternative payment method, in which case the Settlement Administrator shall make reasonable efforts to render payment to the Settlement Class Member according to the payment method selected. If the alternative payment method is not feasible as to any given Settlement Class Member who has elected it, the Settlement Administrator shall send such class member a paper check if feasible. Settlement Class Members who receive paper checks shall have ninety (90) days after checks are mailed to negotiate their checks.

Within ten (10) days after all Pro Rata Awards are distributed, and after approval from Class Counsel and Defense Counsel, the Settlement Administrator shall receive the Second

Settlement Administration Payment to reimburse the Settlement Administrator for the initial costs associated with the distribution of such Awards.

5.2.4 Actual Damages Award Payments to Settlement Class Members

Each Claimant that submits a valid Claim Form asserting that they experienced particularized harm due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold), or experiencing significant emotional distress as set forth in the point system described below shall receive an Actual Damages Award, in addition to their Pro Rata Award. The Actual Damages Awards shall be paid out of the Residual Settlement Fund.

In determining the amount of Actual Damages Award payments, the Settlement Administrator shall employ a point system. The Settlement Administrator shall calculate the dollar amount attributable to each point by dividing the total amount of the Residual Settlement Fund by the total number of points assigned to valid Claim Forms submitted by approved Claimants. The maximum dollar amount attributable to each point shall be capped at \$375.

Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award, and the points allotted for each form of harm, are listed in the table below.

Form of Harm	Points
Experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator.	2

Having a transaction delayed, being denied credit, or being unable to complete a transaction due to the NCC OFAC Screen, with no supporting documentation	3
Having a transaction delayed, being denied credit, or being unable to complete a transaction due to the NCC OFAC Screen, with supporting documentation	4

Points are not cumulative. Any Claimant that submits a valid Claim Form will be allotted only the number of points for the single category with the highest number of points for which they qualify. For example, a Claimant who submits a Claim Form with supporting documentation for having a transaction delayed and also submits a claim for significant emotional distress, will receive 4 points.

In order to be valid, the Claim Form must sufficiently identify the recipient of the NCC OFAC Screen which the Settlement Administrator shall compare to the data provided by Defendant, including the Customer Key, and must specifically state that the harm was caused by the NCC OFAC Screen.

Valid forms of supporting documentation include, for example, emails or other communications with the recipient of the NCC OFAC Screen demonstrating the Claimant's harm, or other evidence determined by the Administrator to evidence a delay of a transaction, a denial of credit, or a cancellation or termination of an unconsummated transaction due to a NCC OFAC Screen.

Actual Damages Award payments shall be sent by the Settlement Administrator no later than thirty (30) days following the close of the check negotiation period for the initial Pro Rata Awards and shall be combined with any amount due to the Claimant as part of the redistribution described in Section 5.2.6 below. Payment shall be issued in the same form as the Claimant's Pro

Rata Award. Settlement Class Members who receive paper checks shall have ninety (90) days after checks are mailed to negotiate their checks.

5.2.5 Claims Process

All Claim Forms must be submitted electronically or postmarked by the Claims Deadline (sixty (60) days after the Final Approval Order is entered).

The Settlement Administrator shall initially disallow any claim that is not timely, does not contain required information, or does not appear to have been submitted by a member of the Settlement Class. The Settlement Administrator shall also use commercially reasonable means to prevent and detect fraudulent claim filings.

If a claim is disallowed for any reason, including fraud, then the Settlement Administrator, within seven (7) days after the decision to disallow, shall notify the Claimant by email, or if no email is available, by mail, of the reason for disallowance and shall provide the Claimant with the opportunity to cure any deficiencies within thirty (30) days of the notice. Decisions regarding disallowance shall be made by the administrator on a rolling basis as Claim Forms are received. All initial decisions regarding disallowances shall be made no later than fourteen (14) days following the Claims Deadline. The Settlement Administrator shall provide copies of any disallowed Claim Forms to Class Counsel or Defendant's Counsel upon request.

A Claimant who submitted any disallowed Claim Form may, within thirty (30) days of the notice of disallowance, resubmit a Claim Form and/or submit supporting documentation, which shall be reviewed by the Settlement Administrator and either finally allowed or finally disallowed by the Settlement Administrator within seven (7) days after receipt of the resubmitted Claim Form. The Settlement Administrator's decision as to the validity of any given Claim Form shall be final.

5.2.6 Additional Payments

In the event that the total amount of all approved Actual Damages Awards is less than the amount in the Residual Settlement Fund, the Settlement Administrator shall distribute such excess amounts on a pro rata basis as an additional payment to each Settlement Class Member who received a Pro Rata Payment through electronic means or who cashed their Pro Rata Payment paper check, so long as the amount remaining in the Residual Settlement Fund is sufficient to pay for the costs of distributing the additional payments and to ensure that the amount of each additional payment is at least \$5. If there are not sufficient funds to make additional payments of at least \$5, amounts in excess of the total amount of all approved Actual Damages Awards shall remain in the Residual Settlement Fund for donation to the cy pres recipient as set forth herein. Settlement Class Members who receive paper checks for an additional payment shall have ninety (90) days after checks are mailed to negotiate their checks.

5.2.7 Cy Pres

After a) all check cashing deadlines for checks issued to Settlement Class Members (including for additional payments, if any) have passed, b) all payments for Attorneys' Fees and Costs have been made, c) all a court approved incentive payments have been made, d) all Costs of Settlement Administration have been paid to the Settlement Administrator, and e) Class Counsel and counsel for Defendant have approved such a payment, all remaining amounts in the Residual Settlement Fund shall be donated to Public Justice as a cy pres recipient.

5.2.8 Compliance

It is the intent of the Parties that no person or entity that is on the OFAC List shall receive any compensation as a result of this Settlement, and that the Settlement Administrator and any financial institutions involved with the distribution of the Settlement Funds shall comply with the Patriot Act, tax laws or any other laws or regulatory requirements. In the event the Settlement Administrator or a financial institution involved with the distribution of the Settlement Funds

declines to issue any payment to a Settlement Class Member as a result of compliance measures undertaken in whole or in part to comply with the Patriot Act, the Settlement Administrator shall notify Class Counsel and Defense Counsel. Class Counsel shall work with the Settlement Class Member and the applicable financial institution to resolve any such issues. In the event any such issue cannot be resolved and any financial institution refuses to make payment based on concerns about compliance with the Patriot Act, Class Counsel shall notify the Court.

The Settlement Administrator has warranted that none of the financial institutions with whom it will work in this matter utilizes name-only matching, that all financial institutions require exact matches on numerous data points, and that all financial institutions provide a procedure whereby it may be demonstrated that flagged individuals are not on the OFAC List. The Settlement Administrator shall comply with all obligations pursuant to the U.S. Tax Code. In order to facilitate compliance with tax requirements, in the event the Settlement Administrator does not possess sufficient information to complete a form W-9 in connection with a payment where such compliance is required (such as, for example, a valid social security or tax identification number), the Settlement Administrator shall contact the Settlement Class Member to obtain such information.

5.3 **Releases**

5.3.1 Plaintiff's General Release

In addition to all claims he releases by virtue of being a member of the Settlement Class, Plaintiff, on behalf of himself, his business endeavors, offspring, heirs, administrators, representatives, executors, successors, and assigns, hereby irrevocably and unconditionally releases and forever discharges Defendant from all claims of any nature whatsoever that Plaintiff

now has or asserts to have, or which Plaintiff at any time heretofore had, or asserted to have, or that Plaintiff may hereafter have, or assert to have, against Defendant through the Effective Date.

Plaintiff expressly waives all other individual and/or collective rights as to Defendant only, if any, whether or not set forth in this General Release, notwithstanding section 1542 of the California Civil Code, and any similar law existing under the laws of any other jurisdiction, which section Plaintiff has read and which section Plaintiff fully understands. Section 1542 provides as follows:

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

This waiver is not a mere recital, but is a knowing waiver of rights and benefits. This is a bargained-for provision of this General Release and is further consideration for the covenants and conditions contained herein.

5.3.2 Release of All Claims by the Settlement Class

Upon the Effective Date, each Settlement Class Member who has not validly excluded themselves from the Settlement Classes, on behalf of themselves and their respective spouses, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors, assigns, and all those acting or purporting to act on their behalf, acknowledge full satisfaction of, and shall be conclusively deemed to have fully, finally, and forever settled, released, and discharged, all the Released Parties of and from all Class Released Claims.

Subject to the Court's approval, each Settlement Class Member shall be bound by this Settlement Agreement and all Class Released Claims shall be dismissed with prejudice and released as against the Released Parties, even if the Settlement Class Member never received actual

notice of the settlement prior to the Final Approval Hearing, never submitted a Claim Form, or never received or cashed a check in connection with this settlement.

5.3.3 Binding Release

Upon the Effective Date, no default by any person in the performance of any covenant or obligation under this Settlement Agreement or any order entered in connection with such shall affect the dismissal of the Litigation, the *res judicata* effect of the Final Approval Order, the foregoing releases, or any other provision of the Final Approval Order; provided, however, that all other legal and equitable remedies for violation of a court order or breach of this Settlement Agreement shall remain available to all Parties.

6. EXCLUSIONS AND OBJECTIONS

6.1 Opt-Out from the Settlement Class

6.1.1 Requests for Exclusion

All Settlement Class Members shall be given the opportunity to opt out of the Settlement Class by submitting a “Request for Exclusion.” All Requests for Exclusion must be in writing, sent to the Settlement Administrator and postmarked no later than sixty (60) days from the Settlement Notice Date. To be valid, a Request for Exclusion must be personally signed and must include: (1) the individual’s name, address and telephone number; and (2) a statement substantially to the effect that: “I request to be excluded from the Settlement Class in *Rodriguez. v. National Credit Center, LLC*, No. A-23-869000-B, pending in the District Court of Clark County, Nevada.” Each written Request for Exclusion must be signed by the individual seeking exclusion, and may only request exclusion for that one individual. No person within the Settlement Class, or any person acting on behalf of or in concert or participation with that person, may submit a Request for

Exclusion on behalf of any other person within the Settlement Class. “Mass” or “class” exclusion requests shall not be permitted.

6.1.2 Verification of Opt-Outs by Settlement Administrator

The Settlement Administrator shall provide copies of the Requests for Exclusion to the Parties no later than one day after they are received. No later than seven (7) days before the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all the valid opt-outs received, which shall be filed by Class Counsel before the Final Approval Hearing.

6.1.3 Effect of Opt-Out from Settlement Class

All individuals within the Settlement Class who timely submit a valid Request for Exclusion will, subject to Court approval, be excluded from the Settlement Class and shall preserve the ability to independently pursue, at their own expense, any individual claims they may have against Defendant. Any such individual within the Settlement Class who validly opts out will not be bound by further orders or judgments in the Litigation as they relate to the Settlement Class.

6.1.4 Representation of Opt-Outs

Class Counsel agree that this Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class Members. Class Counsel also recognize that a large number of opt-outs could threaten the viability of this Agreement. Class Counsel therefore agree that the Settlement Class Members who seek to opt-out should be represented by other counsel. Accordingly, Class Counsel shall, if contacted, refer any such opt-outs to the applicable state bar association or other referral organization for other appropriate counsel in any subsequent litigation of claims by such opt-outs against Defendant.

6.2 Objections from Settlement Class Members

Any Settlement Class Member who has not previously validly opted-out in accordance with the terms above and who intends to object to this Settlement Agreement must file the

objection in writing with the Clerk of Court no later than sixty (60) days from the Settlement Notice Date, and must concurrently serve the objection on the Settlement Administrator. The objection must include the following: (1) the Settlement Class Member's full name, address and current telephone number; (2) if the individual is represented by counsel, the name and telephone number of counsel, whether counsel intends to submit a request for fees, and all factual and legal support for that request; (3) all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the Classes, or to the entire Classes; (4) the identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, as well as true and correct copies of such exhibits; and (6) a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel.

Any Settlement Class Member who fails to timely file and serve a written objection pursuant to this Section shall not be permitted to object to the approval of the settlement or this Settlement Agreement and shall be foreclosed from seeking any review of the settlement or the terms of the Settlement Agreement by appeal or other means. Any Settlement Class Member who files an objection is subject to having their deposition taken prior to the Final Approval Hearing. A Settlement Class Member may withdraw an objection by communicating such withdrawal in writing to Class Counsel.

No later than seven (7) days before the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all objections received, which shall be filed by Class Counsel before the Final Approval Hearing.

7. SETTLEMENT FUNDS

7.1 Escrow Account

Class Counsel, in conjunction with the Settlement Administrator, shall establish an escrow account at a federally insured financial institution (the “Financial Institution”), which shall be considered a common fund created because of the Litigation, to hold the Settlement Funds. The Settlement Funds may not be commingled with any other funds and may be held in cash, cash equivalents, certificates of deposit, or instruments insured by an arm of or backed by the full faith and credit of the United States Government. In the event this Settlement Agreement is terminated by the Defendant and the Effective Date does not occur, such interest shall revert to the Defendant. The Settlement Administrator shall direct the Financial Institution to make distributions from the account only in accordance with this Settlement Agreement and the applicable orders of the Court.

7.2 Settlement Funds Tax Status

7.2.1 The Parties agree to treat the Settlement Funds as being at all times a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Subsection, including the “relation back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

7.2.2 For the purpose of Treasury Regulation § 1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Settlement Administrator. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Funds (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns

shall be consistent with this Subsection and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Funds shall be paid out of the respective settlement fund as provided herein.

7.2.3 All (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Funds, including any Taxes or tax detriments that may be imposed upon the Released Parties with respect to any income earned by the Settlement Funds for any period during which the Settlement Funds does not qualify as a “qualified settlement fund” for federal or state income tax purposes (“Taxes”), and (b) expenses and costs incurred in connection with the operation and implementation of this Subsection (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns (“Tax Expenses”)), shall be paid out of the respective settlement fund for which the income was earned or expense or cost incurred; in no event shall the Released Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Settlement Administrator shall indemnify and hold the Released Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be timely paid by the Settlement Administrator out of the Settlement Funds without prior order from the Court, and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)); the Released Parties are not responsible therefore nor shall they have any liability with respect thereto. The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out this Section.

7.3 **Attorneys' Fees and Costs, Service Award, and Other Expenses**

7.3.1 **Attorneys' Fees and Costs**

No later than fourteen (14) days prior to the Opt-Out & Objections Deadlines, Class Counsel shall make an application to the Court for an award of attorneys' fees, costs, and other expenses for their representation of the Settlement Classes. This application will be posted to the Settlement Website within one day of filing with the Court.

Defendant shall have no further liability for any fees, costs, and other expenses for all attorneys (and their employees, consultants, experts, and other agents) who performed work in connection with the Litigation of the claims on behalf of the Settlement Class Members other than the amount of court-approved Attorneys' Fees and Costs, which shall be paid solely from the Gross Settlement Fund.

The Plaintiff and Class Counsel agree that this Settlement Agreement is not conditional on the Court's approval of attorneys' fees or costs, in the requested amounts or in any amount whatsoever. However, Class Counsel shall have the right to appeal any court order which awards fees, costs, or expenses, and the Effective Date shall not arise until such time as any such appeal is resolved.

7.3.2 **Service Award**

No later than fourteen (14) days prior to the Opt-Out & Objections Deadlines, Plaintiff may choose to make an application to the Court for the Court's approval of a Service Award of \$25,000 to be paid from the Gross Settlement Fund.

The Plaintiff and Class Counsel agree that this Settlement Agreement is not conditional on the Court's approval of the Service Award in the requested amount or in any amount whatsoever. However, Class Counsel shall have the right to appeal any court order which awards a Service Award, and the Effective Date shall not arise until such time as any such appeal is resolved.

7.3.3 Settlement Administration Costs

The Settlement Administrator currently estimates that the total Costs of Settlement Administration will be around \$970,000.00. Before commencing any distributions to the Settlement Class Members, the Settlement Administrator shall determine the funds necessary to cover the costs of notice and administration that the Settlement Administrator has already incurred, and reasonably expects to incur, in completing the distribution and notice plan. The Settlement Administrator shall submit that estimate to Class Counsel and Defendant's Counsel for approval. Once approved, the Settlement Administrator should withhold the estimated amount from further distribution from the Settlement Funds to cover costs of notice and administration. The Settlement Administrator shall reassess its determination at the time of redistribution and provide an estimate to Class Counsel and Defendant's Counsel for approval stating any amounts originally retained that should be distributed the Settlement Class, or any additional amounts that the Settlement Administrator expects to incur.

7.3.4 Payment Schedule

Attorneys' Fees and Costs and any Service Award, subject to Court approval, shall be paid in the amount approved by the Court no later than ten (10) days after the Funding Date.

The Settlement Administrator shall be paid the Initial Settlement Administration Payment and the Second Settlement Administration Payment as described in Sections 4.1 and 5.2.3, respectively. The Settlement Administrator shall be paid the remaining Costs of Settlement Administration (meaning the Costs of Settlement Administration less the amounts of the Initial Settlement Administration Payment and Second Settlement Administration Payment) in the amount approved by Class Counsel and Defendant's Counsel ten (10) days after all additional payments and Actual Damages Awards are distributed.

8. TERMINATION

Defendant's willingness to settle this Litigation on a class action basis, and to agree to the Injunctive Relief herein, is dependent upon achieving finality in this Litigation and the desire to avoid the expense of this and other litigation. Plaintiff's willingness to settle this Litigation for the agreed amounts is contingent on class size.

Consequently, Defendant has the right to terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to Plaintiff or to members of the Settlement Classes, if any of the following conditions subsequently occurs:

- a) the Parties fail to obtain and maintain Preliminary Approval consistent with the provisions of this Settlement Agreement;
- b) 0.25% of the Settlement Class opt-out of the proposed settlement. The Parties will seek to file the aforementioned threshold for opt-outs under seal;
- c) the Court fails to enter a final judgment under the provisions of this Settlement Agreement;
- d) the settlement of the Settlement Class's claims, or the Final Approval Order, is not upheld on appeal, including review by the United States Supreme Court;
- e) Plaintiff or Class Counsel commit a material breach of the Settlement Agreement before entry of the Final Approval Order; or
- f) the Effective Date does not occur for any reason, including, but not limited to, the entry of an order by any court that would require either material modification or termination of the Settlement Agreement.

Neither party has the right to terminate this Agreement so long as the Settlement Class size, as preliminarily determined by the Settlement Administrator, is within the Estimated Range. In the event that the Settlement Class size is outside of the Estimated Range, either party may terminate

this Agreement only after the party has notified the other party of the intention to terminate in writing, and the parties have met and conferred to discuss the de-duplication done by the Settlement Administrator, and have attempted to resolve the discrepancy in good faith. If the meet and confer results in a Settlement Class size within the Estimated Range, neither party shall have the right to terminate this Agreement. If the meet and confer does not result in a Settlement Class size within the Estimated Range, either party may terminate the Agreement upon written notice to the other party. Email notice to a party's counsel shall be deemed acceptable written notice of termination. If neither party serves a notice to terminate this Agreement within two (2) business days' of the meet and confer, this right to terminate shall be deemed waived, and neither party shall have the right to terminate this Agreement.

The failure of the Court or any appellate court to approve in full the request by Class Counsel for attorneys' fees, costs, and other expenses shall not be grounds for Plaintiff, the Settlement Class, or Class Counsel to cancel or terminate this Settlement Agreement. The failure of the Court or any appellate court to approve in full the request of Plaintiff for his Service Award shall not be grounds for Plaintiff, the Settlement Class, or Class Counsel to cancel or terminate this Settlement Agreement.

If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, then the Settlement Class shall be decertified; the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party, and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

9. ENTRY OF FINAL APPROVAL ORDER

The Parties shall jointly seek entry by the Court of a Final Approval Order substantially in the form attached hereto as **Exhibit C**.

10. MISCELLANEOUS PROVISIONS

10.1 Best Efforts to Obtain Court Approval

Plaintiff and Defendant, and the Parties' Counsel, agree to use their best efforts to obtain Court approval of this Settlement Agreement, subject, however, to Defendant's rights to terminate the Settlement Agreement, as provided herein.

10.2 No Admission

This Settlement Agreement, whether or not it shall become final, and any and all negotiations, communications, and discussions associated with it, shall not be:

a) offered or received by or against any Party as evidence of, or be construed as or deemed to be evidence of, any presumption, concession, or admission by a Party of the truth of any fact alleged by Plaintiff or defense asserted by Defendant, of the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Litigation, or of any liability, negligence, fault, or wrongdoing on the part of Plaintiff or Defendant;

b) offered or received by or against Plaintiff or Defendant as a presumption, concession, admission, or evidence of the applicability of the FCRA to the NCC OFAC Screen, or any violation of the FCRA or any state or common law equivalent of the FCRA, or any state or federal statute, law, rule, or regulation or of any liability or wrongdoing by Defendant, or of the truth of any of the allegations in the Litigation, and evidence thereof shall not be directly or indirectly admissible, in any way (whether in the Litigation or in any other action or proceeding),

except for purposes of enforcing this Settlement Agreement and the Final Approval Order including, without limitation, asserting as a defense the release and waivers provided herein;

c) offered or received by or against Plaintiff or Defendant as evidence of a presumption, concession, or admission with respect to a decision by any court regarding the certification of a class, or for purposes of proving any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against Defendant, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement Agreement; provided, however, that if this Settlement Agreement is finally approved by the Court, then Plaintiff or Defendant may refer to it to enforce their rights hereunder; or

d) construed as an admission or concession by Plaintiff, the Settlement Class, or Defendant that the consideration to be given hereunder represents the relief that could or would have been obtained through trial in the Litigation.

10.3 **Court's Jurisdiction**

If a Final Order is entered, the Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement. The Court also shall retain exclusive jurisdiction over any determination of whether a subsequent suit is released by the Settlement Agreement.

10.4 **Confidentiality of Materials and Information**

The Settlement Administrator, the Parties, their counsel, and any retained or consulting experts in this Litigation, agree that they remain subject to the Stipulated Protective Order entered in the United States District Court for the District of Nevada (ECF No. 29), as appropriate. Any information provided by Defendant to the Settlement Administrator as required by this agreement is subject to the Stipulated Protective Order. The Customer Key set forth in Section 4.1 shall be

subject to the Stipulated Protective Order except that the information shall not be disclosed by the Settlement Administrator to any third-party, including Plaintiff or Class Counsel.

10.5 Complete Agreement

This Settlement Agreement is the entire, complete agreement of each and every term agreed to by and among Plaintiff, the Settlement Classes, and their counsel. In entering into this Settlement Agreement, no Party has made or relied on any warranty or representation not specifically set forth herein, whether between the Parties or before the Court. This Settlement Agreement shall not be modified except by a writing executed by all the Parties.

10.7 Headings for Convenience Only

The headings in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

10.8 Severability

In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, with the exception of release in Section 5.3, this Agreement shall continue in full force and effect without said provision.

10.9 No Party Is the Drafter

None of the Parties to this Settlement Agreement shall be considered to be the primary drafter of this Settlement Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

10.10 Binding Effect

This Settlement Agreement shall be binding according to its terms upon, and inure to the benefit of, the Plaintiff, the Settlement Classes, the Defendant, the Released Parties, and their respective successors and assigns.

10.11 Authorization to Enter Settlement Agreement

The individual signing this Settlement Agreement on behalf of the Defendant represents he or she is fully authorized by the Defendant to enter into, and to execute, this Settlement Agreement on its behalf.

10.12 Execution in Counterparts

Plaintiff, Class Counsel, Defendant, and Defendant's Counsel may execute this Settlement Agreement in counterparts, and the execution of counterparts shall have the same effect as if all Parties had signed the same instrument. Facsimile, electronic, and scanned signatures shall be considered as valid signatures as of the date signed. This Settlement Agreement shall not be deemed executed until signed by Plaintiff, by Class Counsel, and by counsel for and the representative of Defendant.

Plaintiff:

DocuSigned by:

Angel Rodriguez

6B175C1F778B45D...

Angel Luis Rodriguez, Jr.

Date: 6/10/2024

Defendant:

DocuSigned by:

Brian Skutta

48044145811F413

National Credit Center, LLC

Name: **Brian Skutta**

Title: **President**

Date: 6/11/2024

Counsel for Plaintiff and Settlement Class:

DocuSigned by:

E. Michelle Drake

A5B0E4F3CBC64FF...

E. Michelle Drake
BERGER MONTAGUE PC
1229 Tyler Street Northeast, Ste 205
Minneapolis, MN 55413
Telephone: (612) 594-5933

Date: 6/10/2024

Counsel for Defendant:

DocuSigned by:

Jennifer L. Sarvadi

6E94B89ACDE84FF...

Jennifer L. Sarvadi
HUDSON COOK, LLP
1909 K Street, NW, 4th Floor
Washington, DC 20006
Telephone: 202.715.2002

Date: 6/11/2024

Exhibit A

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

Complete this Claim Form and return it by **[DATE], 2024** only if you are seeking actual damages and want to explain any harm you experienced as a result of an NCC OFAC Screen. All Settlement Class Members who fill out a Payment Election Form or who received notice of the Settlement by mail, are eligible for payment without filling out this Claim Form.

However, if you experienced particularized harm as a result of an NCC OFAC Screen, you may be eligible to receive an additional monetary payment. Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. Experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

Note that a lot of companies provide OFAC products, and some creditors order OFAC products from more than one vendor at the same time for the same transaction. Please include as many details as you can recall regarding the harm you experienced. In order for your claim to be honored, you must identify the company that received your report.

If you decide to fill out this Claim Form, please answer all questions honestly and accurately. You are swearing under penalty of perjury that your statements below are true and correct as if you were testifying in court.

The Claim Form may be submitted online at www.xxxxxx.com, emailed to INSERT, or mailed to INSERT ADDRESS. If you have questions about this form or the Settlement, please review the enclosed Notice, visit the Settlement Website, www.xxxxxx.com, email info@xxxxxx.com, or call xxx-xxx-xxxx.

I. Class Member Identifying Information

First Name

Last Name

Street Address

City

State

Zip Code

Email Address

Phone Number

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

Social Security Number or Tax ID Number

Note: If your contact information changes after you submit this Form, you must notify the Settlement Administrator by emailing info@xxxxxx.com or calling xxx-xxx-xxxx.

II. Description Harm Resulting from OFAC Results

A. Identify the Company that Received an NCC OFAC Screen in connection with your vehicle purchase (*Required):

Company Name

Address (at minimum, City, State)

B. Describe Your Claim (Check All that Apply). Valid forms of supporting documentation include, for example, emails or other communications with the recipient of the NCC OFAC Screen demonstrating the your harm, or other evidence determined by the Administrator to evidence a delay of a transaction, a denial of credit, or a cancellation or termination of an unconsummated transaction due to a NCC OFAC Screen.

☐ Emotional distress

Describe what happened:

☐ My transaction was delayed because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

☐ I was denied credit because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

☐ I was unable to complete my transaction because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

☐ Other particularized harm caused by an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

Note: If you have supporting documentation, you may submit it by mail to INSERT ADDRESS, by email to XX, or by uploading it to the website at XX.

III. Payment Method Election

Please select from **one** of the following payment options and provide the requested information:

☐ **PayPal** - Enter the email address associated with your PayPal account: _____

☐ **Venmo** - Enter the mobile # associated with your Venmo account: ____-____-____

☐ **Zelle** - Enter the mobile # **or** email address associated with your Zelle account:

Mobile Number: ____-____-____ or Email Address: _____

☐ **Virtual Prepaid Card** - Enter your email address: _____

☐ **Physical Check** – Payment will be mailed to the address provided in Section I above.

IV. Signature.

I hereby declare under penalty of perjury pursuant to the laws of the State of Nevada that all of the information I have provided above is true and correct.

Signature

Date (MM/DD/YYYY)

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

Complete this Claim Form and return it by **[DATE], 2024** only if you are seeking actual damages and want to explain any harm you experienced as a result of an NCC OFAC Screen. All Settlement Class Members who fill out a Payment Election Form or who received notice of the Settlement by mail, are eligible for payment without filling out this Claim Form.

However, if you experienced particularized harm as a result of an NCC OFAC Screen, you may be eligible to receive an additional monetary payment. Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. Experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, , panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

Note that a lot of companies provide OFAC products, and some creditors order OFAC products from more than one vendor at the same time for the same transaction. Please include as many details as you can recall regarding the harm you experienced. In order for your claim to be honored, you must identify the company that received your report.

If you decide to fill out this Claim Form, please answer all questions honestly and accurately. You are swearing under penalty of perjury that your statements below are true and correct as if you were testifying in court.

The Claim Form may be submitted online at www.xxxxxx.com, emailed to INSERT, or mailed to INSERT ADDRESS. If you have questions about this form or the Settlement, please review the enclosed Notice, visit the Settlement Website, www.xxxxxx.com, email info@xxxxxx.com, or call xxx-xxx-xxxx.

I. Class Member Identifying Information

First Name

Last Name

Street Address

City

State

Zip Code

Email Address

Phone Number

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

Social Security Number or Tax ID Number

Note: If your contact information changes after you submit this Form, you must notify the Settlement Administrator by emailing info@xxxxxx.com or calling xxx-xxx-xxxx.

II. Description Harm Resulting from OFAC Results

A. Identify the Company that Received an NCC OFAC Screen in connection with your vehicle purchase (*Required):

Company Name

Address (at minimum, City, State)

B. Describe Your Claim (Check All that Apply). Valid forms of supporting documentation include, for example, emails or other communications with the recipient of the NCC OFAC Screen demonstrating the your harm, or other evidence determined by the Administrator to evidence a delay of a transaction, a denial of credit, or a cancellation or termination of an unconsummated transaction due to a NCC OFAC Screen.

☐ Emotional distress

Describe what happened:

☐ My transaction was delayed because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

☐ I was denied credit because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

**Your claim must
be submitted
online or
postmarked by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

CLC

CLAIM FORM

☐ I was unable to complete my transaction because of an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

☐ Other particularized harm caused by an NCC OFAC Screen

Describe what happened:

I ☐ do ☐ do not have documentation to support.

Note: If you have supporting documentation, you may submit it by mail to INSERT ADDRESS, by email to XX, or by uploading it to the website at XX.

III. Payment Method Election

Please select from **one** of the following payment options and provide the requested information:

☐ **PayPal** - Enter the email address associated with your PayPal account: _____

☐ **Venmo** - Enter the mobile # associated with your Venmo account: ____-____-____

☐ **Zelle** - Enter the mobile # **or** email address associated with your Zelle account:

Mobile Number: ____-____-____ or Email Address: _____

☐ **Virtual Prepaid Card** - Enter your email address: _____

☐ **Physical Check** – Payment will be mailed to the address provided in Section I above.

IV. Signature.

I hereby declare under penalty of perjury pursuant to the laws of the State of Nevada that all of the information I have provided above is true and correct.

Signature

Date (MM/DD/YYYY)

Exhibit B

From: Settlement Administrator

To: [Class Member email address]

Subject: Notice of Class Action Settlement – Rodriguez v. National Credit Center, LLC

Name: <<Name>>

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

Mail Address: <<ADDRESS, CITY, ST ZIP>>

A NEVADA STATE COURT AUTHORIZED THIS NOTICE

You have been identified as a member of a proposed class action settlement. You are eligible to receive a payment from the Settlement if it is approved. You are not being sued.

Your rights and options are explained in this Notice. Please read this Notice carefully.

What Is This Case About?

Plaintiff Angel Luis Rodriguez, Jr. ("Plaintiff") filed a class action lawsuit, or a lawsuit seeking to recover on behalf of a group of people, against National Credit Center, LLC ("NCC" or "Defendant"). NCC offers services to auto dealers, power sports dealers, and lenders while they are considering prospective borrowers for loans or finance deals. Plaintiff claims that NCC provided an NCC OFAC Screen to its customers inaccurately stating that he and other class members were possible matches to an entry on the Office of Foreign Asset Control's List of Specially Designated Nationals (the "OFAC List"). The OFAC List, which is maintained by the U.S. Department of the Treasury, is a list of people, groups, and companies, such as terrorists and narcotics traffickers, that U.S. businesses are not allowed to do business with.

NCC denies any and all allegations or assertions of wrongdoing in this lawsuit and the Court has not made any finding that NCC has engaged in any wrongdoing or misconduct of any kind. However, Plaintiff and NCC have agreed to resolve disputed claims through a proposed class action settlement. The Settlement has not yet been approved by the Court.

Am I Included in the Settlement?

Yes. That means that, according to Defendant's records, between May 5, 2020 and [date], Defendant sold a report to a third party that identified your name as being similar to a person or an entity that is listed on the OFAC List. Being a member of the Settlement Class does *NOT* mean that you are actually listed on the OFAC List.

If you would like more information about why you are a Class Member or what was reported about you, you may contact the Settlement Administrator at xxx-xxx-xxxx or info@xxxxxx.com.

What Does the Settlement Provide?

Defendant has agreed to pay \$30,000,000.00 and to make changes to its policies and procedures for its NCC OFAC Screen product to settle the lawsuit. This amount will cover: (1) cash payments to Class Members, (2) attorneys' fees and costs that the Court may later approve, (3) settlement administration expenses, and (4) any service award for Plaintiff that the Court may later approve.

How Much Money Will I Receive?

Each Settlement Class member will receive a Pro Rata Award payment of an estimated **\$XX**.

Additionally, Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an Actual Damages Award of up to \$1,500.00,

depending on the form of harm claimed and whether the Class Member submits supporting documentation. Claim Forms must be submitted or postmarked by **[date], 2024**. You can obtain a Claim Form at www.xxxxxxx.com.

Any Actual Damages Awards payment will be sent after the Pro Rata Award payment.

How Will I Be Paid?

If you have also received notice of this settlement by mail, your payment will be mailed as a check to the address listed at the top of this notice.

If you do not receive notice by mail, or if you wish to receive payment at another address or in another form, you must complete a [Payment Election Form](#) at www.xxxxxxx.com in order to receive a payment.

If you move, you must inform the Settlement Administrator of your new address. You may do so by visiting the www.xxxxxxx.com, emailing info@xxxxxx.com, or calling xxx-xxx-xxxx.

Do I Have to Do Anything to Be Paid?

It depends on whether the Settlement Administrator is able to locate you to send you a payment and on whether you want to make a claim for a higher payment amount.

If you do not receive notice of this settlement by mail, you must complete a [Payment Election Form](#) in order to receive a payment. We will email you at this email address to inform you if our efforts to send you paper mail have failed. If you are uncertain as to whether you also received notice by mail, you are strongly advised to complete a [Payment Election Form](#).

If you experienced particularized harm and you wish to receive any amount in addition to the Pro Rata Award you must also complete a [Claim Form](#). Further instructions are below.

If you get notice of the settlement in the mail and do not wish to make a claim for an additional amount, you do not need to do anything further to receive a payment.

What Are My Options?

- (1) **Do Nothing.** You will receive a Pro Rata Award payment. You will lose any legal rights you may have against Defendant related to this lawsuit, and you will lose the right to object to the settlement of this lawsuit. If you do not submit an online [Payment Election Form](#), your payment will be sent by check to the address listed at the top of this Notice. If mail to the above address is returned, we will send you a further notice by email informing you that you will need to submit a Payment Election Form in order to receive your payment. If you are unsure whether you received notice of this settlement by mail, you are strongly advised to complete a Payment Election Form.
- (2) **Submit a [Claim Form](#).** If you experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant, you may make a claim for an Actual Damages Award in addition to the Pro Rata Award by filling out a Claim Form and submitting it by **[date], 2024**. You will lose any legal rights you may have against Defendant related to this lawsuit.
- (3) **Submit a [Payment Election Form](#).** If you do not receive notice in the mail, or if you wish to receive your payment at a different address or via electronic means, you can submit a [Payment Election Form](#) by **[date], 2024** requesting payment by other means (Zelle, Venmo, etc.). You are not required to submit a Payment Election Form in order to be paid, except if mail to the above address is returned. In that case, we will send you a further notice by email informing you that you are required to submit a Payment Election Form in order to be receive your payment. You will lose any legal rights you may have against Defendant related to this lawsuit.
- (4) **Exclude Yourself.** You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator, postmarked by **[date], 2024**, that includes a signed and dated statement saying that you want to be excluded from the Class. If you exclude yourself, you will not receive a

settlement payment and you will lose the right to object to the settlement of this lawsuit, but you will keep any legal rights you may have against Defendant.

- (5) Object.** If you do not exclude yourself, you have the right to appear (or to hire a lawyer to appear for you) before the Court and object to the settlement. If you wish to object, you must send a written, signed objection to the Settlement Administrator (and file it with the Court) no later than **[date], 2024**.

Specific instructions on how to object to or exclude yourself from the settlement are available at www.xxxxxx.com.

How Do I Submit a Claim Form?

Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a Claim Form to receive an Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold).

In order to be valid, Claim Forms must identify the recipient of the NCC OFAC Screen and sufficiently describe the harm that was caused by the NCC OFAC Screen. Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) Experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person, or others as may be determined by the Settlement Administrator. ; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

Valid forms of supporting documentation include, for example, emails or other communications with the recipient of the NCC OFAC Screen demonstrating the harm, or other evidence showing a delay of a transaction, a denial of credit, or a cancellation or termination of an unconsummated transaction due to an NCC OFAC Screen.

Claim Forms can be obtained at www.xxxxxx.com. Claim Forms must be submitted or postmarked by **[date], 2024**.

Who Represents Me?

The Court has appointed lawyers from Berger Montague PC and Eglet Adams to serve as Class Counsel. As part of the settlement process, these lawyers will ask the Court to authorize them to make certain payments from the Settlement Fund, including: (1) settlement-administration expenses; (2) legal fees, which will not exceed one-third of the total Settlement Fund; (3) out-of-pocket costs; and (4) a service award for Plaintiff, which will not exceed \$25,000.

When Will the Court Consider the Settlement?

The Court will hold a final approval hearing on [date], 2024 at [time] PDT at [address]. At that hearing, the Court will: (1) hear any objections about the fairness of the settlement; (2) decide whether to approve the requested attorneys' fees and costs, as well as Plaintiff's service award; and (3) decide whether the Settlement should be approved.

For more information, please visit www.xxxxxx.com, call xxx-xxx-xxxx or email info@xxxx.com.

Exhibit C

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC,

Defendant.

Case No. A-23-869000-B
Department B

ORDER:

**APPROVING CLASS ACTION
SETTLEMENT, AUTHORIZING
DISBURSEMENT OF SETTLEMENT
FUNDS, AND DISMISSING CASE
WITH PREJUDICE**

1 On [REDACTED], 2024 the Court held a hearing on Plaintiff's Motion for Final Approval
2 of Class Action Settlement and Motion for Approval of Attorneys' Fees, Costs, and Service Award.
3 At the hearing, Plaintiff, Defendant National Credit Center, LLC ("Defendant"), and members of
4 the Settlement Class were afforded the opportunity to be heard in support of or in opposition to the
5 settlement. The Court has considered all papers filed and arguments with respect to the proposed
6 settlement of the claim asserted under the Fair Credit Reporting Act ("FCRA") by the proposed
7 class of consumers (the "Settlement Class"), therefore,

8 **THE COURT FINDS:**

- 9 1. The order preliminarily approving the Settlement is reaffirmed in all respects;
- 10 2. Final approval of the Settlement as embodied in the Settlement Agreement,
11 including the terms of injunctive relief agreed to in Section 5.1.1, is proper as the Settlement is
12 fair, reasonable, and adequate to the Settlement Class and in the best interests of the Settlement
13 Class, and that the Settlement is the result of arms-length negotiations between experienced
14 counsel.
- 15 3. The Court further finds that the relief provided under the Settlement constitutes fair
16 value given in exchange for the release of claims.
- 17 4. Notice to the Settlement Class has been duly provided to the Settlement Class in
18 compliance with Nev. R. Civ. P. 23(f), due process, and of the Court's preliminary approval order.
- 19 5. [REDACTED] members of the Settlement Class have objected to the Settlement and [REDACTED] have
20 asked to be excluded from the Settlement.
- 21 6. The plan of allocation of the Settlement Funds, as described in Section 5 and 7 of
22 the Settlement Agreement, is fair and reasonable to all Settlement Class Members and the Court
23 hereby approves distribution of the Settlement Funds accordingly;
- 24 7. Class Counsel's request for an attorney fee award of \$ [REDACTED], representing
25 [REDACTED] % of the Settlement Funds, is fair and reasonable considering all of the circumstances and the
26 Court hereby approves the attorneys' fee award. This was a complex class action that counsel
27 accepted on a contingency-fee agreement, with no guarantee of payment, and Class Counsel
28 achieved an excellent result for the Settlement Class.

1 8. The requested incentive award of \$25,000.00 from the Settlement Funds for the class
2 representative, Angel Luis Rodriguez, Jr., is reasonable and appropriate considering his efforts on
3 behalf of the Settlement Class and his participation in the case and the Court hereby approves the
4 incentive award.

5 9. Defendant is entitled to a release of all claims relating to the allegations in the
6 Complaint, with the Class Released Claims being defined fully in Section 5.3.2 and Plaintiff's
7 General Release being defined fully in Section 5.3.1 of the Settlement Agreement.

8 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**

9 10. The foregoing findings and approvals are the Orders of the Court;

10 11. The Settlement Funds shall be distributed as set forth in Section 5 and 7 of
11 Settlement Agreement.

12 a) The Court awards \$ _____ to Class Counsel as reasonable attorneys' fees and
13 reimbursement for reasonable out-of-pocket expenses, which shall be paid from the Gross
14 Settlement Fund.

15 b) The Court awards Plaintiff Angel Luis Rodriguez, Jr. the sum of \$ _____, for the service
16 he has performed for and on behalf of the Settlement Class, which shall be paid from the
17 Gross Settlement Fund.

18 c) The Court authorizes Class Counsel and Defense Counsel to authorize payment to the
19 Settlement Administrator from the Net Settlement Fund as set forth in the Settlement
20 Agreement.

21 12. As agreed by the Parties, upon the Effective Date, the Released Parties shall be
22 released and discharged in accordance with the Settlement Agreement.

23 13. As agreed by the Parties, upon the Effective Date, each Settlement Class Member is
24 enjoined and permanently barred from instituting, maintaining, or prosecuting, either directly or
25 indirectly, any lawsuit that asserts Released Claims.

26 14. The Court overrules any objections to the settlement. After carefully considering
27 each objection, the Court concludes that none of the objections create questions as to whether the
28 settlement is fair, reasonable, and adequate.

1 15. Neither this Final Judgment and Order, nor the Settlement Agreement, shall be
2 construed or used as an admission or concession by or against Defendant or any of the Released
3 Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Released Claims.
4 This Final Judgment and Order is not a finding of the validity or invalidity of any claims in this
5 lawsuit or a determination of any wrongdoing by Defendant or any of the Released Parties. The final
6 approval of the Settlement Agreement does not constitute any opinion, position, or determination of
7 this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, Settlement
8 Class Members, or Defendant.

9 16. Without affecting the finality of this judgment, the Court hereby reserves and retains
10 jurisdiction over this settlement, including the administration and consummation of the settlement.
11 In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction
12 over Defendant and each member of the Settlement Class for any suit, action, proceeding, or dispute
13 arising out of or relating to this Order, the Settlement Agreement, or the applicability of the
14 Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the
15 Settlement Agreement, including, but not limited to, any suit, action, arbitration, or other proceeding
16 by a Settlement Class Member in which the provisions of the Settlement Agreement are asserted as
17 a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall
18 constitute a suit, action, or proceeding arising out of or relating to this Order. Solely for purposes of
19 such suit, action, or proceeding, to the fullest extent possible under applicable law, the Parties hereto
20 and all Settlement Class Members are hereby deemed to have irrevocably waived and agreed not to
21 assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject
22 to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an
23 inconvenient forum.

24 17. The persons listed on **Exhibit 1** hereto have validly excluded themselves from the
25 Settlement Class in accordance with the provisions of the Settlement Agreement and Preliminary
26 Approval Order and are thus excluded from the terms of this Order. Further, because the settlement
27 is being reached as a compromise to resolve this litigation, including before a final determination of
28 the merits of any issue in this case, none of the individuals reflected on **Exhibit 1** may invoke the

1 doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in
2 connection with any further litigation against Defendant in connection with the Released Claims.

3 18. This action is hereby dismissed on the merits, in its entirety, with prejudice and
4 without costs.

5 19. The Court directs the Clerk to enter final judgment.

6 **IT IS SO ORDERED.**

7
8 Dated: _____
9 [Judge]

Exhibit D

Eighth Judicial District Court Clark County, Nevada

Notice of Class Action Settlement

Rodriguez v. National Credit Center, LLC, No. A-23-869000-B

A NEVADA STATE COURT AUTHORIZED THIS NOTICE

This Notice explains the Settlement, the Settlement Class, and your legal rights and options.

Please read its contents carefully.

WHAT IS THIS CASE ABOUT?

Plaintiff Angel Luis Rodriguez, Jr. (“Plaintiff”) filed a class action lawsuit, or a lawsuit seeking to recover on behalf of a group of people, against National Credit Center, LLC (“NCC” or “Defendant”). NCC offers services to auto dealers, power sports dealers, and lenders while they are considering prospective borrowers for loans or finance deals. Plaintiff claims that NCC provided an NCC OFAC Screen to its customers inaccurately stating that he and other class members were possible matches to an entry on the Office of Foreign Asset Control’s List of Specially Designated Nationals (the “OFAC List”). The OFAC List, which is maintained by the U.S. Department of the Treasury, is a list of people, groups, and companies that U.S. businesses, such as terrorists and narcotics traffickers, are not allowed to do business with.

NCC denies any and all allegations or assertions of wrongdoing in this lawsuit.

WHAT’S THE STATUS OF THE CASE?

The Court has not made any finding that NCC has engaged in any wrongdoing or misconduct of any kind. Instead, Plaintiff and Defendant (together, the “Parties”) have agreed to resolve disputed claims through a proposed class action settlement. The settlement has not yet been approved by the Court.

This Notice explains your rights and options if you are a Member of the Settlement Class. Whether or not you act, your legal rights will be affected by the proposed settlement.

WHO IS INCLUDED IN THE SETTLEMENT?

The group of people included in the settlement is called the “Class.” You are in the Class if between May 5, 2020 and [date] Defendant sold a report to a third party that identified your name as being similar to a person or an entity that is listed on the OFAC List.

Being a member of the Settlement Class does *NOT* mean that you are actually listed on the OFAC List.

If you are unsure whether you are a member of the Settlement Class, you may contact the Settlement Administrator at xxx-xxx-xxxx or info@xxxxx.com.

YOUR LEGAL RIGHTS & OPTIONS.

The Court still must decide whether to grant final approval of the settlement. You should know that: (i) the court will exclude members from the Class if the member so requests by **[date]**; (ii) all members who do not request exclusion from the Class will be bound by the judgment approving settlement; and (iii) any member who does not request exclusion may, if the member desires, enter an appearance through the member's counsel.

Read on to understand the specifics of the settlement and what each choice would mean for you.

Stay in the Settlement - Do Nothing	You will receive a Pro Rata Award payment. You will lose any legal rights you may have against Defendant related to this lawsuit, and you will lose the right to object to the settlement of this lawsuit. If you do not submit an online Payment Election Form, your payment will be sent by check to the address to which Notice was sent by U.S. mail. If your mail was returned as undeliverable and you do nothing, you will not receive a payment. If you are unsure whether you received notice of this settlement by mail, you are strongly encouraged to complete a <u>Payment Election Form</u> .
Stay in the Settlement - Submit a Claim Form	If you experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant, you may make a claim for an Actual Damages Award in addition to the Pro Rata Award by filling out a Claim Form and submitting it by [date], 2024 . You will lose any legal rights you may have against Defendant related to this lawsuit.
Stay in the Settlement - Submit a Payment Election Form	If you do not receive notice in the mail, or if you wish to receive your payment via electronic means or at a different address, you can submit a Payment Election Form by [date], 2024 requesting payment by other means (Zelle, Venmo, etc.). You are not required to submit a Payment Election Form in order to be paid, except if mail to the above address is returned. In that case, we will send you a further notice by email informing you that you are required to submit a Payment Election Form in order to be receive your payment. You will lose any legal rights you may have against Defendant related to this lawsuit,.
Exclude Yourself	You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator, postmarked by [date], 2024 , that includes a signed and dated statement saying that you want to be excluded from the Class. If you exclude yourself, you will not receive a settlement payment and you will lose the right to object to the settlement of this lawsuit, but you will keep any legal rights you may have against Defendant.

Object	If you do not exclude yourself, you have the right to appear (or to hire a lawyer to appear for you) before the Court and object to the settlement. If you wish to object, you must send a written, signed objection to the Settlement Administrator (and file it with the Court) no later than [date], 2024 .
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Payments will be made if the Court approves the settlement and after any appeals are fully resolved.

LEARNING MORE ABOUT THE LAWSUIT & SETTLEMENT

What is the OFAC List?

The OFAC List, which is maintained by the U.S. Department of the Treasury, is a list of people, groups, and companies, such as terrorists and narcotics traffickers, that U.S. businesses are not allowed to do business with. Before extending credit to a consumer or completing a transaction, a U.S. business may obtain a report on that consumer to determine if they are on the OFAC List.

What does the settlement provide?

Defendant has agreed to pay \$30,000,000.00 and to make changes to its policies and procedures for NCC OFAC Screens to settle the lawsuit. This amount will cover: (1) cash payments to Class Members, (2) attorneys' fees and costs that the Court may later approve, (3) the costs of settlement administration, and (4) any service award for Plaintiff that the Court may later approve.

If the Court approves the settlement in full, each Class Member will receive a Pro Rata Award payment of an estimated **\$XX**.

Additionally, Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a Claim Form to receive an Actual Damages Award of up to of up to \$1,500.00. Any Actual Damages Awards payment will be sent after the Pro Rata Award payment.

Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. Experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, , panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation. Claim Forms must be submitted or postmarked by **[date], 2024**. You can obtain a Claim Form at www.xxxxxx.com.

Who are the attorneys representing the Class and how will they be paid?

The Court has approved lawyers to represent the Settlement Class (“Class Counsel”). The attorneys who have been appointed by the Court to represent the Settlement Class are a team of lawyers from Berger Montague PC (E. Michelle Drake, John Albanese, Zachary M. Vaughan, Ariana Kiener, and Sophia Rios) and Eglet Adams (Robert T. Eglet and Richard K. Hy). You may reach Class Counsel at the following address/phone number:

Berger Montague PC
1229 Tyler Street NE, Suite 205
Minneapolis, MN 55413
612-594-5999
OFACPlaintiffLawyers@bm.net

Class Counsel will ask the Court to approve attorneys’ fees in an amount not to exceed one-third of the Settlement Funds (\$10,000,000), plus reimbursement of their out-of-pocket expenses. Plaintiff may also seek a service award, in an amount not to exceed \$25,000, for his services in representing the Settlement Class.

If the Court approves them, these attorneys’ fees, costs, service award, and settlement administration expenses will be paid from the settlement amount paid by Defendant.

DECIDING WHAT TO DO

What Are My Options?

You have five options. You can (1) do nothing and remain in the settlement and receive a Pro Rata Award; (2) submit a Claim Form and remain in the settlement and receive a Pro Rata Award and possibly an Actual Damages Award; (3) submit a Payment Election Form and remain in the settlement; (4) exclude yourself from the settlement (i.e., “opt out”); or (5) object to the settlement and remain in the settlement.

Your options and rights are explained in the following sections, along with the steps you must take if you wish to opt-out or object.

What Are the Consequences of Remaining in the Settlement?

If you received notice of the settlement via mail or email, you do not have to take any action to remain in the settlement. But, as explained above, **if you do not receive notice in the mail, you must submit a Payment Election Form to receive your payment.** You must also complete and submit a Claim Form by [date], 2024 if you are seeking an Actual Damages Award.

If you remain in the settlement, you will not be able to pursue claims against NCC that are covered by the settlement’s releases. All the of Court’s decisions regarding the settlement will apply to you, and you will be bound by any judgment that the Court enters.

If the Court grants final approval of the settlement each member of the Settlement Class will receive a Pro Rata Award payment estimated to be \$XX. In addition, Settlement Class Members that file a valid Claim Form asserting that they experienced particularized harm as a result of the NCC OFAC Screen Defendant reported, will receive an Actual Damages Award of an amount up to \$1,500, depending on the form of harm claimed and whether the Class Member submits supporting documentation.

How Do I Know if I Am Required to Submit a Payment Election Form?

If you do not receive notice in the mail, you must submit a [Payment Election Form](#) to receive payment. Settlement Class members who experienced particularized harm as a result of the NCC OFAC Screen must file a valid Claim Form in order to receive any additional payment.

If you are unsure whether you have to make a claim or submit a Payment Election Form, or if you have questions about the [Claim Form](#), contact the Settlement Administrator by emailing info@xxxxxx.com or calling xxx-xxx-xxxx.

How Do I Submit a Claim Form?

Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold).

In order to be valid, Claim Forms must identify the recipient of the NCC OFAC Screen and sufficiently describe the harm that was caused by the NCC OFAC Screen. Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator.; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

Valid forms of supporting documentation include, for example, emails or other communications with the recipient of the NCC OFAC Screen demonstrating the harm, or other evidence showing a delay of a transaction, a denial of credit, or a cancellation or termination of an unconsummated transaction due to an NCC OFAC Screen.

Claim Forms can be obtained at www.xxxxxxx.com. Claim Forms must be submitted or postmarked by [date], 2024.

What Are the Consequences of Opting-Out of the Settlement?

If you exclude yourself from the settlement, you will not receive any money from the settlement. You will not be bound by any of the Court's orders regarding the settlement by or any judgment or release that the Court enters regarding the settlement. You will lose the right to object to the settlement of this lawsuit but retain any legal rights you may have against NCC.

You will be responsible for the fees and costs of any future services provided by your own lawyer.

How do I Opt-Out?

If you wish to be excluded from the settlement (to “opt out”), you must mail a written request for exclusion to the Settlement Administrator at:

Settlement Administrator
Attn: Exclusions
[address]

Your request for exclusion must be in writing, signed by you, and postmarked on or before [date], 2024. The request must state: “I request to be excluded from the Settlement in *Rodriguez v. National Credit Center, LLC*, Case No. A-23-869000-B.”

Your request for exclusion must also be dated, and it must include your name, address, and telephone number. The address that you use on your exclusion request should be the address to which your notice was mailed. If you have a new address, please also inform the Settlement Administrator of this new address so they can update the appropriate records. If you exclude yourself from the settlement, you will not be eligible to receive a payment.

What Happens if I Object to the Settlement?

If you object according to the steps below, the Court will consider your objection. If the Court overrules your objection, you will be bound by the Court’s decision, and you will remain a part of the settlement.

How Do I Object to the Settlement?

You may object to all or part of the settlement if you think, for any reason, that it is not fair, reasonable, or adequate.

To object, you must submit your objection to the Settlement Administrator at [address], and you must also file the objection in writing with the Court at 200 Lewis Avenue, Las Vegas, NV 89101. . Your objection must include: (i) a written explanation of the reasons why you think that the Court should not approve the settlement; (ii) whether your objection pertains only to you, to a specific subset of the class, or the entire class; (iii) the identity of any witnesses you may want to call at the Final Hearing; (iv) a list of all exhibits you intend to introduce into evidence and a true and correct copy of all exhibits; (v) a statement as to whether you intend to appear at the Final Hearing, with or without counsel. Be sure to sign the objection and include your name, your address, your telephone number, and, if you are represented by an attorney, the name, address, and telephone number of your attorney, and note that the objection is in connection with the case titled “*Rodriguez v. National Credit Center, LLC*, Case No. A-23-869000-B.”

If you decide to object to the settlement, your objection must be mailed to the Settlement Administrator with a postmark on or before [date], 2024. If you fail to timely file and serve your objection, it will not be considered. You may withdraw an objection by submitting the withdrawal in writing to Class Counsel.

ADDITIONAL INFORMATION

I Did Not Receive Notice in the Mail. How can I Get Paid?

If you do not receive notice in the mail, you must submit a [Payment Election Form](#) by [date], 2024

to receive payment.

When And Where Will the Court Decide Whether to Approve The Settlement?

The Court will hold a Final Fairness Hearing on [date], 2024 at [time] PDT in Department B of the Regional Justice Center at 200 Lewis Avenue, Las Vegas, NV 89101. At this Final Fairness Hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court will also hear objections to the settlement, if any. We do not know how long the Court will take to make its decision after the Final Fairness Hearing. In addition, the Final Fairness Hearing may be postponed at any time by the Court without further notice to you.

You do not have to appear at the Final Fairness Hearing. If you are filing an objection, your objection should include a statement of whether or not you intend to appear at the Hearing, and whether you intend to hire an attorney (see Section “How Do I Object to the Settlement” above).

Where Can I Get Additional Information?

Review the additional documents available on this Website, including the current version of the Complaint and the full Settlement Agreement. You may also contact the Settlement Administrator by emailing info@xxxxx.com or calling xxx-xxx-xxxx.

Exhibit E

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

<<Name>>

<<ADDRESS>>

<<CITY>>, <<ST>> <<ZIP>>

NOTICE OF CLASS ACTION SETTLEMENT

Rodriguez v. National Credit Center, LLC, No. A-23-869000-B

A NEVADA STATE COURT AUTHORIZED THIS NOTICE.

You have been identified as a member of a proposed class action settlement. You are eligible to receive a payment from the Settlement if it is approved. You are not being sued.

Your rights and options are explained in this Notice. Please read this Notice carefully.

What Is This Case About?

Plaintiff Angel Luis Rodriguez, Jr. (“Plaintiff”) filed a class action lawsuit, or a lawsuit seeking to recover on behalf of a group of people, against National Credit Center, LLC (“NCC” or “Defendant”). NCC offers services to auto dealers, power sports dealers, and lenders while they are considering prospective borrowers for loans or finance deals. Plaintiff claims that NCC provided an NCC OFAC Screen to its customers inaccurately stating that he and other class members were possible matches to an entry on the Office of Foreign Asset Control’s List of Specially Designated Nationals (the “OFAC List”). The OFAC List, which is maintained by the U.S. Department of the Treasury, is a list of people, groups, and companies, such as terrorists and narcotics traffickers, that U.S. businesses are not allowed to do business with.

NCC denies any and all allegations or assertions of wrongdoing in this lawsuit and the Court has not made any finding that NCC has engaged in any wrongdoing or misconduct of any kind. However, Plaintiff and NCC have agreed to resolve disputed claims through a proposed class action settlement. The Settlement has not yet been approved by the Court.

Am I Included in the Settlement?

Yes. That means that, according to Defendant’s records, between May 5, 2020 and [date], 2024, Defendant sold a report to a third party about your name, and that report identified your name as being similar to a person or an entity that is listed on the OFAC List. Being a member of the Settlement Class does *NOT* mean that you are actually listed on the OFAC List.

If you would like more information about why you are a Class Member or what was reported about you, you may contact the Settlement Administrator at xxx-xxx-xxxx or info@xxxxx.com.

What Does the Settlement Provide?

Defendant has agreed to pay \$30,000,000.00 and to make changes to its policies and procedures for NCC OFAC Screens to settle the lawsuit. This amount will cover: (1) cash payments to Class Members, (2) attorneys’ fees and costs that the Court may later approve, (3) settlement administration expenses, and (4) any service award for Plaintiff that the Court may later approve.

How Much Money Will I Receive?

Each Settlement Class member will receive a Pro Rata Award payment of an estimated **\$XX**.

Additionally, Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender’s predetermined threshold). Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. This

FOR MORE INFORMATION, PLEASE VISIT WWW.XXXXXX.COM,
CALL xxx-xxx-xxxx OR EMAIL INFO@XXXX.COM.

PLTF00062
Exhibit 1 pg. 62

includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator.; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

Claim Forms must be submitted or postmarked by **[date], 2024**. You can obtain a Claim Form at www.xxxxxxx.com. Any Actual Damages Awards payment will be sent after the Pro Rata Award payment.

How Will I Be Paid?

Unless you elect otherwise, your payment will be mailed as a check to the address listed at the top of this notice. If you wish to receive payment in another form, you may complete a Payment Election Form at www.xxxxxxx.com.

If you move, you must inform the Settlement Administrator of your new address. You may do so by visiting the www.xxxxxxx.com, emailing info@xxxxxx.com, or calling xxx-xxx-xxxx.

What Are My Options?

- (1) **Do Nothing.** You will receive a Pro Rata Award payment. You will lose any legal rights you may have against Defendant related to this lawsuit, and you will lose the right to object to the settlement of this lawsuit. If you do not submit an online Payment Election Form, your payment will be sent by check to the address listed at the top of this Notice.
- (2) **Submit a Claim Form.** If you experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant, you may make a claim for an Actual Damages Award in addition to the Pro Rata Award by filling out a Claim Form and submitting it by **[date], 2024**. You will lose any legal rights you may have against Defendant related to this lawsuit.
- (3) **Submit a Payment Election Form.** If you wish to receive your payment at a different address or via electronic means, you can submit a Payment Election Form by **[date], 2024** requesting payment by other means (Zelle, Venmo, etc.). You are not required to submit a Payment Election Form in order to be paid, except if mail to the above address is returned. In that case, we will send you a further notice by email informing you that you are required to submit a Payment Election Form in order to be receive your payment. You will lose any legal rights you may have against Defendant related to this lawsuit.
- (4) **Exclude Yourself.** You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator, postmarked by **[date], 2024**, that includes a signed and dated statement saying that you want to be excluded from the Class. If you exclude yourself, you will not receive a settlement payment and you will lose the right to object to the settlement of this lawsuit, but you will keep any legal rights you may have against Defendant.
- (5) **Object.** If you do not exclude yourself, you have the right to appear (or to hire a lawyer to appear for you) before the Court and object to the settlement. If you wish to object, you must send a written, signed objection to the Settlement Administrator (and file it with the Court) no later than **[date], 2024**.

Specific instructions on how to object to or exclude yourself from the settlement are available at www.xxxxxxx.com.

Who Represents Me?

The Court has appointed lawyers from Berger Montague PC and Eglet Adams to serve as Class Counsel. As part of the settlement process, these lawyers will ask the Court to authorize them to make certain payments from the Settlement Fund, including: (1) settlement-administration expenses; (2) legal fees, which will not exceed one-third of the total Settlement Fund; (3) out-of-pocket costs; and (4) a service award for Plaintiff, which will not exceed \$25,000.

When Will the Court Consider the Settlement?

The Court will hold a final approval hearing on [date], 2024 at [time] PDT at [address]. At that hearing, the Court will: (1) hear any objections about the fairness of the settlement; (2) decide whether to approve the requested attorneys' fees and costs, as well as Plaintiff's service award; and (4) decide whether the Settlement should be approved.

Exhibit F

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC,

Defendant.

Case No. A-23-869000-B
Department B

ORDER:

**PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT and
PROVIDING FOR NOTICE**

The Settlement Agreement has been filed with the Court (Dkt. No.) and the definitions and terms set forth in the Settlement Agreement are incorporated herein by reference. The Court, having reviewed the Settlement Agreement entered by Plaintiff Angel Luis Rodriguez, Jr. (“Plaintiff” or the “Class Representative”) and Defendant National Credit Center, LLC (“Defendant”) (collectively, the “Parties”), and the unopposed Motion for Preliminary Approval, therefore:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that:

1. The Court has considered the proposed settlement of the claims asserted under the Fair Credit Reporting Act (“FCRA”) by the “Settlement Class” which includes all individuals who were the subject of an NCC OFAC Screen that Defendant disseminated to a third party between

1 May 5, 2020 and [date]. The Settlement Class does not include counsel of record (and their
2 respective law firms) for any of the Parties and employees of Defendant.

3 2. The Settlement Agreement appears, upon preliminary review, to be fair,
4 reasonable, and adequate to members of the Settlement Class. Accordingly, for settlement purposes
5 only, the proposed settlement is preliminarily approved, pending a Final Approval Hearing, as
6 provided for herein.

7 3. The prerequisites to a class action under Nev. R. Civ. P. 23 have been preliminarily
8 satisfied, for settlement purposes only, in that:

- 9 (a) The Settlement Class consists of at between 400,000 and 440,000 Settlement
10 Class Members;
- 11 (b) The claims of the Class Representative are typical of those of the other
12 Settlement Class Members;
- 13 (c) There are questions of fact and law that are common to all Settlement Class
14 Members; and
- 15 (d) The Class Representative will fairly and adequately protect the interests of
16 the Settlement Classes and has retained Class Counsel experienced in
17 consumer class action litigation who have and will continue to adequately
18 represent the Settlement Classes.

19 4. For settlement purposes only, the Court finds that this action is preliminarily
20 maintainable as a class action under Nev. R. Civ. P. 23 because: (1) a class action is a fair and
21 efficient adjudication of this controversy; and (2) questions of fact and law common to Settlement
22 Class Members predominate over any questions affecting only individual members.

23 5. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is
24 otherwise terminated for any reason before the Effective Date, then the Settlement Class shall be
25 decertified; the Settlement Agreement and all negotiations, proceedings, and documents prepared,
26 and statements made in connection therewith, shall be without prejudice to any Party and shall not
27 be deemed or construed to be an admission or confession by any Party of any fact, matter, or
28 proposition of law; and all Parties shall stand in the same procedural position as if the Settlement

1 Agreement had not been made or filed with the Court.

2 6. The Court appoints Angel Luis Rodriguez, Jr. as the Class Representative of the
3 Settlement Class. The Court also appoints E. Michelle Drake, John G. Albanese, Zachary M.
4 Vaughan, Ariana B. Kiener, and Sophia M. Rios of Berger Montague PC and Robert T. Eglet and
5 Richard K. Hy of Eglet Adams as counsel for the Settlement Class (“Class Counsel”).

6 7. The Court appoints Continental DataLogix, LLC as the Settlement Administrator.

7 8. The Court will hold a Final Approval Hearing on [date], 2024 at [time] PDT in
8 **Department B** of the Regional Justice Center at 200 Lewis Avenue, Las Vegas, NV 89101 for the
9 following purposes:

10 (a) To determine whether the proposed settlement is fair, reasonable, and
11 adequate to the Settlement Class and should be granted final approval by the
12 Court;

13 (b) To determine whether a final judgment should be entered dismissing the
14 claims of the Settlement Classes with prejudice;

15 (c) to determine whether the proposed plan of allocation for the Settlement
16 Fund is fair and reasonable and should be approved;

17 (d) To determine whether the request by Class Counsel for an award of
18 attorney’s fees, costs, and expenses, and for a service award to Plaintiff,
19 should be approved; and

20 (e) To rule upon other such matters as the Court may deem appropriate.

21 9. Notice of the Settlement and the Settlement Hearing shall be given to the
22 Settlement Class Members in accordance with the notice plan set forth in the Settlement Agreement.

23 10. The Court also approves the form and content of the proposed Notices, which are
24 attached to the Settlement Agreement. To the extent the Parties or Settlement Administrator
25 determine that ministerial changes to the Notices are necessary before disseminating either to the
26 Settlement Classes, they may make such changes without further application to the Court.

27 11. The Court finds this manner of giving notice constitutes the best notice practicable
28 under the circumstances; is reasonably calculated, under the circumstances, to apprise Settlement

1 Class Members of the pendency of the action, of the effect of the proposed Settlement (including
2 the Releases to be provided thereunder), of Class Counsel's request for an award of attorneys' fees
3 and reimbursement of litigation costs, of Settlement Class Members right to object to the Settlement,
4 the plan of allocation, and/or the request for an award of attorneys' fees and reimbursement for
5 litigation costs, of their right to exclude themselves from the Settlement Class, and of their right to
6 appear at the Final Approval Hearing; constitutes due, adequate and sufficient notice to all persons
7 and entities entitled to receive notice of the proposed Settlement; and satisfies the requirements of
8 Nev. R. Civ. P. 23 and all other applicable laws and rules.

9 12. If a Settlement Class Member chooses to opt out of the Settlement Class, such class
10 member is required to submit a Request for Exclusion to the Settlement Administrator, postmarked
11 on or before the date specified in the Notice, which shall be no later than sixty (60) days from the
12 Notice Date (the "Opt Out & Objections Deadline"). The Request for Exclusion must include the
13 items identified in the Settlement Agreement pertaining to such requests. Each written request for
14 exclusion must be signed by the individual seeking exclusion, submitted by the Class Member, and
15 may only request exclusion for that one individual. No person within the Settlement Class, or any
16 person acting on behalf of or in concert or participation with that person, may submit a Request for
17 Exclusion on behalf of any other person within the Settlement Class. "Mass" or "class" exclusion
18 requests shall not be permitted.

19 A Settlement Class Member who submits a valid Request for Exclusion using the procedure
20 identified above shall be excluded from the Settlement Class for any and all purposes. No later than
21 seven (7) days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a
22 declaration listing all of the valid opt-outs received and shall provide the declaration and list to Class
23 Counsel and Defendant's counsel, with Class Counsel then reporting the names appearing on this
24 list to the Court before the Final Approval Hearing.

25 13. A Settlement Class Member who does not file a timely Request for Exclusion, or
26 otherwise does not follow the procedure described in the Settlement Agreement, shall be bound by
27 all subsequent proceedings, orders, and judgments in this action.

28 14. Any Settlement Class Member who has not requested exclusion and wishes to be

1 heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered,
2 must file a written notice of Objection with the Court by the Opt Out & Objections Deadline, and
3 must concurrently serve the Objection on the Settlement Administrator.

4 As set forth in the Settlement Agreement, the Objection must include the following: (1) the
5 Settlement Class Member's full name, address, and current telephone number; (2) if the individual
6 is represented by counsel, the name and telephone number of counsel, whether counsel intends to
7 submit a request for fees, and all factual and legal support for that request; (3) all objections and
8 the basis for any such objections stated with specificity, including a statement as to whether the
9 objection applies only to the objector, to a specific subset of the class, or to the entire class; (4) the
10 identity of any witnesses the objector may call to testify; (5) a listing of all exhibits the objector
11 intends to introduce into evidence at the Final Approval Hearing, as well as true and correct of
12 copies of such exhibits; and (6) a statement of whether the objector intends to appear at the Final
13 Approval Hearing, either with or without counsel.

14 Any Settlement Class Member who fails to timely file and serve a written Objection
15 pursuant to the terms of Settlement Agreement shall not be permitted to object to the approval of
16 the settlement or the Settlement Agreement and shall be foreclosed from seeking any review of the
17 settlement or the terms of the Settlement Agreement by appeal or other means. Any Settlement
18 Class Member who files an Objection is subject to having their deposition taken prior to the Final
19 Approval Hearing. A Settlement Class Member may withdraw an Objection by communicating
20 such withdrawal in writing to Class Counsel.

21 15. All briefs, memoranda, petitions, and affidavits to be filed in support of an
22 individual award to the Class Representative and in support of Class Counsel's application for fees,
23 costs and expenses, shall be filed with the Court no later than twenty-one (21) days prior to the Opt
24 Out & Objections Deadline.

25 16. Any other briefs, memoranda, petitions, or affidavits that Class Counsel intends to
26 file in support of final approval shall be filed no later than twenty-one (21) days prior to the Final
27 Approval Hearing. Notwithstanding the foregoing, Class Counsel may submit declarations from the
28 Settlement Administrator regarding the notice plan and opt-outs seven (7) days prior to the Final

1 Approval Hearing.

2 17. Neither this Preliminary Approval Order, nor the Settlement Agreement, shall be
3 construed or used as an admission or concession by or against Defendant or any of the Released
4 Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Class Released
5 Claims. This Preliminary Approval Order is not a finding of the validity or invalidity of any claims
6 in this lawsuit or a determination of any wrongdoing by Defendant or any of the Released Parties.
7 The preliminary approval of the Settlement Agreement does not constitute any opinion, position, or
8 determination of this Court, one way or the other, as to the merits of the claims and defenses of
9 Plaintiff, the Settlement Class Members, or Defendant.

10 18. The Court retains exclusive jurisdiction over this action to consider all further
11 matters arising out of or connected with the Settlement Agreement.

12 **IT IS SO ORDERED.**

13

14 Dated: _____
15 [Judge]

16

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Exhibit G

REMINDER NOTICE FOR SETTLEMENT CLASS MEMBERS WHOSE
MAIL NOTICE WAS DELIVERED

From: Settlement Administrator

To: [Class Member email address]

Subject: Your Class Action Settlement Payment Is Available– Rodriguez v. National Credit Center, LLC

Name: <<Name>>

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

Mail Address: <<ADDRESS, CITY, ST ZIP>>

You were previously provided with notice regarding this class action settlement. The settlement has been approved and you are eligible to receive an estimated \$XX payment.

Unless you elect a different payment method, your Pro Rata Award payment will be mailed to you as a paper check at the address listed at the top of this notice. If that address is incorrect, you must complete a [Payment Election Form](#) at [www.xxxxxx.com](#) by **[date], 2024** in order to receive your payment.

You will receive payment sooner if you elect to receive your payment electronically. You may choose to be paid via PayPal, Venmo, Zelle, or via a virtual prepaid card by filling out the [Payment Election Form](#) at [www.xxxxxx.com](#) by **[date], 2024**.

Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an additional Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold). Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, , panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

[Claim Forms](#) must be submitted or postmarked by **[date], 2024**. You can obtain a [Claim Form](#) at [www.xxxxxx.com](#). Any Actual Damages Awards payment will be sent after the Pro Rata Award payment.

For more information, please visit [www.xxxxxx.com](#), call xxx-xxx-xxxx or email [info@xxxx.com](#).

[Unsubscribe](#)

REMINDER NOTICE FOR SETTLEMENT CLASS MEMBERS WHOSE
MAIL NOTICE WAS UNDELIVERABLE

From: Settlement Administrator

To: [Class Member email address]

Subject: Your Class Action Settlement Payment Is Available– Rodriguez v. National Credit Center, LLC

Name: <<Name>>

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

You were previously provided with notice regarding this class action settlement. The settlement has been approved and you are eligible to receive an estimated \$XX payment if you fill out a *Payment Election Form*.

We have been unable to reach you by mail. You must complete a [Payment Election Form](#) at [www.xxxxxx.com](#) by **[date], 2024** in order to receive your Pro Rata Award payment. You may choose to be paid via PayPal, Venmo, Zelle, a virtual prepaid card or by paper check.

Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold). Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

[Claim Forms](#) must be submitted or postmarked by **[date], 2024**. You can obtain a [Claim Form](#) at [www.xxxxxx.com](#). Any Actual Damages Awards payment will be sent after the Pro Rata Award payment.

For more information, please visit the Settlement Website, [www.xxxx.com](#), email [info@xxxx.com](#), or call [\[phone number\]](#).

[Unsubscribe](#)

Exhibit H

From: [insert]

To: [Class Member email address]

Subject: Rodriguez v. National Credit Center, LLC —Information Required for Payment

Name: <<Name>>

Notice ID: <<Notice ID>>

Confirmation Code: <<Confirmation Code>>

You have been identified as a class member in the case of *Rodriguez v. National Credit Center, LLC*, No. A-23-869000-B. The Parties agreed to a settlement, and you are eligible to receive an estimated \$XX payment. We previously emailed you about this settlement, and informed you that, if we were unable to reach you by U.S. Mail, you would be required to submit a [Payment Election Form](#) in order to receive payment.

This is your notice that, despite our best efforts, we have been unable to reach you by U.S. Mail. Therefore, you must complete a Payment Election Form by [date], 2024 in order to receive your Pro Rata Award payment.

Settlement Class Members that experienced particularized harm as a result of the NCC OFAC Screen reported by Defendant may also file a [Claim Form](#) to receive an additional Actual Damages Award of up to \$1,500.00, depending on the form of harm claimed and whether the Class Member submits supporting documentation. The claimed harm must be due to the results of an NCC OFAC Screen (as opposed to being denied for creditworthiness, such as where a credit score failed to meet a lender's predetermined threshold). Forms of harm that Class Members may have experienced that qualify for an Actual Damages Award include: (1) experiencing significant emotional distress as a result of the NCC OFAC Screen. This includes stress that caused or worsened physical symptoms (sleeplessness, panic attacks, etc.). It also includes experiencing significant embarrassment or humiliation due to having the results of the OFAC Screen provided to another person. Other forms of significant emotional distress will be as determined by the Settlement Administrator; (2) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with no supporting documentation; or (3) having a transaction delayed, being denied credit, or being unable to complete a transaction as a result of the NCC OFAC Screen, with supporting documentation.

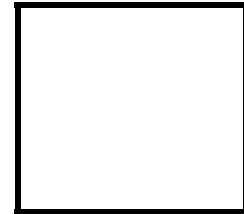
[Claim Forms](#) must be submitted or postmarked by **[date], 2024**. You can obtain a [Claim Form](#) at www.xxxxxxx.com. Any Actual Damages Awards payment will be sent after the Pro Rata Award payment. For more information about the settlement, visit www.xxxxxxx.com, email info@xxxxxx.com, or call xxx-xxx-xxxx.

Exhibit I

**Your Payment
Election Form
must be submitted
online by:
[date], 2024**

*Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)*

PAYMENT ELECTION FORM



Complete this Payment Election Form and submit it online by **[DATE], 2024** if you are a member of the Settlement Class and one of the following is true:

(1) You did not receive notice of this Settlement by U.S. mail and/or you received a notice by email stating that the Settlement Administrator has been unable to reach you by U.S. Mail. If you do not fill out and submit a Payment Election Form by **[DATE], 2024**, you will not receive a payment as part of the Settlement; OR

(2) You did receive notice of this Settlement by U.S. mail but wish to receive payment in a form other than a paper check mailed to the address at which you received the notice.

If you have questions about this form or the Settlement, please visit the Settlement Website, www.xxxxxx.com, email info@xxxxxx.com, or call xxx-xxx-xxxx.

I. Class Member Identifying Information.

If your contact information changes after you submit this Form, you must notify the Settlement Administrator by emailing info@xxxxxx.com or calling xxx-xxx-xxxx.

First Name

Last Name

Street Address

City

State

Zip Code

Email Address

Phone Number

**Social Security or
Tax ID Number**

Notice ID

II. Payment Election

Please select from **one** of the following payment options and provide the requested information:

☐ **PayPal** - Enter the email address associated with your PayPal account: _____

☐ **Venmo** - Enter the mobile # associated with your Venmo account: ____-____-____

☐ **Zelle** - Enter the mobile # **or** email address associated with your Zelle account:

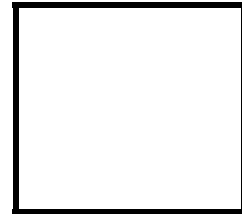
Mobile Number: ____-____-____ or Email Address: _____

☐ **Virtual Prepaid Card** - Enter your email address: _____

**Your Payment
Election Form
must be submitted
online by:
[date], 2024**

Rodriguez v. National Credit Center, LLC,
No. A-23-869000-B (Clark Cty., Nev.)

PAYMENT ELECTION FORM



☐ **Physical Check** – Payment will be mailed to the address provided in Section I above.

III. Signature.

I hereby declare under penalty of perjury pursuant to the laws of the State of Nevada that all of the information I have provided above is true and correct.

Signature

Date (MM/DD/YYYY)

EXHIBIT 2

(Redacted)

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DISTRICT COURT
CLARK COUNTY, NEVADA

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,

v.

NATIONAL CREDIT CENTER, LLC.

Defendant.

Case No. A-23-869000-B
Dept. No. 16

**DECLARATION OF
JONATHAN JAFFE**

1 **I. Summary of Qualifications**

2
3 I, Jonathan Jaffe, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury
4 as follows:

5 1. My Curriculum Vitae (“CV”) is hereto attached as **Exhibit A** to this
6 report. My CV contains a summary of my credentials and a list of other matters where
7 I have testified at trial or by deposition within the preceding four years.

8 2. I am a technology consultant, data scientist, and the founder and owner
9 of Its-Your-Internet, an advanced technology software, data, and litigation support
10 consulting firm I established in 2008.

11 3. For the past 30 years, dating back to 1993, I have had extensive
12 experience with data analysis, working with both structured and unstructured data.¹

13 4. In roles both as a consulting and testifying expert, I have worked to filter,
14 join, and summarize government and corporate datasets that routinely had hundreds of
15 millions to over a billion records, including in the Opioid Litigations,² various Medical
16 Device and Drug Litigations, and Class Action cases involving alleged violations of
17 the Fair Credit Reporting Act (“FCRA”). I have been asked to examine voluminous
18 credit report data in multiple Federal Class Action cases.

19 5. I am being compensated at the rate of \$330 per hour.
20
21

22 ¹ Structured data refers to data that is organized and formatted in a predefined and standardized
23 manner, typically in a database or spreadsheet. Structured data is usually composed of discrete data
24 fields that are defined by their data type, such as numbers, dates, or text. Structured data can be
25 easily searched, analyzed, and processed using various software tools and techniques, and is
26 commonly used for transactional data. Unstructured data, by contrast, refers to data that is not
27 organized or formatted in a predefined manner, which may include text, images, audio, video, or
28 other forms of data that are not typically analyzed using traditional software tools. Examples of
unstructured data include social media posts, emails, customer reviews, and news articles.
Unstructured data requires specialized tools and techniques.

² This included analysis of the DEA’s ARCOS database, company internal transaction databases
detailing shipments, and drug dispensing record databases.

1 6. I was retained by Plaintiff’s counsel in this case, Berger Montague, on
2 September 28, 2023.

3 7. I signed the Protective Order in this case on September 28, 2023.
4

5 **II. Productions**
6

7 8. In this litigation, Plaintiff’s counsel sent me multiple productions of data
8 and documents produced by Defendant National Credit Center, LLC (“NCC”). The
9 complete list of documents is detailed below in my Materials Considered section.

10 9. On October 29, 2023, I received a spreadsheet NCC produced to Plaintiff
11 (the “October 2023 NCC Data”).
12

13 **III. Assignment**
14

15 10. Plaintiff’s counsel asked me to examine the October 2023 NCC Data to
16 determine the number of unique individuals contained therein.

17 11. Plaintiff’s counsel also asked me to examine the October 2023 NCC Data
18 to determine the number of unique individuals who were the subject of an NCC OFAC
19 Screen Defendant disseminated to a third party from May 5, 2020 through the end of
20 the period represented by the October 2023 NCC Data. I understood this to mean the
21 criteria for class membership as set forth in the parties’ Settlement Agreement.³
22
23

24 ³ See *Settlement Agreement and Release*, ¶ 2.35 (defining “Settlement Class” to include “all
25 individuals who were the subject of an NCC OFAC Screen Defendant disseminated to a third party
26 from May 5, 2020, through the Execution Date”). Because the time period covered by the October
27 2023 NCC Data ends in August 2023 (see *infra* ¶¶ 18), the results of my analysis will necessarily
28 be underinclusive of the full Settlement Class. I understand from counsel that, as provided for in
the parties’ Settlement Agreement, NCC will provide the Settlement Administrator with
supplemental data regarding individuals who were the subject of reports issued between September
1, 2023 and the end of the Class Period).

IV. The OFAC SDN List

12. The Office of Foreign Assets Control (“OFAC”) is an agency within the U.S. Treasury Department that administers and enforces economic sanctions programs primarily against countries and groups of individuals, such as terrorists and narcotics traffickers.⁴ The OFAC Specially Designated Foreign Nationals and Blocked Persons List (the “OFAC SDN List”) is a list published by OFAC that includes individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries.⁵

13. OFAC publishes the OFAC SDN List on its website, and it frequently updates the list to both add and remove entries. Between September 26, 2022⁶ and May 9, 2024, for example, OFAC added approximately **1,650** individuals to the OFAC SDN List and removed approximately **198**.⁷

14. As of May 2024, the OFAC SDN List contained approximately **6,400** entries, which includes entries for businesses, vessels, aircraft, and countries⁸ in addition to human beings.⁹

⁴ <https://ofac.treasury.gov/faqs/1>

⁵ <https://ofac.treasury.gov/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists> and <https://sanctionslist.ofac.treas.gov/Home/SdnList> (last accessed May 16, 2024)

⁶ OFAC published the first true delta file on September 26, 2022. There was one earlier file published on September 22, 2022, but that was an initial population, not a true delta.

⁷ These figures are based on my analysis of historical data published online by OFAC at <https://sanctionslist.ofac.treas.gov/Home/DeltaFileArchive> (last accessed May 9, 2024). See **Exhibit B – OFAC delta xml file analysis** hereto attached.

⁸ Cuba, Iran, North Korea, Syria, Russia, and the Crimea, Donetsk, and Luhansk regions of Ukraine.

⁹ <https://ofac.treasury.gov/faqs/10>

V. October 2023 NCC Data Findings (Opinions)

15. The October 2023 NCC Data contains [REDACTED] records.¹⁰

16. The October 2023 NCC Data does not contain information on the specific OFAC response that NCC returned, but I understand from counsel that, based on NCC's discovery responses, each record in the October 2023 NCC Data reflects NCC's issuance of a positive OFAC response—*i.e.*, an OFAC response indicating that the consumer in question was a potential match to an entry on the OFAC SDN List.¹¹

17. The date and time of the earliest record in the October 2023 NCC Data is **2020-05-05 22:13:54.497**.

18. The date and time of the latest record in the October 2023 NCC Data is **2023-08-31 23:53:52.107**.

19. The October 2023 NCC Data contains numerous instances where more than one record in the data refers to the same individual.¹²

20. The October 2023 NCC Data indicates that NCC issued positive OFAC responses with respect to **398,792** individuals.^{13,14} I understand from counsel that under the parties' Settlement Agreement, NCC is obligated to provide the Settlement

¹⁰ Each record contains the following fields: First_Name, Last_Name, Address1, City, State, Zip, ssn, sDOB, Reports_Request_Inquiry_Transaction_Index, Prod_Ordered, and DateTime_Rpt_Served.

¹¹ See 2023.12.22 NCC 4th Supplemental Responses to Plaintiff's Interrogatories (Set 1) at 6-7.

¹² Herein I use the term "individual" to denote unique individuals as determined by the deduplication process referenced in footnote 13 *infra*.

¹³ For details on how I deduplicated individuals see the file "1. deduplication of October 2023 data.R" in the analysis folder of **Exhibit C – code**.

¹⁴ I understand from counsel that the Settlement Administrator, Continental DataLogix, will be responsible for performing a final deduplication prior to mailing notice. Because the Settlement Administrator will also be obtaining additional data for purposes of sending notice (including, for example, up-to-date mailing addresses), and because that additional data will be incorporated in the Settlement Administrator's deduplication efforts, I expect that the precise number of individual class members identified by the Settlement Administrator may not precisely match the number identified by my analysis and discussed in this Declaration.

1 Administrator with supplemental data regarding individuals who were the subject of
2 additional reports (*i.e.*, reports issued between September 1, 2023 and the end of the
3 Class Period).

4 21. I have attached the cross reference between individuals in the October
5 2023 NCC Data and their respective reports hereto as **Exhibit D**. I have replaced the
6 name, address, ssn, and dob fields with hashed values (using an MD5 hash). That
7 deidentifies the data while preserving the ability to distinguish between different
8 names, addresses, *etc.*

9 10 **VI. Additional Opinions**

11
12 22. The basis for each of my opinions / findings *supra* is in the code I wrote
13 for determining the above hereto attached as **Exhibit C**.

14 23. I am confident that if the parties or the Court asked me to review the
15 October 2023 NCC Data for other objective criteria, that could be accomplished with
16 relative ease using one or more of the methodologies described in this report.

17 24. I did not consider any facts or data provided by Plaintiffs' counsel in
18 forming the opinions expressed herein.

19 25. I did not rely on any assumptions provided by Plaintiffs' counsel in
20 forming the opinions expressed herein.

21 26. I do not express any legal opinions as part of this analysis.

22 27. All my opinions offered above are to a reasonable degree of professional
23 certainty.

VII. Materials Considered

28. I reviewed, relied on, and considered materials that were either filed on the public case docket or produced by NCC. The full list of these materials follows.

- a. 2023.04.14 - Class Action Complaint
- b. 2023.11.11 - NCC Transaction Data for Plaintiff (spreadsheet)
- c. 2023.10.26 - 11092023 w_OFAC Positive Response Data (spreadsheet)
- d. 2023.08.18 - NCC Objections to RFP (Set 1)
- e. 2023.08.18 - NCC Responses to RFAs (Set 1)
- f. 2023.08.18 - NCC Objections to ROGs (Set 1)
- g. 2023.08.22 - NCC Answers to ROGs (Set 1)
- h. 2023.08.22 - NCC Responses to RFP (Set 1)
- i. 2023.08.22 - NCC 1st Supp Resp to RFP (Set 1)
- j. 2023.09.22 - NCC Supp Answers to ROGs Verification (Set 1)
- k. 2023.09.22 - NCC Supp Disclosures
- l. 2023.09.22 - NCC Supp Answers to ROGs (Set 1)
- m. 2023.10.06 - NCC 2nd Supp Answers to ROGs (Set 1)
- n. 2023.10.06 - NCC 2nd Supp Answers to ROGs Verification (Set 1)
- o. 2023.10.06 - NCC 2nd Supp Resp to RFP (Set 1)
- p. 2023.11.10 - NCC 3rd Supp Answers to ROGs (Set 1)
- q. 2023.11.10 - NCC 3rd Supp Answers to ROGs Verification (Set 1)
- r. 2023.11.10 - NCC 3rd Supp Resp to RFP (Set 1)
- s. 2023.11.17 - NCC 4th Supp Resp to RFP (Set 1)
- t. 2023.12.08 - NCC 5th Supp Resp to RFP (Set 1)
- u. 2023.12.22 - NCC 4th Supp Resp to ROGs (Set 1)
- v. 2023.12.22 - NCC Resp to ROGs (Set 2)
- w. 2023.12.22 - NCC 8th Supp Resp to RFP (Set 1)

1 x. NCC00000080, NCC00000353, NCC00000357, NCC00000362,
2 NCC00000367, NCC00000368, NCC00000445, NCC00000488,
3 NCC00000489, NCC00000490, NCC00000491, NCC00000492,
4 NCC00000493, NCC00000494, NCC00000495, NCC00000496,
5 NCC00000497, NCC00000623, NCC00000624, NCC00000652,
6 NCC00000656, NCC00000660, NCC00000669, NCC00000682,
7 NCC00000683, NCC00000692, NCC00000703, NCC00000716,
8 NCC00000722, NCC00000724, NCC00000745, NCC00000747,
9 NCC00000759, NCC00000767, NCC00000769, NCC00000773,
10 NCC00000788, NCC00000789, NCC00000790, NCC00000791,
11 NCC00000792, NCC00000793, NCC00000794, NCC00000795,
12 NCC00000796, NCC00000797, NCC00000800, NCC00000806,
13 NCC00000807, NCC00000811, NCC00001015, NCC00001016,
14 NCC00001017, NCC00001018, NCC00001019, NCC00001020,
15 NCC00001021, NCC00001022, NCC00001023, NCC00001024,
16 NCC00001025, NCC00001026, NCC00001027, NCC00001028,
17 NCC00001029, NCC00001030, NCC00001033, NCC00001041,
18 NCC00001046, NCC00001050, NCC00001061, NCC00001068,
19 NCC00001076, NCC00001083, NCC00001092, NCC00001094,
20 NCC00001096, NCC00001101, NCC00001109, NCC00001119,
21 NCC00001130.

VIII. Methodology

29. To efficiently analyze the October 2023 NCC Data, I used well recognized, standard tools for data science, specifically the R language¹⁵ and RStudio,¹⁶ a domain-specific Integrated Development Environment that streamlines the process of data analysis.

30. The R language is widely used in published data analysis.^{17, 18}

31. I have used R in other cases in which I have been qualified as an expert.

32. The processes I followed could be replicated using an Excel Spreadsheet; however, since this corpus of data was significant in, R was the more appropriate data science tool.

33. The R language has been used by other data science experts recognized by Federal Courts to analyze very large data sets. One notable example is in the Opiate MDL (MDL2804), in which Dr. Craig McCann testified that he utilized the R language to process over 500 million lines of transactions in CSV files of the DEA's ARCOS database tracking drug shipments.¹⁹

¹⁵ R Core Team (2023). R: A language and environment for statistical computing. R Foundation for Statistical Computing, Vienna, Austria. URL <https://www.R-project.org/>.

¹⁶ RStudio Team. (2023). RStudio: Integrated Development Environment for R. RStudio, PBC, Boston, MA. URL <https://www.rstudio.com/>

¹⁷ Since 2014, over 199,000 published scientific papers cited to "R: A language and environment for statistical computing" see https://scholar.google.com/scholar?q=%E2%80%99CR%3A+A+language+and+environment+for+statistical+computing%E2%80%99D+&hl=en&as_sdt=0%2C33&as_ylo=2014&as_yhi= (retrieved February 13, 2023)

¹⁸ John M. Chambers. 2020. S, R, and Data Science. *Proc. ACM Program. Lang.* 4, HOPL, Article 84 (June 2020), 17 pages. <https://doi.org/10.1145/3386334>

¹⁹ Case: 1:17-md-02804 Doc #: 4026 Filed: 10/14/21

34. Within the R environment, I used the following libraries: beep²⁰, data.table,²¹ formattable,²² here,²³ igraph,²⁴ logr,²⁵ lubridate,²⁶ magrittr,²⁷ openssl,²⁸ pbapply,²⁹ stringr,³⁰ and tictoc.³¹

35. The code I wrote for my opinions expressed herein is attached as **Exhibit C**. The comments in the code explain how to reproduce the results.

36. I used a three-step process: import, analysis, and export.

37. In the first step, import, I imported the October 2023 NCC Data into the R environment. The code for this step is in the **import** subfolder of **Exhibit C**.

38. In my second step, I identify unique individuals using an area of data science called network or graph theory. This involved first sub-grouping records with

²⁰ Bååth R (2018). `_beep`: Easily Play Notification Sounds on any Platform_. R package version 1.3, <<https://CRAN.R-project.org/package=beep>>.

²¹ Dowle M, Srinivasan A (2021). `_data.table`: Extension of `data.frame`_. R package version 1.14.2, <<https://CRAN.R-project.org/package=data.table>>.

²² Ren K, Russell K (2021). `_formattable`: Create 'Formattable' Data Structures_. R package version 0.2.1, <<https://CRAN.R-project.org/package=formattable>>.

²³ Müller K (2020). `_here`: A Simpler Way to Find Your Files_. R package version 1.0.1, <<https://CRAN.R-project.org/package=here>>.

²⁴ Csardi G, Nepusz T (2006). "The igraph software package for complex network research." *InterJournal, *Complex Systems**, 1695. <<https://igraph.org>>.

²⁵ Bosak D (2022). `_logr`: Creates Log Files_. R package version 1.3.3, <<https://CRAN.R-project.org/package=logr>>.

²⁶ Garrett Golemund, Hadley Wickham (2011). Dates and Times Made Easy with lubridate. *Journal of Statistical Software*, 40(3), 1-25. URL <https://www.jstatsoft.org/v40/i03/>.

²⁷ Bache S, Wickham H (2022). `_magrittr`: A Forward-Pipe Operator for R_. R package version 2.0.3, <<https://CRAN.R-project.org/package=magrittr>>.

²⁸ Ooms J (2023). `_openssl`: Toolkit for Encryption, Signatures and Certificates Based on OpenSSL_. R package version 2.1.1, <<https://CRAN.R-project.org/package=openssl>>.

²⁹ Solymos P, Zawadzki Z (2023). `_pbapply`: Adding Progress Bar to '*apply' Functions_. R package version 1.7-2, <<https://CRAN.R-project.org/package=pbapply>>.

³⁰ Wickham H (2022). `_stringr`: Simple, Consistent Wrappers for Common String Operations_. R package version 1.4.1, <<https://CRAN.R-project.org/package=stringr>>.

³¹ Izrailev S (2021). `_tictoc`: Functions for Timing R Scripts, as Well as Implementations of Stack and List Structures_. R package version 1.0.1, <<https://CRAN.R-project.org/package=tictoc>>.

1 data indicative of the same individual, or, put inversely, with data indicative of a very
2 low probability of being different individuals. Then, I combined groups with shared
3 records.³² I computed the statistics in my findings / opinions *supra*. The code for this
4 step is in the **analysis** subfolder of **Exhibit C**.

5 39. In my final step, I exported the cross reference between individuals in the
6 October 2023 NCC Data and their respective reports. The code for this step is in the
7 **export** subfolder of **Exhibit C**.


8 40. I preserved and included the log files for the code that I ran. Those are in
9 the **logs** subfolder of **Exhibit C**. These log files detail the code that was run, when it
10 was run, the packages used, and the respective versions used for each package.

11 **IX. Reservation of Rights**

12
13
14 41. I reserve the right to supplement my opinions in the event that additional
15 information or arguments are provided to me or submitted in connection with this
16 matter.

17 42. I reserve the right to use graphics, figures and/or illustrations at trial to
18 depict my conclusions herein.

19
20 Executed on this 13th day of June, 2024, at Forest Hills, New York.

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 Digitally signed by
Jonathan Jaffe
Date: 2024.06.13 10:06:52
-04'00'
Adobe Acrobat version:
2024.002.20759

JONATHAN JAFFE

32 For a full step by step, please see the comments in the file “**1. deduplication of October 2023 data.R**” in the **analysis** subfolder of **Exhibit C**.

EXPERT TECHNOLOGY + LITIGATION ESI CONSULTING

**Database/Data Analysis...Bespoke Technical Solutions
Federal Expert Witness...ESI Discovery Consulting...Forensics**

Its-Your-Internet

2008-present

Its-Your-Internet specializes in bespoke technical solutions, data science, and ESI litigation support. I established the firm in March 2008.

Founding Owner, 2008-present;

- Plaintiffs' Designated ESI Representative on Federal Opioid MDL Litigation
- Plaintiffs' Designated ESI Representative for Over 500 Firms on Multiple Mass Tort Litigations involving Product Liability with Medical Devices and Drugs (hundreds of thousands of individual plaintiffs collectively) extensive engagement from early discovery through trial
- Plaintiffs' Designated ESI Representative in Multiple Class Action Suits (majority involving alleged violations of the Fair Credit Reporting Act)
- Plaintiffs' Designated ESI Representative in Attorney General Suits involving Product Liability
- Expert Witness in Multiple Federal Cases
- Database Analysis (medical data, consumer reports, adverse event/safety, clinical trial, registry, call note, sales and marketing, statistical analysis)
- Assisting with Class List development and certification
- Working with Extremely Large Document Productions (50MM+ documents)
- Working with Extremely Large Database Productions and Extracts (1B+ record tables)
- Analysis of Statistical Results from Clinical Studies
- Trial Support (exhibit list document selection and preparation, helping find documents used with adverse witnesses and in cross examination, translating finds into usable exhibits, demonstratives, jury charges)
- Plaintiff Document Production (workflow, redaction, privilege review, staging and producing)
- Built Bespoke Production Review Software
- Discovery Format and Production Negotiation
- Redaction / Privilege Review Management
- Keyword Search Term Recommendations, Predictive Coding Recommendations
- Custodial Production Forensics
- Custodial Production Storage Recommendations
- Drafting ESI Related Interrogatories, Requests for Production, Requests for Admission
- Deduplication, Gap Analysis, Statistical Sampling, Forensic Analysis, Discovery Issues Analysis
- Assisting Attorneys on 30(b)(6) Depositions, Meet and Confers, Hearings, Motions, Draft Orders, Stipulations, Rule 34 issues
- Supporting other Expert Witnesses
- Creating Supporting ESI Reports for Court Hearings

- Deposition Workup and Providing Deposition Assistance
- Supervising and participating (design, coding, analysis) over a large variety of projects, most with significant teams, inclusive of:
 - Litigation Support Custom Applications / Software / Data Analysis
 - Subscription Site for M&A Information, OAuth2 Authentication, Graph Analysis, and Internal Application Development for Investment Bank
 - Real-time Chat Extension for Large VoIP Provider
 - Redesign of Class Action Support System for a Top 3 Legal Administrative Services Firm (Billions of Dollars of Administration)
 - LMS and Exam SaaS applications for West African Market
 - Mobile West Africa #1 App – FindAMed
 - Subscription Based Site for Theater and Performing Arts Companies
 - School Based Management Systems Development
 - Raffle Contest Site and Variations
 - Writing and Support for Core Remake of Multi-Million Page Web Site
 - SEO and SEM Management for Multiple Clients
 - Finalist in Multi-Billion \$ RFP for NYC DOE
 - > 50 original web sites inclusive of e-Commerce
 - Countless consultations with Entrepreneurs
- Multiple Entrepreneurial Projects Using Bleeding Edge Technology
- Established a Dozen Key Reciprocal Partnerships
- > 30 Talks and Lectures on Technology and Social Media for Chambers of Commerce, SBA, Charities and Non-Profit, Business Groups and Organizations
- Day to Day Resource Management, Staffing, Administration
- Oversight of Remote and Offshore Resources
- Branding, Marketing, Materials (for Firm and Clients)

General Technologies: R, AI, NoSQL, SQL, C#, PHP, NodeJS, Python, Django, NPM, PaaS, Heroku, HTML5, AngularJS, MongoDB, Cloudant, Redis, MSSQL, Oracle, MySQL, MariaDB, Postgres SQL, Tableau, ExpressJS, Git/GitHub, GruntJS, E2E Testing, ASP.NET MVC, ASP.NET, Cordova PhoneGap, Amazon Web Services (S3, CloudFront, EC2), Azure (Data Lake, Synapse, AI), XML, XML Schema, LESS, CSS3, SocketJS, Bower, Joomla, Drupal, WordPress, Office365, SharePoint, Salesforce, JIRA, Photoshop, Illustrator, GIMP, RESTful and Agile Methodologies, Quantum Computing (early exploration).

Legal Review Platforms: Relativity, Catalyst Insight, Everlaw, iConect-Xera, Eclipse, Disco, Crivella, Nuix Ringtail, Reveal

Forensic Software: FTK Imager, Encase, Cellebrite PA UFED, Transend Migrator, Magnet IEF

Weitz & Luxenberg is one of the nation's original and foremost firms in mass tort asbestos litigation handling nearly one million simultaneous pending court actions, 250,000 bankruptcy claims, and over 50 other personal injury litigations.

Manager of Software Development, 2003-2008***Sr. Project Manager, 2002-2003***

- Federal Expert Witness resulting in substantial eDiscovery Sanctions
- Collection of documents for litigation; Validation; Forensic Analysis
- Coordinated activities of 5 teams, comprising 20 resources
- Achievements included: establishing and overseeing the 4th largest personal injury law firm site, www.weitzlux.com, all internal development, sales/marketing efforts, public relations, and client services.
- Chief software architect.
- Increased site traffic 5,000% (to 12,000+ unique visitors/day) and original content by 2MM+ pages.
- Positioned web site as a new sales channel, netting \$MM in new revenue, 45,000% increase in leads to 1,500 new case leads/week.
- Gained first page ranking for 750,000+ search terms used to find the site including some of the most competitive (ex. *asbestos lawyer*).
- Reduced annual Internet marketing costs by \$3.6 million, or 96%, while increasing returns.
- Transformed internal development into a premier asset of the firm resulting in joint development efforts with Federal Express, 2 case studies on our use of Web Services by Microsoft, and the adoption of our proprietary document management technologies by other law firms across the country.
- Oversaw distribution of \$300 million/year in settlements to tens of thousands of clients.
- Increased overall internal system performance 500% with a 75% reduction in system downtime.
- Mentored technical team, developers, analysts, SEO (search engine optimization)

Technologies: C#. VB.NET, ASP.NET, SQL2005, SQL2000, OLTP, OLAP, JavaScript, HTML, Exchange2003, Win2003, IPsec, CISCO VPN, Citrix Presentation Server, Win2000, WinNT4, Project, PowerPoint, WebSense, eSafe, Active Directory (LDAP) Interface, XML, xHTML, Web Services, Visual Studio Team Foundation Server, VSS, VB6, Access, Microsoft Office, Cisco PIX (Firewall), Tape Library Backup, Document Management, CRM, ERP, Great Plains 7.0, Great Plains 6.0, Goldmine, ASP3.0, IIS 6.0, Windows Services, Snap NAS, LeadTools (Imaging), SharePoint, AscentCapture, Concordance, Summation, iConnect, ComponentOne for .NET, Flash, Mac OSX, Photoshop, SEO

Case Studies (Business + Technology):

http://download.microsoft.com/documents/customerevidence/27250_Weitz_Lux_Final_BA.doc

http://download.microsoft.com/documents/customerevidence/27249_Weitz_Lux_Final_CS.doc

IMJ Group Inc.**2001-2002**

IMJ was a startup business/technology consulting think tank and solution implementation firm I started with two partners.

Vice President, Technology / Founding Partner

- Established corporate status for the firm and branding.
- Recruited and supervised staff.

Technologies: Linux, BSD, Java, Access, Microsoft Project, Microsoft PowerPoint, Microsoft Excel.

Winstar Communications, Inc., Web Development Group**2000-2001**

The Winstar Web Development Group was an Internet consultancy, part of Winstar (a dot-com telecommunications firm), specializing in large Intranets and Internet sites.

Acting Director of Technology, 2001;***Senior Technology Architect, 2000-2001******Technical Leadership***

- Directed a team of 17 – project managers, developers, system engineers, and site designers.
- Managed full project lifecycle for six and seven digit budgets.
- Chief Software Architect.
- Designed Internet and Intranet sites, including Hosting Solutions.
- Established procedures and process, integrating what had been five company acquisitions into one team.
- Mentored development team.

Business Development

- Increased average project value 10,000% (from \$50,000) to \$5 million, including winning the team's first \$1 million contract.
- Liaised successfully with other Winstar divisions (Hosting, Office.com, Professional Services, and Winstar for Buildings) resulting in improved sales and project coordination.
- Led Winstar team on a \$50 million proposal for the NYC Board of Education with partners Sun, Oracle, Lucent, Microsoft and Compaq.

Technologies: ASP 3.0, SQL2000, SQL 7.0, JavaScript, HTML, Project, PowerPoint, VSS, Exchange2000, Win2000, WinNT4, WebSense, Active Directory, VB6, VB5, Visio, Microsoft Office, Flash, Photoshop, QuarkXpress.

Example web site: <http://www.nationalmssociety.org> still largely uses the same information architecture laid out over 20 years ago.

Valinor Inc., a wholly owned subsidiary of IKON Office Solutions, was the original Microsoft Solutions Partner/Provider & Authorized Technical Education Center in New York City, consulting for Fortune 500 firms.

Technical Project Manager / Microsoft Certified Trainer, 1998-2000

(after graduating Columbia);

Technical Project Leader / Senior Technical Architect, 1996-1998

(while attending Columbia full time 20+ hrs/wk);

Senior Application Developer / Application Developer, 1995-1996

(while attending Columbia full time, 20+ hrs/wk)

General Achievements

- Increased average project value, formerly \$100,000 average, 500% to \$500,000
- Led teams of up to 10 developers

Valinor Key Consulting Projects

- **AIG/AIU NAD** — migration of AIG Europe's mainframe-based quotation and policy generation system to Microsoft Windows/Office workstation platforms, reducing the time to policy from days to minutes.
- **Berkery, Noyes & Co.** — a company-wide line of business application matching companies seeking to sell themselves with potential buyers.
- **The College Board** — Internet application to gather annual survey data for all United States accredited colleges and universities.
- **DLJ** — on site training.
- **Garban InterCapital** — a cash derivatives trading system utilized by 60 brokers.
- **IKON Office Solutions** — reconciled revenue reporting data from multiple disparate databases.
- **Matsushita** — workflow support ticketing system.
- **Maersk Shipping** — reconciled multiple shipping databases.
- **Merrill Lynch** — on site training on active trading floors.
- **NYC Department of Technology** — on site training.
- **Sumitomo Mitsui** — application to monitor, track and handle all transactions and interest calculations for a multi-billion per year transfer of high risk loans.
- **Sun Chemical** — on site training and follow up consulting.
- **Yankee Copyrights Management** — a large eCommerce application for a startup to create a marketplace for permissions to use and replicate copyrighted materials.

Technologies: ASP2.0, SQL7.0, SQL6.0, Sybase, Oracle, MTS, COM, JavaScript, HTML, Project, Powerpoint, VSS, Exchange5, WinNT4, WinNT3.51, Unix-Solaris, C++, MFC, VB6, VB5, VB4, VB3, Access, Visio, Goldmine, Microsoft Word, Excel

ADJUNCT PROFESSOR

Columbia University School of Continuing Education, evening classes

2003-2005

- Taught Database Design/Advanced SQL, and .NET Programming courses — QC7304, QC7305, QC7403.
- Developed curriculum for courses, part of SASE track certificate program.

EDUCATION

Bachelor of Arts, Economics/Mathematics, *magna cum laude*, Columbia University, 1999

Stuyvesant High School, 1995

CERTIFICATIONS

Microsoft Certified Professional, 1998

Microsoft Certified Trainer, 1998

MAJOR LAW FIRMS

LANIER LAW FIRM

BARON BUDD

SIMMONS HANLY CONROY

SEEGER WEISS

MOTLEY RICE

WEITZ & LUXENBERG

BERGER MONTAGUE

MAZIE SLATER KATZ & FREEMAN

BAILEY PEAVY BAILEY

KAISER GORNICK

SANDERS VIENER GROSSMAN

SALIM BEASLEY

CRONIN FRIED

NEBLETT, BEARD & ARSENAULT

BLASINGAME BURCH GARRARD ASHLEY

NICHOLS KASTER

PODHURST ORSECK

KIRTLAND & PACKARD

AYLSTOCK, WITKIN, KREIS & OVERHOLTZ

BEASLEY ALLEN

KAZAN, MCCLAIN, SATTERLEY &
GREENWOOD

NAPOLI SHKOLNIK

LEVIN PAPANTONIO RAFFERTY

FRANCIS MAILMAN SOUMILAS, P.C.

THE HOLLAND LAW FIRM

EXPERT TESTIMONY

Depositions

2024

LARS F. BRAUER, *et al.* v. EXAMONE WORLD WIDE INC., *et al.*
UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
2:22-cv-07760-MEMF-JC

NELSON, *et al.* v. BANK OF AMERICA, NATIONAL ASSOCIATION
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA
5:23-cv-00255-JS

WILLIAM NORMAN BROOKS, III v. TRANS UNION LLC
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA
2:22-CV-00048-GEKP

2023

WOOD v MIKE BLOOMBERG 2020, INC.
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
1:20-CV-2489-LTS-GWG

JAMES HEALY v. MILLIMAN, INC. d/b/a INTELLISCRIPIT
UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
2:20-CV-01473 JCC

DR. ANTHONY TORRES, D.O. v. EQUIFAX INFORMATION SERVICES LLC.,
UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA
1:21-cv-02056-CCC

MARCO A. FERNANDEZ v. CORELOGIC CREDCO, LLC
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
3:20-cv-01262-JM-AGS

2022

DUANE E. NORMAN, SR. v. TRANS UNION, LLC
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA
18-cv-05225-GAM

JAMES HEALY v. MILLIMAN, INC. d/b/a INTELLISCRIPIT
UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
2:20-CV-01473 JCC

2019

RALPH GAMBLES, THOMAS MERCK, AND ELISE COMPO v. STERLING INFO SYSTEMS
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
1:15-cv-09746-PAE

SCOTT RILLEY, MICHELLE KUNZA, VENUS COLQUITT-MONTGOMERY, JONATHON ALDRICH,
AND KENDRA BUETTNER v. MONEYMUTUAL, LLC, SELLING SOURCE, LLC, AND
PARTNERWEEKLY, LLC
UNITED STATES DISTRICT COURT MINNESOTA
No. 16-cv-4001 (DWF/LIB)

2015

PLAINTIFFS V. SMITHKLINE BEECHAM CORPORATION D/B/A,
GLAXOSMITHKLINE
PHILADELPHIA COUNTY COURT OF COMMON PLEAS
Nos. 01144, 0402, 3694, 3678, 3672, 3758, 3686, 3727, 0489

JOSEPH JAUHOLA VS. CANADIAN NATIONAL RAILWAY COMPANY,
AND WISCONSIN CENTRAL, LTD.
UNITED STATES DISTRICT COURT MINNESOTA
No. 14-cv-1433

2007

In re SEROQUEL PRODUCTS LIABILITY LITIGATION.

UNITED STATES DISTRICT COURT MIDDLE DISTRICT FLORIDA, ORLANDO DIVISION

No. 6:06-md-1769-Orl-22DAB.

Hearings

2015

IN RE BENICAR (OLMESARTAN) PRODUCTS LIABILITY LITIGATION.

UNITED STATES DISTRICT COURT NEW JERSEY, CAMDEN VICINAGE

No. 1:15-md-02606

2010

IN RE: GADOLINIUM BASED CONTRAST AGENTS LITIGATION.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

No. 1:08-GD-50000, MDL NO. 1909

2007

In re SEROQUEL PRODUCTS LIABILITY LITIGATION.

UNITED STATES DISTRICT COURT MIDDLE DISTRICT FLORIDA, ORLANDO DIVISION

No. 6:06-md-1769-Orl-22DAB.

SPEAKING ENGAGEMENTS

Chambers of Commerce

- Greater NY Chamber of Commerce
- Forest Hills Chamber of Commerce
- Franklin Square Chamber of Commerce
- Medford Chamber of Commerce
- Rockville Centre Chamber of Commerce
- Oceanside Chamber of Commerce
- BRiSC - the Unofficial Silicon Alley Chamber of Commerce

Small Business Administration

- USSBA (March 2010)
- USSBA (April 2010)
- USSBA (May 2010)

Business Groups and Organizations

- Independent Business Women's Group
- Associated Builders & Contractors – Lower NY State
- Associated Builders & Contractors – Nassau/Suffolk
- East End Women's Network

Charities and Non-Profits

- Northport Rotary
- Kiwanis International

Continuing Education

- Columbia University – School of Continuing Education – adjunct professor
- Locust Valley Adult Education
- College of New Rochelle – Graduate Program
- Monroe College – Graduate Program

EXHIBIT 3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,	:	
Individually and as a representative of	:	
the class,	:	Civil Action No.: A-23-869000-B
	:	
Plaintiff,	:	Dept. No. 16
	:	
v.	:	
	:	
NATIONAL CREDIT CENTER, LLC,	:	
	:	
Defendant.	:	

DECLARATION OF STAN V. SMITH, PH.D

June 13, 2024

DECLARATION OF STAN V. SMITH

I, Stan V. Smith, hereby declare the following:

1. My name is Stan V. Smith. I am over 21 years of age, of sound mind, capable of executing this Declaration, and I have personal knowledge of the facts stated herein, all of which are all true and correct to the best of my knowledge.

EXPERT BACKGROUND AND QUALIFICATIONS

2. I am President of Smith Economics Group, Ltd., headquartered in Chicago, IL, which provides economic and financial consulting nationwide. I have worked as an economic and financial consultant since 1974, after completing a Research Internship at the Federal Reserve, Board of Governors, in Washington, D.C.

3. I received my Bachelor's Degree from Cornell University. I received a Master's Degree and my Ph.D. in Economics from the University of Chicago; Gary S. Becker, Nobel Laureate 1992, was my Ph.D. thesis advisor. The University of Chicago is one of the world's preeminent institutions for the study of economics, and it is the home of renowned research in the law-and-economics movement.

4. As President of Smith Economics, I have performed economic analyses in a great variety of engagements, including damages analysis in personal injury and wrongful death cases, business valuation, financial analysis, antitrust, contract losses, a wide range of class action matters, employment discrimination, defamation, and intellectual property valuations including evaluations of reasonable royalty.

5. I have more than 40 years of experience in the field of economics. I am a member of various economic associations and served for three years as Vice President of the National Association of Forensic Economics (NAFE), which is the principal association in the field. I was also on the Board of Editors of the peer-reviewed journal, the Journal of Forensic Economics, for over a decade; I have also published scholarly articles in this journal. The JFE is the leading academic journal in the field of Forensic Economics.

6. I am the creator and founder of Ibbotson Associates' Stock, Bonds, Bills, and Inflation (SBBI)

Yearbook, Quarterly, Monthly, and SBBI/PC Services published by Morningstar, Inc. SBBI is widely relied upon and regarded as the most accepted and scholarly reference by the academic, actuarial and investment community, and in courts of law. This series, which acknowledges me as the Originator while a Principal and Managing Director at Ibbotson Associates, is generally regarded by academics in the field of finance as the most widely accepted source of statistics on the rates of return on investment securities. Originally published in book form, the SBBI historical series is now available at Morningstar on various Morningstar software platforms.

7. I wrote the first textbook on Forensic Economic Damages that has been used in university courses in various states; as an adjunct professor, I created and taught the first course in Forensic Economics nationwide, at DePaul University in Chicago. I have performed economic analysis in many thousands of cases in almost every state since the early 1980s.

8. My curriculum vitae is attached, listing all my publications in the last 10 years and beyond. My hourly rate in this case is \$615 per hour. The list of all cases in which I have testified in the last 4 years is also attached.

DOCUMENTS REVIEWED

9. In order to perform this evaluation, I have reviewed the following materials:

- a. The Class Action Complaint; and
- b. The Defendant National Credit Center, LLC's Fourth Supplemental Responses to Plaintiff's Interrogatories.

10. I have also obtained information for this opinion directly from Class Counsel, such as estimated class size and an explanation of the origin of certain documents and information.

11. I have executed the Acknowledgement and Agreement to be Bound attached as Exhibit A to the Stipulated Protective Order entered in the federal district court in this matter.

**FACTORS AND ANALYSIS IN DETERMINING THE
FAIRNESS AND REASONABLENESS OF THE SETTLEMENT**

12. I have been asked to assess the value of the injunctive relief included in the parties' proposed settlement.

13. This is a class action for damages, costs, and attorneys' fees brought against the Defendant National Credit Center LLC ("NCC") under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (the "FCRA" or the "Act").

14. NCC is a consumer reporting agency that assembles and sells consumer reports and other products, primarily to auto dealers, powersports dealers, and other lenders, which use the reports to make decisions regarding consumers, *i.e.*, prospective buyers and/or borrowers.

15. One product that NCC sells is an "OFAC Screen," which NCC describes as a product that "[s]creen[s consumers] against the Office of Foreign Assets Control list."¹ This is a reference to the United States Department of the Treasury, Office of Foreign Assets Control's list of Specially Designated Nationals and Blocked Persons (the "OFAC-SDN List" or "List"). I understand that dealers within the United States must screen potential purchasers against the OFAC-SDN List to assure compliance with the U.S. Patriot Act, and NCC's product is offered to assist dealers with such compliance. NCC's marketing materials claim that its OFAC Screen report can be provided to its customers "While [they are] Pulling [a consumer's] Credit."

16. I understand the injunctive relief in the parties' proposed settlement to be aimed at cementing changes to NCC's practices regarding OFAC Screens, including by providing for improved procedures to accuracy. I understand these procedures to include two changes to NCC's automated OFAC screening process: (i) the elimination of "partial name" matching, and (ii) in the event of a full-name match between a consumer and an entry on the OFAC SDN List, the additional requirement of another element match, which

¹ <https://www.nccdirect.com/verification-and-compliance/>

could be year-of-birth. I also understand these procedures to involve the addition of disclosure language explaining that a “potential match” response does not mean that the applicant is an individual on the OFAC-SDN List, and to refer the user to resources from the Treasury Department to “clear” the match. These changes are designed to more narrowly tailor the results, so as to limit the number of potential matches returned, benefitting the vast majority of applicants.

17. These practice changes represent substantial economic value to the members of the Settlement Class, including but not limited to the economic value of consumers’ time disputing their OFAC screen and experiencing a delay in the purchase of a vehicle.

18. I understand from counsel that during the period between May 5, 2020 and August 31, 2023, which is 1,214 days, NCC recorded a “hit” in response to customer OFAC screening requests as part of transactions related to approximately 398,792 unique consumers. This is equivalent to approximately 328 hits per day, or 119,900 hits per year. I have assumed that at least as many people in the future will benefit from the injunctive relief set forth in the proposed settlement.

19. Presumably, affected consumers may be required to spend time disputing the results of an OFAC screening, which includes time spent performing research. Given that the purchase of a vehicle is generally consummated on the spot, class members whose transactions were delayed during the time required to resolve these disputes would have had to set up a time to return to the auto dealership to finalize the transaction once the issue had been resolved. This would involve spending time commuting to the dealership a second time, and then completing the transaction, and then ultimately spending more time commuting home from the dealership. This additional round-trip commute, and all of the additional time associated with the dispute process, is time spent that they would not have had to endure had they not been flagged by the OFAC screening.

20. One value to this injunction is the value of the time that will be saved by the 119,900 individuals per year in the future, who are mentioned above, who would not have been afforded relief without

this injunction. The value of time that will be saved can be illustrated based on the average of the national hourly wages of \$23.84 for Bookkeeping, Accounting, and Auditing Clerks and \$21.87 for Secretaries and Administrative Assistants, resulting in an estimated hourly rate of \$22.86 in year 2023 dollars. This wage data is found in the U.S. Bureau of Labor Statistics, Occupational Employment Statistics, May 2023 Occupational Employment and Wage Statistics found at www.bls.gov/oes. Assuming that each of the 119,900 individuals per year would have saved approximately 2 to 3 hours of their time by not having to dispute information that would have appeared in the OFAC screening process, then the value of this injunction would be approximately \$45.72 to \$68.58 per person, and between \$5,481,828 and \$8,222,742 per year.

21. I have assumed that the amount of people in the future who will benefit from the injunctive relief is at least equal to the amount of people who were affected in the past. Assuming that 398,792 people will not be affected by the same problems in the future, then the value of the injunctive relief alone is at least \$18,232,770.24.

22. Because of the terms of the settlement, there are some number of millions of people in the future, not members of the plaintiff class, who will not be affected by the same problems that initiated the lawsuits. All of those unknown persons will enjoy the benefit of that part of the settlement that resulted in the change to the way the NCC conducts its business.

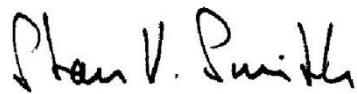
23. The above amount is the minimum value of the injunctive relief, as there is also the value of the humiliation and embarrassment, as well as the time between the OFAC screen and the eventual sale of the vehicle where the consumer is left without a vehicle. During this period, the consumer would likely suffer out-of-pocket expenses, including the cost of public transportation or taxis/rideshares, as well as additional time spent commuting that would have otherwise been reduced had they had their own vehicle.

24. Although the full monetary value of the injunctive relief here is difficult to precisely quantify without substantially more research, it is clear that the value of the injunctive relief in the settlement is in

the tens of millions of dollars.

25. My opinions as to the economic value of the settlement to the class members are to a reasonable degree of economic and professional certainty. In reaching these opinions, I have used my education, training, and experience, together with the information I have been provided.

26. It is my opinion, based upon the foregoing, that the terms of the settlement in this cases result in substantial benefit to the members of the class, both in economic and less quantifiable ways. I urge its approval.

A handwritten signature in black ink, appearing to read "Stan V. Smith". The signature is written in a cursive, slightly slanted style.

Stan V. Smith, Ph.D.

Executed this 13th day of June, 2024 in Chicago, IL

EXHIBIT 4



1818 Market Street | Suite 3600 | Philadelphia, PA 19103

info@bm.net

bergermontague.com

800-424-6690

About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal* selected Berger Montague in 12 out of 14 years (2003-2005, 2007-2013, 2015-2016) for its "Hot List" of top plaintiffs-oriented litigation firms in the United States. The select group of law firms recognized each year had done "exemplary, cutting-edge work on the plaintiffs' side." The *National Law Journal* ended its "Hot List" award in 2017 and replaced it with "Elite Trial Lawyers," which Berger Montague has won from 2018-2021. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2021 "Best Law Firm" by *U.S. News - Best Lawyers*.

Currently, the firm consists of over 90 lawyers; 19 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm's complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of

the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead class counsel and lead trial counsel in the *Cook v. Rockwell International Corporation* litigation arising out of a serious incident at the Rocky Flats nuclear weapons facility in Colorado.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

Commitment to *Pro Bono*

Berger Montague attorneys commit their most valuable resource, their time, to charities, nonprofit organizations, and *pro bono* legal work. For over 50 years, Berger Montague has encouraged its attorneys to support charitable causes and volunteer in the community. Our lawyers understand that participating in *pro bono* representation is an essential component of their professional and ethical responsibilities.

Berger Montague is strongly committed to numerous charitable causes. Over his lengthy career, David Berger, the firm's founding partner, was prominent in a great many philanthropic and charitable enterprises, including serving as Honorary Chairman of the American Heart Association; a Trustee of the American Cancer Society; and a member of the Board of Directors of the American Red Cross. This tradition continues to the present.

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

In prior years, Berger Montague received the Chancellor's Award presented by the Philadelphia Volunteers for the Indigent Program ("VIP"), which provides crucial legal services to more than 1,000 low-income Philadelphia residents each year. VIP relies on volunteer attorneys to provide *pro bono* representation for families and individuals. In 2009 and 2010, Berger Montague also received an award for our volunteer work with the VIP Mortgage Foreclosure Program.

Today, Berger Montague attorneys engage in *pro bono* work for many organizations, including:

- Public Interest Law Center of Philadelphia ("PILCOP")

- Community Legal Services of Philadelphia (“CLS”)
- Philadelphia Legal Assistance
- Education Law Center
- Legal Clinic for the Disabled
- Support Center for Child Advocates
- Veterans Pro Bono Consortium
- AIDS Law Project of Philadelphia
- Center for Literacy
- National Liberty Museum
- Philadelphia Volunteers for the Indigent Program
- Philadelphia Mortgage Foreclosure Program

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

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

The firm also has held numerous clothing drives, toy drives, food drives, and blood drives. Through these efforts, Berger Montague professional and support staff have donated thousands of items of clothing, toys, and food to local charities including the Salvation Army, Toys for Tots, and Philabundance, a local food bank. Blood donations are made to the American Red Cross. Berger Montague attorneys also volunteer on an annual basis at MANNA, which prepares and delivers nourishing meals to those suffering with serious illnesses.

Practice Areas and Case Profiles

Antitrust

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 50 years, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (settlement of approximately \$5.6 billion), *In re Namenda Direct Purchaser Antitrust Litigation* (recovery of \$750 million), *In re Loestrin 24 Fe Antitrust Litigation* (recovery of \$120 million), and *In re Domestic Drywall Antitrust Litigation* (settlements totaling \$190.7 million).

Once again, Berger Montague has been selected by *Chambers and Partners* for its 2021 *Chambers USA* Guide as one of Pennsylvania’s top antitrust firms. *Chambers USA 2021* states that Berger Montague’s antitrust practice group is “a preeminent force in the Pennsylvania antitrust market, offering expert counsel to clients from a broad range of industries.”

The Legal 500, a guide to worldwide legal services providers, ranked Berger Montague as a Top Tier Law Firm for Antitrust: Civil Litigation/Class Actions: Plaintiff in the United States in its 2021

guide and states that Berger Montague's antitrust department "has a flair for handling high-stakes plaintiff-side cases, regularly winning high-value settlements for clients following antitrust law violations."

- ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:*** Berger Montague served as co-lead counsel for a national class including millions of merchants in the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* against Visa, MasterCard, and several of the largest banks in the U.S. (e.g., Chase, Bank of America, and Citi). The lawsuit alleged that merchants paid excessive fees to accept Visa and MasterCard cards because the payment cards, individually and together with their respective member banks, violated the antitrust laws. The challenged conduct included, *inter alia*, the collective fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees. The lawsuit further alleged that defendants maintained their conspiracy even after both Visa and MasterCard changed their corporate forms from joint ventures owned by member banks to publicly-owned corporations following commencement of this litigation. On September 18, 2018, after thirteen years of hard-fought litigation, Visa and MasterCard agreed to pay as much as approximately \$6.26 billion, but no less than approximately \$5.56 billion, to settle the case. This result is the largest-ever class action settlement of an antitrust case. The settlement received preliminary approval on January 24, 2019. The settlement received final approval on December 16, 2019, for approximately \$5.6 billion.
- ***Contant, et al. v. Bank of America Corp., et al.:*** Berger Montague served as lead class counsel in the multistate indirect purchaser antitrust class action *Contant, et al. v. Bank of America Corp., et al.*, against 16 of the world's largest dealer banks. Plaintiffs alleged that the defendants colluded to manipulate prices on foreign currency ("FX") instruments, using a number of methods to carry out their conspiracies, including sharing confidential price and order information through electronic chat rooms, thereby enabling the defendants to coordinate pricing and eliminate price competition. As with prior bank rigging scandals involving conspiracies to manipulate prices on other financial instruments, the defendants' alleged conspiracy to manipulate FX prices was the subject of numerous governmental investigations as well as direct purchaser class actions brought under antitrust federal law. However, the *Contant* action was the first of such cases to bring claims under state indirect purchaser antitrust laws on behalf of state-wide classes of retail investors of those financial instruments and whose claims have never been redressed. On July 29, 2019, U.S. District Judge Lorna G. Schofield granted preliminary approval of a \$10 million settlement with Citigroup and a \$985,000 settlement with MUFG Bank Ltd. On July 17, 2020, the Court granted preliminary approval of three settlements with all remaining defendants for a combined \$12.695 million. Each of the five settlements, totaling \$23.63 million, received final approval on November 19, 2020.
- ***In re Dental Supplies Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of dental practices and dental laboratories in *In re Dental Supplies Antitrust Litigation*, a suit brought against Henry Schein, Inc., Patterson Companies, Inc., and

Benco Dental Supply Company, the three largest distributors of dental supplies in the United States. On September 7, 2018, co-lead counsel announced that they agreed with defendants to settle on a classwide basis for \$80 million. The settlement received final approval on June 24, 2019. The suit alleged that the defendants, who collectively control close to 90 percent of the dental supplies and equipment distribution market, conspired to restrain trade and fix prices at anticompetitive levels, in violation of the Sherman Act. In furtherance of the alleged conspiracy, plaintiffs claimed that the defendants colluded to boycott and pressure dental manufacturers, dental distributors, and state dental associations that did business with or considered doing business with the defendants' lower-priced rivals. The suit claimed that, because of the defendants' anticompetitive conduct, members of the class were overcharged on dental supplies and equipment. In the 2019 Fairness Hearing, Judge Brian M. Cogan of the U.S. District Court for the Eastern District of New York said: "This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

- ***In re Domestic Drywall Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the U.S. and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." Berger Montague represented a class of direct purchasers of drywall from defendants for the period from January 1, 2012 to January 31, 2013. USG Corporation and United States Gypsum Company (collectively, "USG"), New NGC, Inc., Lafarge North America Inc., Eagle Materials, Inc., American Gypsum Company LLC, TIN Inc. d/b/a Temple-Inland Inc., and PABCO Building Products, LLC were named as defendants in this action. On August 20, 2015, the district court granted final approval of two settlements—one with USG and the other with TIN Inc.—totaling \$44.5 million. On December 8, 2016, the district court granted final approval of a \$21.2 million settlement with Lafarge North America, Inc. On February 18, 2016, the district court denied the motions for summary judgment filed by American Gypsum Company, New NGC, Inc., Lafarge North America, Inc., and PABCO Building Products. On August 23, 2017, the district court granted direct purchaser plaintiffs' motion for class certification. On January 29, 2018, the district court granted preliminary approval of a joint settlement with the remaining defendants, New NGC, Inc., Eagle Materials, Inc., American Gypsum Company LLC, and PABCO Building Products, LLC, for \$125 million. The settlement received final approval on July 17, 2018, bringing the total amount of settlements for the class to \$190.7 million.
- ***In re Currency Conversion Fee Antitrust Litigation:*** Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the

settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. A subsequent settlement with American Express increased the settlement amount to \$386 million. (MDL No. 1409 (S.D.N.Y)).

- ***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.***: Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long-haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."
- ***Ross, et al. v. Bank of America (USA) N.A., et al.***: Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. In June 2009, the National Arbitration Forum (or "NAF") was added as a defendant. Berger Montague also reached a settlement with NAF. Under that agreement, NAF ceased administering arbitration proceedings involving business cards for a period of three and one-half (3.5) years, which relief is in addition to the requirements of a Consent Judgment with the State of Minnesota, entered into by the NAF on July 24, 2009.
- ***Johnson, et al. v. AzHHA, et al.***: Berger Montague was co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved \$24 million in settlements on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over \$2 billion in settlements in such cases over the past decade, including:

- ***In re: Namenda Direct Purchaser Antitrust Litigation:*** Berger Montague is co-lead counsel for the class in this antitrust action brought on behalf of a class of direct purchasers of branded and/or generic Namenda IR and/or branded Namenda XR. It settled for \$750 million on the very eve of trial. The \$750 million settlement received final approval on May 27, 2020, and is the largest single-defendant settlement ever for a case alleging delayed generic competition. (Case No. 15-cv-7488 (S.D.N.Y.)).
- ***King Drug Co. v. Cephalon, Inc.:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of the prescription drug Provigil (modafinil). After nine years of hard-fought litigation, the court approved a \$512 million partial settlement, then the largest settlement ever for a case alleging delayed generic competition. (Case No. 2:06-cv-01797 (E.D. Pa.)). Subsequent non-class settlements pushed the total settlement figure even higher.
- ***In re Aggrenox Antitrust Litigation:*** Berger Montague represented a class of direct purchasers of Aggrenox in an action alleging that defendants delayed the availability of less expensive generic Aggrenox through, *inter alia*, unlawful reverse payment agreements. The case settled for \$146 million. (Case No. 14-02516 (D. Conn.)).
- ***In re Asacol Antitrust Litigation:*** The firm served as class counsel for direct purchasers of Asacol HS and Delzicol in a case alleging that defendants participated in a scheme to block generic competition for the ulcerative colitis drug Asacol. The case settled for \$15 million. (Case No. 15-cv-12730-DJC (D. Mass.)).
- ***In re Celebrex (Celecoxib) Antitrust Litigation:*** The firm represented a class of direct purchasers of brand and generic Celebrex (celecoxib) in an action alleging that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case settled for \$94 million. (Case No. 14-cv-00361 (E.D. VA.)).
- ***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).
- ***In re K-Dur Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class in this long-running antitrust litigation. Berger Montague litigated the case before the

Court of Appeals and won a precedent-setting victory and continued the fight before the Supreme Court. On remand, the case settled for \$60.2 million. (Case No. 01-1652 (D.N.J.)).

- ***In re Loestrin 24 Fe Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class of direct purchasers of brand Loestrin, generic Loestrin, and/or brand Minastrin. The direct purchaser class alleged that defendants violated federal antitrust laws by unlawfully impairing the introduction of generic versions of the prescription drug Loestrin 24 Fe. The case settled shortly before trial for \$120 million (Case No. 13-md-2472) (D.R.I.).
- ***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).
- ***Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.:*** Berger Montague served as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case settled for \$15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).
- ***In re Oxycontin Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for \$16 million. (Case No. 1:04-md-01603 (S.D.N.Y.)).
- ***In re Prandin Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel and recovered \$19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10-cv-12141 (E.D. Mich.)).
- ***Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.:*** Berger Montague served as co-lead counsel on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for \$17.25 million. (Case No. 07-142 (D. Del.)).
- ***In re Skelaxin Antitrust Litigation:*** Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for \$73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).
- ***In re Solodyn Antitrust Litigation:*** Berger Montague served as co-lead counsel representing a class of direct purchasers of brand and generic Solodyn (extended-release

minocycline hydrochloride tablets) alleging that defendants entered into agreements not to compete in the market for extended-release minocycline hydrochloride tablets in violation of the Sherman Act. With a final settlement on the eve of trial, the case settled for a total of more than \$76 million. (Case No. 14-MD-2503-DJC (D. Mass.)).

- ***In re Tricor Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).
- ***In re Wellbutrin XL Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of \$37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. (Case No. 08-cv-2431 (E.D. Pa.)).

Commercial Litigation

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- ***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.:*** Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).
- ***Forbes v. GMH:*** Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

Commodities & Financial Instruments

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

- ***In re Peregrine Financial Group Customer Litigation:*** Berger Montague served as co-lead counsel in a class action which helped deliver settlements worth more than \$75 million on behalf of former customers of Peregrine Financial Group, Inc., in litigation against U.S. Bank, N.A., and JPMorgan Chase Bank, N.A., arising from Peregrine's

collapse in July 2012. The lawsuit alleges that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use. (No. 1:12-cv-5546)

- ***In re MF Global Holdings Ltd. Investment Litigation:*** Berger Montague is one of two co-lead counsel that represented thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the former major global commodities brokerage firm MF Global. Berger Montague reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that collectively helped to return approximately \$1.6 billion to the class. Ultimately, class members received more than 100% of the funds allegedly misappropriated by MF Global even after all fees and expenses. (No. 11-cv-07866 (S.D.N.Y.)).
- ***In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation:*** Berger Montague is one of two co-lead counsel representing traders of traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).
- ***In re Libor-Based Financial Instruments Antitrust Litigation:*** Berger Montague represents exchange-based investors in this sprawling litigation alleging a conspiracy among many of the world's largest banks to manipulate the key LIBOR benchmark rate. LIBOR plays an important role in valuing trillions of dollars of financial instruments worldwide. The case, filed in 2011, alleges that the banks colluded to misreport and manipulate LIBOR rates for their own benefit. The banks' conduct damaged, among others, exchange-based investors who transacted in Eurodollar futures and options on the CME between 2005 and 2010. Eurodollar futures and options are keyed to LIBOR and are the world's most heavily traded short-term interest rate contracts. Following years of hotly contested litigation on behalf of these exchange-based investors, Berger Montague and its co-counsel achieved settlements with seven banks totaling more than \$180 million. In September 2019, the Court granted preliminary approval of a plan of distribution for these settlement funds. A final approval hearing on the settlement is scheduled in September 2020. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

Consumer Protection

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

- ***In re: CertainTeed Fiber Cement Siding Litigation:*** The firm, as one of two Co-Lead Counsel firms obtained a settlement of more than \$103 million in this multidistrict products liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class. (MDL No. 2270 (E.D. Pa.)).
- ***Countrywide Predatory Lending Enforcement Action:*** Berger Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.
- ***In re Experian Data Breach Litigation:*** Berger Montague served on the Executive Committee of this class action lawsuit that arose from a 2015 data breach at Experian in which computer hackers stole personal information including Social Security numbers and other sensitive personal information for approximately 15 million consumers. The settlement is valued at over \$170 million. It consisted of \$22 million for a non-reversionary cash Settlement Fund; \$11.7 million for Experian's remedial measures implemented in connection with the lawsuit; and two years of free credit monitoring and identity theft insurance. The aggregate value of credit monitoring claimed by class members during the claims submission process exceeded \$138 million, based on a \$19.99 per month retail value of the service.
- ***In re Pet Foods Product Liability Litigation:*** The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for \$24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).
- ***In re TJX Companies Retail Security Breach Litigation:*** The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).
- ***In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a

settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. (No. 4:09-MD-2046 (S.D. Tex. 2009)).

- ***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).
- ***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation:*** The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).
- ***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

Corporate Governance and Shareholder Rights

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

- ***Emil Rossdeutscher and Dennis Kelly v. Viacom:*** The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).
- ***Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.:*** The firm, as lead counsel, obtained a settlement resulting in a fund of \$8.25 million for the class.

Credit Reporting and Background Checks

Berger Montague's credit reporting and background checks practice group litigates on behalf of consumers nationwide to protect them against violations of their rights under the Fair Credit Reporting Act ("FCRA") and other laws that govern credit reports and background checks. In particular, Berger Montague has developed an expertise in recent years representing consumers

who have been inaccurately reported as matches to the Office of Foreign Assets Control Specially Designated Nationals List (the “OFAC List”). In OFAC cases and others, our FCRA attorneys have successfully represented hundreds of thousands of consumers across the country and have obtained relief valued in the billions of dollars for our clients.

- ***In re Public Records Fair Credit Reporting Act Litigation:*** Berger Montague served as class counsel in three separate FCRA class action lawsuits involving how the big three credit bureaus—Experian, TransUnion, and Equifax—reported public records, including tax liens and civil judgments. The settlements provided groundbreaking injunctive relief valued at over \$1 billion, as well as a streamlined process for consumers to receive *uncapped* monetary payments for claims related to inaccurate reporting of public records.

Stewart v. Lexis-Nexis: Berger Montague served as class counsel in this FCRA class action lawsuit involving how Lexis-Nexis retrieved and reported judgment, lien, landlord-tenant and motor vehicle records. The settlement provided a cash settlement fund of \$21.5 million, as well as substantial injunctive relief that impacted how Lexis-Nexis collects and sells public records information on an ongoing basis. The injunctive relief impacted well over 20 million individuals.

- ***Fernandez v. RentGrow, Inc.:*** Berger Montague currently serves as class counsel in this case, alleging that defendant violated the FCRA by reporting consumers as possible matches to the OFAC List based on a loose, name-only algorithm. In 2022, the court certified a nationwide class of roughly 71,000 impacted consumers, a decision which defendant is currently appealing and which Berger Montague is advocating to uphold.
- ***Hill-Green v. Experian:*** Berger Montague served as class counsel in this FCRA class action lawsuit involving how Experian reported so-called “fraud indicators” based on a comparison on addresses associated with a given consumer. The settlement provided a cash settlement fund of \$22.45 million, as well as substantial injunctive relief that impacted how Experian collects and sells products related to fraud on an ongoing basis.
- ***Rodriguez v. National Credit Center, LLC:*** Berger Montague currently represents a class of consumers who allege that they were inaccurately identified as being on the OFAC List during the course of a credit transaction. The parties have reached an agreement in principle to resolve this matter on a class-wide basis, the terms of which are presently confidential, but which the parties anticipate filing shortly.
- ***Saylor v. Realpage:*** Berger Montague represented a class of consumers who alleged that they were inaccurately identified as sex offenders to prospective landlords. The case ultimately settled for \$9.73 million, plus injunctive relief addressing the company’s procedures.
- ***In re: TransUnion Rental Screening Sols., Inc. FCRA Litig.:*** Berger Montague served as lead class counsel in this multi-district litigation consolidated class action, alleging

violations of Section 1681e(b) of the FCRA. When the case finally settled, defendant agreed to significant practice changes to improve its criminal record and landlord-tenant record reporting, and to establish a \$11.5 million settlement fund.

- ***Gambles v. Sterling Infosystems, Inc.***: Berger Montague served as class counsel in this class action alleging that defendant reported as “high risk” addresses that were older than seven years from the date of the consumer’s report, thereby violating Section 1681c of the FCRA. The firm obtained a \$15 million settlement on behalf of more than 200,000 consumers nationwide.
- ***Hillson v. Kelly Services, Inc.***: In this class action, Berger Montague represented three job applicants who alleged that defendant violated 15 U.S.C. § 1681b(b)(2) by failing to provide to them a stand-alone disclosure that defendant might obtain consumer reports to assess their employability. Berger Montague successfully settled the case, achieving a \$6,749,000 settlement for hundreds of thousands of individuals.
- ***Taylor v. Inflection Risk Solutions, LLC***: Here, Berger Montague litigated class action claims alleging that defendant violated 15 U.S.C. § 1681e(b) by inaccurately reporting criminal records on background checks. The firm secured a \$4 million settlement on behalf of consumers nationwide, as well as injunctive relief to improve defendant’s procedures.

Employee Benefits & ERISA

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

- ***Diebold v. Northern Trust Investments, N.A.***: As co-lead counsel in this ERISA breach of fiduciary duty case, the firm secured a \$36 million settlement on behalf of participants in retirement plans who participated in Northern Trust’s securities lending program. Plaintiffs alleged that defendants breached their ERISA fiduciary duties by failing to manage properly two collateral pools that held cash collateral received from the securities lending program. The settlement represented a recovery of more than 25% of alleged class member losses. (No. 1:09-cv-01934 (N.D. Ill.)).
- ***Glass Dimensions, Inc. v. State Street Bank & Trust Co.***: The firm served as co-lead counsel in this ERISA case that alleged that defendants breached their fiduciary duties to the retirement plans it managed by taking unreasonable compensation for managing the securities lending program in which the plans participated. After the court certified a class of the plans that participated in the securities lending program at issue, the case settled for \$10 million on behalf of 1,500 retirement plans that invested in defendants’ collective investment funds. (No. 1:10-cv-10588-DPW (D. Mass)).

- ***In re Eastman Kodak ERISA Litigation:*** The firm served as class counsel in this ERISA breach of fiduciary duty class action which alleged that defendants breached their fiduciary duties to Kodak retirement plan participants by allowing plan investments in Kodak common stock. The case settled for \$9.7 million. (Master File No. 6:12-cv-06051-DGL (W.D.N.Y.)).
- ***Lequita Dennard v. Transamerica Corp. et al.:*** The firm served as counsel to plan participants who alleged that they suffered losses when plan fiduciaries failed to act solely in participants' interests, as ERISA requires, when they selected, removed and monitored plan investment options. The case settled for structural changes to the plan and \$3.8 million monetary payment to the class. (Civil Action No. 1:15-cv-00030-EJM (N.D. Iowa)).

Employment & Unpaid Wages

The Berger Montague Employment & Unpaid Wages Department works tirelessly to safeguard the rights of employees and devotes all of their energies to helping the firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

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

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

Representative cases include the following:

- ***Fenley v. Wood Group Mustang, Inc:*** The firm served as lead counsel and obtained a settlement of \$6.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-326 (S.D. Ohio)).
- ***Sanders v. The CJS Solutions Group, LLC:*** The firm served as co-lead counsel and obtained a settlement of \$3.24 million on behalf of a class of IT healthcare consultants who allegedly did not receive overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 17-3809 (S.D.N.Y.)).

- ***Gundrum v. Cleveland Integrity Services, Inc.***: The firm served as lead counsel and obtained a settlement of \$4.5 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 4:17-cv-55 (N.D. Okl.)).
- ***Fenley v. Applied Consultants, Inc.***: The firm served as lead counsel and obtained a settlement of \$9.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-259 (W.D. Pa.)).
- ***Acevedo v. Brightview Landscapes, LLC***: The firm served as co-lead counsel and obtained a settlement of \$6.95 million on behalf of a class of landscaping crew members who allegedly did not receive proper overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 3:13-cv-02529 (M.D. Pa.)).
- ***Jantz v. Social Security Administration***: The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities (“TDEs”) alleged that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million. (EEOC No. 531-2006-00276X (2015)).
- ***Ciamillo v. Baker Hughes, Incorporated***: The firm served as lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who allegedly did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).
- ***Salcido v. Cargill Meat Solutions Corp.***: The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).
- ***Chabrier v. Wilmington Finance, Inc.***: The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant’s motion to decertify the class). (No. 06-4176 (E.D. Pa.)).

- ***Bonnette v. Rochester Gas & Electric Co.***: The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016, Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by *The National Law Journal*.

- ***Cook v. Rockwell International Corporation***: In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their “long and hard-fought” victory against “formidable corporate and government defendants.” (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.
- ***In re Exxon Valdez Oil Spill Litigation***: On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs’ discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 “Trial Lawyer of the Year Award” given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).
- ***Drayton v. Pilgrim’s Pride Corp.***: The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in

the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).

- ***In re Three Mile Island Litigation:*** As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

Insurance Fraud

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

- ***Spencer v. Hartford Financial Services Group, Inc.:*** The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer v. Hartford Financial Services Group, Inc.*, Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.
- ***Nationwide Mutual Insurance Company v. O'Dell:*** The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices

Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

Predatory Lending and Borrowers' Rights

Berger Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger Montague has successfully obtained multi-million-dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

- ***Coonan v. Citibank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Citibank and its affiliates in the United States District Court for the Northern District of New York concerning alleged kickbacks Citibank received in connection with its force-placed insurance programs. The firm obtained a settlement of \$122 million on behalf of a class of hundreds of thousands of borrowers.
- ***Arnett v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the District of Oregon concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$31 million on behalf of a class of hundreds of thousands of borrowers.
- ***Clements v. JPMorgan Chase Bank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against JPMorgan Chase and its affiliates in the United States District Court for the Northern District of California concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$22,125,000 on behalf of a class of thousands of borrowers.
- ***Holmes v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the Western District of North Carolina concerning alleged kickbacks received in connection with its force-placed wind insurance program. The firm obtained a settlement of \$5.05 million on behalf of a class of thousands of borrowers.

Securities & Investor Protection

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger Montague has served as lead or co-lead counsel in

numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

- ***In re Merrill Lynch Securities Litigation:*** Berger Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).
- ***In re: Oppenheimer Rochester Funds Group Securities Litigation:*** The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).
- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).
- ***In re NetBank, Inc. Securities Litigation:*** The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5 million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).
- ***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.:*** The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).
- ***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).
- ***Qwest Securities Action:*** The firm represented New Jersey in an opt-out case against Qwest and certain officers, which was settled for \$45 million. (C.A. No. L-3838-02 (Superior Court New Jersey, Law Division)).

Whistleblower, Qui Tam, and False Claims Act

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$3 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than \$500 million in rewards. Berger Montague's time-tested approach in whistleblower/*qui tam* representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

Judicial Praise for Berger Montague Attorneys

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

Antitrust Cases

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

“Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of

professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Securities & Investor Protection Cases

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

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

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

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

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

* * *

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

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

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

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

* * *

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

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

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

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

* * *

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

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

Consumer Protection Cases

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

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

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

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

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

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

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

“You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys’ fees. And I congratulate you on your excellent work.”

Civil/Human Rights Cases

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

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

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

Insurance Litigation

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

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

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

Customer/Broker Arbitrations

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

“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone

involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

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

Employment & Unpaid Wages Cases

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

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

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

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

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

* * *

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

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

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

[P]laintiffs’ counsel succeeded in vindicating important rights. ... The court is familiar with “donning and doffing” cases and based on the court’s experience,

defendant meat packing companies' litigation conduct generally reflects "what can only be described as a deeply-entrenched resistance to changing their compensation practices to comply with the requirements of FLSA." (citation omitted). Plaintiffs' counsel perform a recognized public service in prosecuting these actions as a 'private Attorney General' to protect the rights of underrepresented workers.

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

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

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

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

and

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

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

Other Cases

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

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

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

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

Our Founding Partner and Attorneys

Founding Partner

David Berger – 1912-2007

David Berger was the founder and the Chairman of Berger Montague. He received his A.B. *cum laude* in 1932 and his LL.B. *cum laude* in 1936, both from the University of Pennsylvania. He was a member of The Order of the Coif and was an editor of the *University of Pennsylvania Law Review*. He had a distinguished scholastic career including being Assistant to Professor Francis H. Bohlen and Dr. William Draper Lewis, Director of the American Law Institute, participating in the drafting of the first Restatement of Torts. He also served as a Special Assistant Dean of the University of Pennsylvania Law School. He was a member of the Board of Overseers of the Law School and Associate Trustee of the University of Pennsylvania. In honor of his many contributions, the Law School established the David Berger Chair of Law for the Improvement of the Administration of Justice.

David Berger was a law clerk for the Pennsylvania Supreme Court. He served as a deputy assistant to Director of Enemy Alien Identification Program of the United States Justice Department during World War II.

Thereafter he was appointed Lt.j.g. in the U.S. Naval Reserve and he served in the South Pacific aboard three aircraft carriers during World War II. He was a survivor of the sinking of the U.S.S. Hornet in the Battle of Santa Cruz, October 26, 1942. After the sinking of the Hornet, Admiral Halsey appointed him a member of his personal staff when the Admiral became Commander of the South Pacific. Mr. Berger was ultimately promoted to Commander. He was awarded the Silver Star and Presidential Unit Citation.

After World War II, he was a law clerk in the United States Court of Appeals. The United States Supreme Court appointed David Berger a member of the committee to draft the Federal Rules of Evidence, the basic evidentiary rules employed in federal courts throughout the United States. David Berger was a fellow of the American College of Trial Lawyers, the International Society of Barristers, and the International Academy of Trial Lawyers, of which he was a former Dean. He was a Life Member of the Judicial Conference of the Third Circuit and the American Law Institute.

A former Chancellor (President) of the Philadelphia Bar Association, he served on numerous committees of the American Bar Association and was a lecturer and author on various legal subjects, particularly in the areas of antitrust, securities litigation, and evidence.

David Berger served as a member of President John F. Kennedy's committee which designed high speed rail lines between Washington and Boston. He drafted and activated legislation in the Congress of the United States which resulted in the use of federal funds to assure the continuance of freight and passenger lines throughout the United States. When the merger of the Pennsylvania Railroad and the New York Central Railroad, which created the Penn Central Transportation Company, crashed into Chapter 11, David Berger was counsel for Penn Central and a proponent of its reorganization. Through this work, Mr. Berger ensured the survival of the major railroads in the Northeastern section of the United States including Penn Central, New Jersey Central, and others.

Mr. Berger's private practice included clients in London, Paris, Dusseldorf, as well as in Philadelphia, Washington, New York City, Florida, and other parts of the United States. David Berger instituted the first class action in the antitrust field, and for over 30 years he and the Berger firm were lead counsel and/or co-lead counsel in countless class actions brought to successful conclusions, including antitrust, securities, toxic tort and other cases. He served as one of the chief counsel in the litigation surrounding the demise of Drexel Burnham Lambert, in which over \$2.6 billion was recovered for various violations of the securities laws during the 1980s. The recoveries benefitted such federal entities as the FDIC and RTC, as well as thousands of victimized investors.

In addition, Mr. Berger was principal counsel in a case regarding the Three Mile Island accident near Harrisburg, Pennsylvania, achieving the first legal recovery of millions of dollars for economic harm caused by the nation's most serious nuclear accident. As part of the award in the case, David Berger established a committee of internationally renowned scientists to determine the effects on human beings of emissions of low-level radiation.

In addition, as lead counsel in *In re Asbestos School Litigation*, he brought about settlement of this long and vigorously fought action spanning over 13 years for an amount in excess of \$200 million.

David Berger was active in Democratic politics. President Clinton appointed David Berger a member of the United States Holocaust Memorial Council, in which capacity he served from 1994-2004. In addition to his having served for seven years as the chief legal officer of Philadelphia, he was a candidate for District Attorney of Philadelphia, and was a Carter delegate in the Convention which nominated President Carter.

Over his lengthy career David Berger was prominent in a great many philanthropic and charitable enterprises some of which are as follows: He was the Chairman of the David Berger Foundation and a long time honorary member of the National Commission of the Anti-Defamation League. He was on the Board of the Jewish Federation of Philadelphia and, at his last place of residence,

Palm Beach, as Honorary Chairman of the American Heart Association, Trustee of the American Cancer Society, a member of the Board of Directors of the American Red Cross, and active in the Jewish Federation of Palm Beach County.

David Berger's principal hobby was tennis, a sport in which he competed for over 60 years. He was a member of the Board of Directors of the International Tennis Hall of Fame and other related organizations for assisting young people in tennis on a world-wide basis.

Firm Chair

Eric L. Cramer – Chairman

Eric L. Cramer is Chairman of Berger Montague and Co-Chair of its antitrust department. He has a national practice in the field of complex litigation, primarily in the area of antitrust class actions. He is currently co-lead counsel in multiple significant antitrust class actions across the country in a variety of industries and is responsible for winning numerous significant settlements for his clients totaling well over \$3 billion. Most recently, he has focused on representing workers claiming that anticompetitive practices have suppressed their pay, including cases on behalf of mixed-martial-arts fighters, healthcare and luxury retail workers, and chicken growers. Further, in late 2021, Mr. Cramer served as one of the main trial counsel in an antitrust class action relating to an alleged international cartel of capacitors' suppliers, which was tried to a jury and settled after nearly three weeks of trial.

In 2020, Law360 named Mr. Cramer a Titan of the Plaintiffs Bar, and Who's Who Legal identified him as a Global Elite Thought Leader, stating that he "comes recommended by peers as a top name for antitrust class action proceedings." In 2019, The National Law Journal awarded Mr. Cramer the Keith Givens Visionary Award, which was developed to honor an outstanding trial lawyer who has moved the industry forward through his or her work within the legal industry ecosystem, demonstrating excellence in all aspects of work from client advocacy to peer education and mentoring. In 2018, he was named Philadelphia antitrust "Lawyer of the Year" by Best Lawyers, and in 2017, he won the American Antitrust Institute's Antitrust Enforcement Award for Outstanding Antitrust Litigation Achievement in Private Law Practice for his work in *Castro v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.). In that case, Mr. Cramer represented a national class of physicians challenging Sanofi Pasteur with anticompetitive conduct in the market for meningitis vaccines, resulting in a settlement of more than \$60 million for the class. He has also been identified as a top tier antitrust lawyer by Chambers & Partners in Pennsylvania and nationally. In 2020, Chambers & Partners observed that Mr. Cramer is "a fantastic lawyer...He has real trial experience and is very capable and super smart." He has been highlighted annually since 2011 by The Legal 500 as one of the country's top lawyers in the field of complex antitrust litigation and repeatedly deemed one of the "Best Lawyers in America," including for 2021.

Mr. Cramer is also a frequent speaker at antitrust and litigation related conferences and a leader of multiple non-profit advocacy groups. He is a past President of the Board of Directors of Public Justice, a national public interest advocacy group and law firm; a former Vice President of the Board of Directors of the American Antitrust Institute; a past President of COSAL (Committee to Support the Antitrust Laws), a leading industry group; and a member of the Advisory Board of the Institute of Consumer Antitrust Studies of the Loyola University Chicago School of Law.

He has written widely in the fields of class certification and antitrust law. Among other writings, Mr. Cramer has co-authored *Antitrust as Antiracism: Antitrust as a Partial Cure for Systemic Racism (and Other Systemic "Isms")*, Vol. 66(3) The Antitrust Bulletin 359-393 (2021) and *Antitrust, Class Certification, and the Politics of Procedure*, 17 George Mason Law Review 4 (2010), the latter of which was cited by both the First Circuit in *In re Nexium Antitrust Litig.*, 777 F.3d 9, 27 (1st Cir. 2015), and the Third Circuit in *Behrend v. Comcast Corp.*, 655 F.3d 182, 200, n.10 (3d Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1426 (2013). He has also co-written a number of other pieces, including: *Of Vulnerable Monopolists?: Questionable Innovation in the Standard for Class Certification in Antitrust Cases*, 41 Rutgers Law Journal 355 (2009-2010); *A Questionable New Standard for Class Certification in Antitrust Cases*, published in the ABA's Antitrust Magazine, Vol. 26, No. 1 (Fall 2011); a Chapter of American Antitrust Institute's Private International Enforcement Handbook (2010), entitled "Who May Pursue a Private Claim?," and a chapter of the American Bar Association's Pharmaceutical Industry Handbook (July 2009), entitled "Assessing Market Power in the Prescription Pharmaceutical Industry."

Mr. Cramer is a *summa cum laude* graduate of Princeton University (1989), where he earned membership in Phi Beta Kappa. He graduated *cum laude* from Harvard Law School with a J.D. in 1993.

Executive Shareholders

Sherrie R. Savett – Executive Shareholder, Chair *Emeritus*

Sherrie R. Savett, Chair *Emeritus* of the Firm, Co-Chair of the Securities Litigation Department and *Qui Tam*/False Claims Act Department, and member of the Firm's Management Committee, has practiced in the areas of securities litigation, class actions, and commercial litigation since 1975.

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

- ***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.));
- ***In re CIGNA Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.));
- ***In re Fleming Companies, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.));
- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.));
- ***Medaphis/Deloitte & Touche*** (class settlement of \$96.5 million) (No. 1:96-CV-2088-FMH (N.D. GA));

- ***In re Rite Aid Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349) (E.D. Pa.);
- ***In re Sotheby's Holding, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant (No. 00-cv-1041 (DLC) (S.D.N.Y.));
- ***In re Waste Management, Inc. Securities Litigation:*** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash, which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)); and
- ***In re Xcel Inc. Securities, Derivative & "ERISA" Litigation:*** The firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under § 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir. 1996).

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993).

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants' motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

Additionally, Ms. Savett has become increasingly well-known in the area of consumer litigation, achieving a groundbreaking \$24 million settlement in 2008 in the *Menu Foods* case brought by pet owners against manufacturers of allegedly contaminated pet food. (*In re Pet Food Products Liability Litigation*, MDL Docket No. 1850 (D.N.J. 2007).

In the data breach area, she was co-lead counsel in *In re TJX Retail Securities Breach Litigation*, MDL Docket No. 1838 (D. Mass.), the first very large data breach case where hackers stole personal information from 45 million consumers. The settlement, which became the template for future data breach cases, consisted of providing identity theft insurance to those whose social

security or driver's license numbers were stolen, a cash fund for actual damages and time spent mitigating the situation, and injunctive relief.

Ms. Savett also litigated a case on behalf of the City of Philadelphia titled *City of Philadelphia v. Wells Fargo & Co.*, No. 17-cv-02203 (E.D. Pa.), involving alleged violations of the Fair Housing Act. The case was resolved in 2019 with a settlement providing \$10 million to go to citizens of Philadelphia for down payment assistance, to local agencies to assist homeowners in foreclosure, and for greening and cleaning foreclosed properties in Philadelphia which blight neighborhoods.

In the past decade, she has also actively worked in the False Claims Act arena. She was part of the team that litigated over more than a decade and settled the Average Wholesale Price *qui tam* cases, which collectively settled for more than \$1 billion.

Ms. Savett speaks and writes frequently on securities litigation, consumer class actions and False Claims Act litigation. She is a lecturer and panelist at the University of Pennsylvania Law School on the subjects of Securities Law and the False Claims Act/*Qui Tam* practice from the whistleblower's perspective. She has also lectured at the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions and on False Claims Act Litigation. She is frequently invited to present and serve as a panelist in American Bar Association, American Law Institute/American Bar Association and Practicing Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI's Securities Litigation and Enforcement Institute annually from 1995 to 2010. She has also spoken at major institutional investor and insurance industry conferences, and DRI – the Voice of the Defense Bar. In February 2009, she was a member of a six-person panel who presented an analysis of the current state of securities litigation before more than 1,000 underwriters and insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009, as well as the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Most recently, in April 2019, she spoke as a panelist at PLI's Securities Litigation 2019: From Investigation to Trial program. Her panel was titled "Commencement of a Civil Action: Filing the Complaint, Preparing the Motion to Dismiss, Coordinating Multiple Securities Litigation Actions." Ms. Savett also co-authored an article for the program that was published in PLI's *Corporate Law and Practice Court Handbook Series*. The article is titled "After the Fall—A Plaintiff's Perspective."

In 2015 and 2016, she served as a panelist in American Law Institute programs held in New York City called "Securities and Shareholder Litigation: Cutting-Edge Developments, Planning and Strategy." Ms. Savett also spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled "The Good, The Bad, and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs." The other program focused on consumer class actions in the real estate area and was entitled "The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure."

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

Ms. Savett has written numerous articles on securities and complex litigation issues in professional publications, including:

- "After the Fall – A Plaintiff's Perspective," with Phyllis M. Parker, *PLI Corporate Law and Practice Course Handbook Series No. B-2475*, pg. 73-105, April 2019
- "Plaintiffs' Vision of Securities Litigation: Current Trends and Strategies," 1762 *PLL* October 2009
- "Primary Liability of 'Secondary' Actors Under the PSLRA," I *Securities Litigation Report*, (Glasser) November 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," 1442 *PLI Corp. 13*, September – October 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SJ084 ALI-ABA 399, May 13-14, 2004
- "The 'Indispensable Tool' of Shareholder Suits," *Directors & Boards*, Vol. 28, February 18, 2004
- "Plaintiffs Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case," 679 *PLI*, August 2002
- "Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley From a Plaintiffs Perspective," 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SG091 ALI-ABA, May 2-3, 2002
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SF86 ALI-ABA 1023, May 10, 2001
- "Greetings From the Plaintiffs' Class Action Bar: We'll be Watching," SE082 ALI-ABA 739, May 11, 2000
- "Preventing Financial Fraud," B0-00E3 *PLJB0-00E3* April – May 1999
- "Shareholders Class Actions in the Post Reform Act Era," SD79 ALI-ABA 893, April 30, 1999
- "What to Plead and How to Plead the Defendant's State of Mind in a Federal Securities Class Action," with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998
- "The Merits Matter Most: Observations on a Changing Landscape Under the Private Securities Litigation Reform Act of 1995," 39 *Arizona Law Review* 525, 1997
- "Everything David Needs to Know to Battle Goliath," ABA Tort & Insurance Practice Section, The Brief, Vol. 20, No.3, Spring 1991
- "The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy," *PLIH4-0528*, September 1, 1987

- “Prosecution of Derivative Actions: A Plaintiffs Perspective,” *PLIH4-5003*, September 1, 1986

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

In 2019, *The Legal Intelligencer* named Ms. Savett a "Distinguished Leader," and in 2018 she was named to the *Philadelphia Business Journal's* 2018 Best of the Bar: Philadelphia's Top Lawyers.

The Legal Intelligencer and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005, 2007-2013, and 2015-2016, Berger Montague was named to the *National Law Journal's* “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” The firm is on the *National Law Journal's* “Hall of Fame,” and Ms. Savett’s achievements were mentioned in many of these awards.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and/or a “Pennsylvania Super Lawyer” from 2004 through 2021 by Thomson Reuters after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500 Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly*, which stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.” In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

Unquestionably, it is because of Ms. Savett, who for decades has been in the top leadership of the firm, that the firm has a remarkably high proportion of women lawyers and shareholders.

Ms. Savett has aggressively sought to hire women, without regard to age or whether they are “right out of law school.” Several of the women who have children are able to continue working at the firm because Ms. Savett has instituted a policy of flexible work time and fosters an atmosphere of cooperation, teamwork and mutual respect. As a result, the women attorneys stay on and have long and productive careers while still maintaining a balanced life. Ms. Savett has a personal understanding of the challenges and satisfactions that women experience in practicing law while raising a family. Ms. Savett has three children and five grandchildren. One of her daughters and her daughter-in-law are lawyers.

Ms. Savett has taught those around her more than good lawyering. She places great emphasis in her own life on devotion to family, community service and involvement in charitable

organizations. She teaches others by her example and her obvious interest in their efforts and achievements.

Ms. Savett is a well-known leader of the Philadelphia legal, business, cultural and Jewish community. She is an exemplary citizen who spends endless hours of her after-work time helping others in the community.

From 2011 – 2014, Ms. Savett served as President and Board Chair of the Jewish Federation of Greater Philadelphia (JFGP), a community of over 215,000 Jewish people. She is only the third woman to serve as the President, the top lay leader of the Federation, in the 117 years of its existence.

Ms. Savett also serves on the Board of the National Liberty Museum, The National Museum of American Jewish History, and the local and national boards of American Associates of Ben Gurion University of the Negev. She had previously served as Chairperson of the Southeastern Pennsylvania State of Israel Bonds Campaign and has served as a member of the National Cabinet of State of Israel Bonds. In 2005, Ms. Savett received The Spirit of Jerusalem Medallion, the State of Israel Bonds' highest honor.

Ms. Savett has used her positions of leadership in the community to identify and help promote women as volunteer leaders. Ms. Savett has selected a few worthy causes to which she tirelessly dedicates herself. According to leaders of The Jewish Federation of Greater Philadelphia, Ms. Savett is viewed by many women in the philanthropic world as a role model.

Ms. Savett earned her J.D. from the University of Pennsylvania Law School and a B.A. *summa cum laude* from the University of Pennsylvania. She is a member of Phi Beta Kappa.

Ms. Savett has three married children, four grandsons, and two granddaughters. She enjoys tennis, biking, physical training, travel, and collecting art, especially glass and sculpture.

Daniel Berger – Executive Shareholder

Daniel Berger graduated with honors from Princeton University and Columbia Law School, where he was a Harlan Fiske Stone academic scholar. He is a senior member and Executive Shareholder. Over the last two decades, he has been involved in complicated commercial litigation including class action securities, antitrust, consumer protection and bankruptcy cases. In addition, he has prosecuted important environmental, mass tort and civil rights cases during this period. He has led the Firm's practice involving improprieties in the marketing of prescription drugs and the abuse of marketing exclusivities in the pharmaceutical industry, including handling landmark cases involving the suppression of generic competition in the pharmaceutical industry. For this work, he has been recognized by the *Law360* publication as a "titan" of the plaintiffs' Bar ("Titan of the Plaintiffs Bar: Daniel Berger" *Law360*, September 23, 2014).

In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities. He also leads the firm's representation of states and other public bodies and agencies.

Mr. Berger has frequently represented public institutional investors in securities litigation, including representing the state pension funds of Pennsylvania, Ohio and New Jersey in both individual and class action litigation. He also represents Pennsylvania and New Jersey on important environmental litigation involving contamination of groundwater by gasoline manufacturers and marketers.

Mr. Berger has a background in the study of economics, having done graduate level work in applied microeconomics and macroeconomic theory, the business cycle, and economic history. He has published law review articles in the *Yale Law Journal*, the *Duke University Journal of Law and Contemporary Problems*, the *University of San Francisco Law Review* and the *New York Law School Law Review*. Mr. Berger is also an author and journalist who has been published in *The Nation* magazine, reviewed books for *The Philadelphia Inquirer* and authored a number of political blogs, including in *The Huffington Post* and the Roosevelt Institute's *New Deal 2.0*. He has also appeared on MSNBC as a political commentator.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy, and the Philadelphia Cultural Fund, which was responsible for all City grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which the NEA makes grants. Mr. Berger also serves on the board of the Wilma Theater, Philadelphia's pre-eminent theater for new plays and playwrights.

Shanon J. Carson – Executive Shareholder

Shanon J. Carson is an Executive Shareholder of the firm. He Co-Chairs the Employment & Unpaid Wages, Consumer Protection, Defective Products, and Defective Drugs and Medical Devices Departments and is a member of the Firm's Commercial Litigation, Employee Benefits & ERISA, Environment & Public Health, Insurance Fraud, Predatory Lending and Borrowers' Rights, and Technology, Privacy & Data Breach Departments.

Mr. Carson has achieved the highest peer-review rating, "AV," in Martindale-Hubbell, and has received honors and awards from numerous publications. In 2009, Mr. Carson was selected as one of 30 "Lawyers on the Fast Track" in Pennsylvania under the age of 40. In both 2015 and 2016, Mr. Carson was selected as one of the top 100 lawyers in Pennsylvania, as reported by Thomson Reuters. In 2018, Mr. Carson was named to the *Philadelphia Business Journal's* "2018 Best of the Bar: Philadelphia's Top Lawyers."

Mr. Carson is often retained to represent plaintiffs in employment cases, wage and hour cases for minimum wage violations and unpaid overtime, ERISA cases, consumer cases, insurance cases, construction cases, automobile defect cases, defective drug and medical device cases,

product liability cases, breach of contract cases, invasion of privacy cases, false advertising cases, excessive fee cases, and cases involving the violation of state and federal statutes. Mr. Carson represents plaintiffs in all types of litigation including class actions, collective actions, multiple plaintiff litigations, and single plaintiff litigation. Mr. Carson is regularly appointed by federal courts to serve as lead counsel and on executive committees in class actions and mass torts.

Mr. Carson is frequently asked to speak at continuing legal education seminars and other engagements and is active in nonprofit and professional organizations. Mr. Carson currently serves on the Board of Directors of the Philadelphia Trial Lawyers Association (PTLA) and as a Co-Chair of the PTLA Class Action/Mass Tort Committee. Mr. Carson is also a member of the American Association for Justice, the American Bar Foundation, Litigation Counsel of America, the National Trial Lawyers - Top 100, and the Pennsylvania Association for Justice.

While attending the Dickinson School of Law of the Pennsylvania State University, Mr. Carson was senior editor of the Dickinson Law Review and clerked for a U.S. District Court Judge. Mr. Carson currently serves on the Board of Trustees of the Dickinson School of Law of the Pennsylvania State University.

Michael Dell'Angelo – Executive Shareholder

Michael Dell'Angelo is an Executive Shareholder in the Antitrust, Commercial Litigation, Commodities & Financial Instruments practice groups, and Co-Chair of the Securities department. He serves as co-lead counsel in a variety of complex antitrust cases, including *Le, et al. v. Zuffa, LLC*, No. 15-1045 (D. Nev.) (alleging the Ultimate Fighting Championship (“UFC”) obtained illegal monopoly power of the market for Mixed Martial Arts promotions and suppressed the compensation of MMA fighters).

Mr. Dell'Angelo is responsible for winning numerous significant settlements for his clients and class members. Mr. Dell'Angelo helped to reach settlements totaling more than \$190 million in the multidistrict litigation *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437 (E.D. Pa.). There, in granting final approval to the last settlement, the court observed about Mr. Dell'Angelo and his colleagues that “Plaintiffs’ counsel are experienced antitrust lawyers who have been working in this field of law for many years and have brought with them a sophisticated and highly professional approach to gathering persuasive evidence on the topic of price-fixing.” *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, at *18 (E.D. Pa. July 17, 2018). “[I]t bears repeating,” the court emphasized, “that the result attained is directly attributable to having highly skilled and experienced lawyers represent the class in these cases.” *Id.*

Mr. Dell'Angelo also serves or has recently served as co-lead counsel or class counsel in numerous cases alleging price-fixing or other wrongdoing affecting a variety of financial instruments, including *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litig.*, 1:14-MD-2548-VEC (S.D.N.Y.) (\$152 million settlements); *In re Platinum and Palladium Antitrust Litig.*, No. 14-cv-09391-GHW (S.D.N.Y.); *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-

03139-LGS (S.D.N.Y.) (\$23.6 million in settlements); In re Libor-Based Financial Instruments Antitrust Litig., No. 11-md-2262 (S.D.N.Y.) (\$187 million in settlements pending final approval); Alaska Elec. Pension Fund, et al. v. Bank of Am. Corp., et al., No. 14 Civ. 7126-JMF (S.D.N.Y.) (\$504.5 million in settlements); In re Crude Oil Commodity Futures Litig., No. 11-cv-3600 (S.D.N.Y.); and In re London Silver Fixing, Ltd. Antitrust Litig., No. 14-md-2573 (S.D.N.Y.) (\$38 million partial settlement).

Mr. Dell'Angelo also serves as lead counsel in numerous individual antitrust cases on behalf of purchasers of rail freight services from the four major rail carriers in the United States.

The National Law Journal featured Mr. Dell'Angelo in its profile of Berger Montague for a special annual report entitled "Plaintiffs' Hot List." The National Law Journal's Hot List identifies the top plaintiff practices in the country. The Hot List profile focused on Mr. Dell'Angelo's role in the MF Global litigation (In re MF Global Holding Ltd. Inv. Litig., No. 12-MD-2338-VM (S.D.N.Y.)). In MF Global, Mr. Dell'Angelo represented former commodity account holders seeking to recover approximately \$1.6 billion of secured customer funds after the highly publicized collapse of MF Global, a major commodities brokerage. At the outset of this high-risk litigation, the odds appeared grim: MF Global had declared bankruptcy, leaving the corporate officers, a bank, and a commodity exchange as the only prospect for the recovery of class's misappropriated funds. Nonetheless, four years later, a result few would have believed possible was achieved. Through a series of settlements, the former commodity account holders recovered more than 100 percent of their missing funds, totaling over \$1.6 billion.

Mr. Dell'Angelo has been recognized consistently as a Pennsylvania Super Lawyer, a distinction conferred upon him annually since 2007. He is regularly invited to speak at Continuing Legal Education (CLE) and other seminars and conferences, both locally and abroad. In response to his recent CLE, "How to Deal with the Rambo Litigator," Mr. Dell'Angelo was singled out as "One of the best CLE speakers [attendees] have had the pleasure to see."

E. Michelle Drake – Executive Shareholder

E. Michelle Drake is an Executive Shareholder in the Firm's Minneapolis office. With career settlements and verdicts valued at more than \$150 million, Michelle has had great success in a wide variety of cases.

Michelle focuses her practice primarily on consumer protection, improper credit reporting, and financial services class actions. Michelle is empathetic towards her clients and unyielding in her desire to win. Possessing a rare combination of an elite academic pedigree and real-world trial skills, Michelle has successfully gone toe-to-toe with some of the world's most powerful companies.

Michelle helped achieve one of the largest class action settlements in a case involving improper mortgage servicing practices associated with force-placed insurance, resulting in a settlement valued at \$110 million for a nationwide class of borrowers who were improperly force-placed with

overpriced insurance. Michelle also served as liaison counsel and part of the Plaintiffs' Steering Committee on behalf of consumers harmed in the Target data breach, a case she helped successfully resolve on behalf of over ninety million consumers whose data was affected by the breach. In 2015, Michelle resolved a federal class action on behalf of a group of adult entertainers in New York for \$15 million. Most recently, Michelle has been successful in litigating numerous cases protecting consumers' federal privacy rights under the Fair Credit Reporting Act, securing settlements valued at over \$10 million on behalf of tens of thousands of consumers harmed by improper background checks and inaccurate credit reports in the last two years alone.

Michelle was admitted to the bar in 2001 and has since served as lead class counsel in over fifty class and collective actions alleging violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Fair Labor Standards Act, various states' unfair and deceptive trade practices acts, breach of contract and numerous other pro-consumer and pro-employee causes of action.

Michelle serves on the Board of the National Association of Consumer Advocates, is a member of the Partner's Council of the National Consumer Law Center, and is an At-Large Council Member for the Consumer Litigation Section for the Minnesota State Bar Association. She was named as a Super Lawyer in 2013-2018 and was named as a Rising Star prior to that. Michelle was also appointed to the Federal Practice Committee in 2010 by the United States District Court for the District of Minnesota. She has been quoted in the New York Times and the National Law Journal, and her cases were named as "Lawsuits of the Year" by Minnesota Law & Politics in both 2008 and 2009.

Michelle began her practice of law by defending high stakes criminal cases as a public defender in Atlanta. Michelle has never lost her desire to litigate on the side of the "little guy."

David F. Sorensen – Executive Shareholder

David Sorensen is an Executive Shareholder and Co-Chair of the Firm's antitrust department. He graduated from Duke University (A.B. 1983) and Yale Law School (J.D. 1989), and clerked for the Hon. Norma L. Shapiro (E.D. Pa.). He concentrates his practice on antitrust and environmental class actions.

Mr. Sorensen co-tried *Cook v. Rockwell Int'l Corp.*, No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals,

Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Mr. Sorensen played a major role in the Firm's representation of the State of Connecticut in *State of Connecticut v. Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion (excluding interest) from certain manufacturers of tobacco products. And he served as co-lead class counsel in *Johnson v. AzHHA, et al.*, No. 07-1292 (D. Ariz.), representing a class of temporary nursing personnel who had been underpaid because of an alleged conspiracy among Arizona hospitals. The case settled for \$24 million.

Mr. Sorensen also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *King Drug Co. v. Cephalon, Inc.*, (E.D. Pa.) (\$512 million partial settlement); *In re: Aggrenox Antitrust Litigation* (\$146 million settlement); *In re: Loestrin 24 Fe Antitrust Litigation* (\$120 million); *In re: K-Dur Antitrust Litigation* (\$60.2 million); *In re: Prandin Direct Purchaser Antitrust Litigation* (\$19 million); *In re: Doryx Antitrust Litigation* (\$15 million); *In re: Skelaxin Antitrust Litigation* (\$73 million); *In re: Wellbutrin XL Antitrust Litigation* (\$37.50 million); *In re: Oxycontin Antitrust Litigation* (\$16 million); *In re: DDAVP Direct Purchaser Antitrust Litigation* (\$20.25 million settlement following precedent-setting victory in the Second Circuit, which Mr. Sorensen argued, see 585 F.3d 677 (2d Cir. 2009)); *In re: Nifedipine Antitrust Litigation* (\$35 million); *In re: Terazosin Hydrochloride Antitrust Litigation*, MDL 1317 (S.D. Fla.) (\$74.5 million); and *In re: Remeron Antitrust Litigation* (\$75 million). Mr. Sorensen is serving as co-lead counsel or on the executive committee of numerous similar, pending cases.

In 2017, the American Antitrust Institute presented its Antitrust Enforcement Award to Mr. Sorensen and others for their work on the *K-Dur* case. In 2019, Mr. Sorensen and others were recognized again by the AAI for their work on the *King Drug* case, being awarded the Outstanding Antitrust Litigation Achievement in Private Law Practice. Mr. Sorensen and his team received the same award in 2020 for their work on the *Namenda* case. Also in 2020, *Law360* named Mr. Sorensen a Competition MVP of the Year.

Shareholders

John G. Albanese – Shareholder

John Albanese is a Shareholder in the Minneapolis office. Mr. Albanese concentrates his practice on consumer protection with a focus on Fair Credit Reporting Act violations related to criminal background checks. Mr. Albanese has also prosecuted class actions related to illegal online lending, unfair debt collection, privacy breaches, and other consumer law issues. Mr. Albanese is regularly invited to speak on consumer law and litigation issues. Mr. Albanese has obtained

favorable decisions for consumers in state and federal courts all over the country. He also frequently represents consumer advocacy groups as *amici curiae* at the appellate level.

Mr. Albanese is a graduate of Columbia Law School and Georgetown University. At Columbia, he was a managing editor of the Columbia Law Review and was elected to speak at graduation by his classmates. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois.

Zachary Caplan – Shareholder

Zach Caplan is a Shareholder at Berger Montague. Recently, Zach was in service with the U.S. Department of Justice Antitrust Division in Washington, DC. While at the Justice Department, he led teams investigating anticompetitive conduct in the healthcare space, engaged with senior Division leadership on a statement of interest arguing that the American Red Cross is subject to antitrust law, and assisted with fast-paced monopolization litigation against a major tech company. He also served on the Division-wide Discovery and Technology Working Group where he contributed to guidelines for all attorneys on cutting-edge issues such as technology assisted review and ephemeral messaging. Prior to his work at the Justice Department, Zach was an attorney in the Antitrust Department at Berger Montague for a decade.

Joy P. Clairmont – Shareholder

Joy Clairmont is a Shareholder in the Whistleblower, *Qui Tam* & False Claims Act Group, which has recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Ms. Clairmont also has experience practicing in the area of securities fraud litigation.

Ms. Clairmont has been investigating and litigating whistleblower cases for over fifteen years and has successfully represented whistleblower clients in federal and state courts throughout the United States. On behalf of her whistleblower clients, Ms. Clairmont has pursued fraud cases involving a diverse array of companies: behavioral health facilities, a national retail pharmacy chain, a research institution, pharmaceutical manufacturers, skilled nursing facilities, a national dental chain, mortgage lenders, hospitals and medical device manufacturers.

Most notably, Ms. Clairmont has participated in several significant and groundbreaking cases involving fraudulent drug pricing:

United States ex rel. Streck v. AstraZeneca, LP, et al., C.A. No. 08-5135 (E.D. Pa.): a Medicaid rebate fraud case which settled in 2015 for a total of \$55.5 million against three pharmaceutical manufacturers, AstraZeneca, Cephalon, and Biogen. The case alleged that the defendants did not properly account for millions of dollars of payments to wholesalers for drug distribution and other services. As a result, the defendants underpaid the government in rebates owed under the Medicaid Drug Rebate Program.

United States ex rel. Kieff and LaCorte v. Wyeth and Pfizer, Inc., Nos. 03-12366 and 06-11724-DPW (D. Mass.): a Medicaid rebate fraud case involving Wyeth's acid-reflux drug, Protonix, which settled for \$784.6 million in April 2016.

"AWP" Cases: a series of cases in federal and state courts against many of the largest pharmaceutical manufacturers, including Bristol-Myers Squibb, Boehringer Ingelheim, and GlaxoSmithKline, for defrauding the government through false and inflated price reports for their drugs, which resulted in more than \$2 billion in recoveries for the government.

Earlier in her career, Ms. Clairmont gained experience litigating securities fraud class actions including, most notably, *In Re Sunbeam Securities Litigation*, a class action which led to the recovery of over \$142 million for the class of plaintiffs in 2002.

Ms. Clairmont graduated in 1995 with a B.A. *cum laude* from George Washington University and in 1998 with a J.D. from George Washington University Law School.

Caitlin G. Coslett – Shareholder

Caitlin G. Coslett is a Shareholder and Co-Chair of the Firm's Antitrust Department. She also serves on the Firm's Diversity, Equity, and Inclusion Task Force and as the Work Assignment Coordinator. Ms. Coslett concentrates her practice on complex litigation, including antitrust and mass tort litigation.

Ms. Coslett represents classes of direct purchasers of pharmaceutical drugs who allege that drug manufacturers have violated federal antitrust law by wrongfully keeping less-expensive generic drugs off the market and/or by wrongfully impeding generic competition. Her work on generic suppression cases has contributed to significant settlements totaling hundreds of millions of dollars, including in the cases of *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation* (for which Ms. Coslett served as Co-Lead Counsel), *In re Lidoderm Antitrust Litigation*, and *In re Skelaxin (Metaxalone) Antitrust Litigation*. Ms. Coslett is currently litigating several similar antitrust pharmaceutical cases, such as *In re Effexor XR Antitrust Litigation*, *In re Bystolic Antitrust Litigation*, *In re Intuniv Antitrust Litigation*, *In re Lamictal Antitrust Litigation*, *In re Novartis and Par Antitrust Litigation*, *In re Opana ER Antitrust Litigation*, and *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*. She was honored for "Outstanding Antitrust Litigation Achievement by a Young Lawyer" for her work in *In re Lidoderm Antitrust Litigation*.

Ms. Coslett's experience litigating antitrust class actions also includes *In re CRT Antitrust Litigation*, *In re Domestic Drywall Antitrust Litigation*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, *In re Steel Antitrust Litigation*, and *In re Urethane [Polyether Polyols] Antitrust Litigation*.

Ms. Coslett also played a significant role in the post-trial litigation in *Cook v. Rockwell International Corporation*, a mass tort class action brought on behalf of thousands of property owners near the Rocky Flats nuclear plant in Colorado. The case settled for \$375 million following a successful appeal to the Tenth Circuit and, in ruling for the plaintiffs on appeal, then-Judge Neil Gorsuch

(who is now a Supreme Court Justice) praised Class Counsel's successful "judicial jiu jitsu" in litigating the case through the second appeal.

Ms. Coslett was named a "Next Generation Lawyer" by The Legal 500 United States 2019 in the Civil Litigation/Class Actions: Plaintiff category and was selected as a Rising Star by Super Lawyers every year from 2014 – 2021. She has served as pro bono counsel for clients referred by the AIDS Law Project of Pennsylvania and Philly VIP and is a member of the National LGBT Bar Association.

A Philadelphia native, Ms. Coslett graduated magna cum laude from Haverford College with a B.S. in mathematics and economics and graduated cum laude from New York University School of Law. At NYU Law, Ms. Coslett was a Lederman/Milbank Fellow in Law and Economics and an articles selection editor for the NYU Review of Law and Social Change. Prior to law school, she was an economics research assistant at the Federal Reserve Board in Washington, D.C. Ms. Coslett was formerly one of the top 75 rated female chess players in the U.S.

Andrew C. Curley – Shareholder

Andrew C. Curley is a Shareholder in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Curley served as Co-Lead Class Counsel on behalf of a class of independent truck stops and other retail merchants in *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, Case No. 07-1078 (E.D. Pa.). The *Marchbanks* litigation settled in January 2014 for \$130 million and significant prospective relief in the form of, among other things, meaningful and enforceable commitments by the largest over-the-road trucker fleet card issuer in the United States to modify or not to enforce those portions of its merchant services agreements that plaintiffs challenged as anticompetitive, and that an expert economist has determined to be worth an additional \$260 million to \$491 million (bringing the total value of the settlement to between \$390 and \$621 million).

Mr. Curley is also involved in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Those cases include: *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (\$76 million settlements); and *In re Aggrenox Antitrust Litig.*, No. 3:14-md-02516 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-MD-2343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litig.*, No. 08-2431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Opana ER Antitrust Litig.*, No. 14-cv-10150 (N.D. Ill.) and *In re Niaspan Antitrust Litig.*, No. 12-MD-2460 (E.D. Pa.).

Prior to joining the firm, Mr. Curley practiced in the litigation department of a large Philadelphia law firm where he represented clients in a variety of industries in complex commercial litigation in both state and federal court.

Josh P. Davis – Shareholder

Josh supervises the Firm's San Francisco Bay Area Office. He focuses his practice on antitrust, appeals, class certification, and class action and complex litigation ethics. He is one of the leading scholars in the nation on antitrust procedure, class certification, and ethics in class actions and complex litigation.

Josh is currently a Research Professor at the University of California, Hastings College of the Law, where he is associated with the Center for Litigation and Courts, and the Director of the Center for Law and Ethics at the University of San Francisco School of Law. He has also taught at the Willamette University College of Law and the Georgetown University Law Center. He has testified before Congress on matters related to civil procedure and presented on matters related to private antitrust enforcement before the U.S. Department of Justice and the Federal Trade Commission.

Josh received a CLAY California Attorney of the Year Award in Antitrust in 2016. His law review article, "Defying Conventional Wisdom: The Case for Private Antitrust Enforcement," 48 Ga. L. Rev. 1 (2013), won the 2014 award for best academic article from George Washington University School of Law and Institute on Competition Law. His scholarship has been cited by multiple federal appellate and trial courts. He has published dozens of articles and book chapters on antitrust, civil procedure, class certification, legal ethics, and legal philosophy, among other topics. He regularly presents throughout the country and the world at scholarly and professional conferences and symposia on aggregate litigation, civil procedure, and ethics. Recently, he has written various articles and book chapters on artificial intelligence (AI) and the law and is completing his first book, "Unnatural Law: AI, Consciousness, Ethics, and Legal Theory" (forthcoming in Cambridge University Press 2022/23).

Josh graduated from N.Y.U. School of Law in 1993, where he won the Frank H. Sommer Memorial Award for top general scholarship and achievement in his class, served as the Articles Editor for the N.Y.U. Law Review, and was admitted to the Order of the Coif. After law school, he was a law clerk for Patrick E. Higginbotham of the U.S. Court of Appeals for the Fifth Circuit. He was a partner at Lieff, Cabraser, Heimann & Bernstein, LLP, until 2000, when he entered full-time legal academia until joining the Firm in 2022.

Lawrence Deutsch – Shareholder

Mr. Deutsch has been involved in numerous major shareholder class action cases. He served as lead counsel in the Delaware Chancery Court on behalf of shareholders in a corporate governance litigation concerning the rights and valuation of their shareholdings. Defendants in the case were the Philadelphia Stock Exchange, the Exchange's Board of Trustees, and six major Wall Street investment firms. The case settled for \$99 million and also included significant corporate governance provisions. Chancellor Chandler, when approving the settlement allocation and fee awards on July 2, 2008, complimented counsel's effort and results, stating, "Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class." The Chancellor had previously described the intensity of the litigation when he had approved the settlement, "All I can tell you, from someone who has only been doing this for roughly 22 years,

is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong like they have gone at it in this case.”

Mr. Deutsch was one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al.* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768) resulting in an \$8 million judgment against the directors and officers of the company for breach of fiduciary duty.

Over his 25 years working in securities litigation, Mr. Deutsch has been a lead attorney on many substantial matters. Mr. Deutsch served as one of lead counsel in the *In Re Sunbeam Securities Litigation* class action concerning “Chainsaw” Al Dunlap (recovery of over \$142 million for the class in 2002). As counsel on behalf of the City of Philadelphia he served on the Executive Committee for the securities litigation regarding *Frank A. Dusek, et al. v. Mattel Inc., et al.* (recovery of \$122 million for the class in 2006).

Mr. Deutsch served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide *Mutual Funds Market Timing* cases. Mr. Deutsch served on the Plaintiffs’ Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to “market time” and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

Mr. Deutsch has been court-appointed Lead or a primary attorney in numerous complex litigation cases: *NECA-IBEW Pension Trust Fund, et al. v. Precision Castparts Corp., et al.* (Civil Case No. 3:16-cv-01756-YY); *Fox et al. v. Prime Group Realty Trust, et al.* United States District Court Northern District of Illinois (Civil Case No. 1:12-cv-09350) (\$8.25 million settlement pending); served as court-appointed lead counsel in *In Re Inergy LP Unitholder Litigation* (Del. Ch. No. 5816-VCP) (\$8 million settlement).

Mr. Deutsch served on a team of lead counsel in *In Re: CertainTeed Fiber Cement Siding Litigation*, E.D.Pa. MDL NO. 11-2270 (\$103.9 million settlement); *Tim George v. Uponor, Inc., et al.*, United States District Court, District of Minnesota, Case No. 12-CV-249 (ADM/JJK) (\$21 million settlement); *Batista, et al. v. Nissan North America, Inc.*, United States District Court, Southern District of Florida, Miami Division, Case No 1;14-cv-24728 (settlement valued at \$65,335,970.00).

In addition to his litigation work, Mr. Deutsch has been a member of the firm’s Executive Committee and also manages the firm’s paralegals. He has also regularly represented indigent parties through the Bar Association’s VIP Program, including the Bar’s highly acclaimed representation of homeowners facing mortgage foreclosure.

Prior to joining the firm, Mr. Deutsch served in the Peace Corps from 1973-1976, serving in Costa Rica, the Dominican Republic, and Belize. He then worked for ten years at the United States General Services Administration.

Mr. Deutsch is a graduate of Boston University (B.A. 1973), George Washington University's School of Government and Business Administration (M.S.A. 1979), and Temple University's School of Law (J.D. 1985). He became a member of the Pennsylvania Bar in 1986 and the New Jersey Bar in 1987. He has also been admitted to practice in Eastern District of Pennsylvania, the First Circuit Court of Appeals, the Second Circuit Court of Appeals, the Third Circuit Court of Appeals, the Fourth Circuit Court of Appeals, Eleventh Circuit Court of Appeals and the U.S. Court of Federal Claims as well as various jurisdictions across the country for specific cases.

William H. Ellerbe – Shareholder

William H. Ellerbe is a Shareholder in the Philadelphia office and practices in the firm's Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Ellerbe represents whistleblowers in litigation across the country and also actively assists in investigating and evaluating potential whistleblower claims before a lawsuit is filed.

Mr. Ellerbe received an A.B. in English from Princeton University. He graduated *magna cum laude* from the University of Michigan Law School and also received a certificate in Science, Technology, and Public Policy from the Ford School of Public Policy. During law school, Mr. Ellerbe was an Associate Editor of the *Michigan Telecommunications and Technology Law Review* and an active member of both the Environmental Law Society and the Native American Law Students Association.

Prior to joining the firm, Mr. Ellerbe clerked for the Honorable Anne E. Thompson of the United States District Court for the District of New Jersey. He also worked as a white collar and commercial litigation associate at two large corporate defense firms.

Mr. Ellerbe is admitted to practice in the state courts of Pennsylvania, New Jersey, and New York, as well as the Third and Fourth Circuit Courts of Appeals and the United State District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, the Southern District of New York, and the Eastern District of New York.

Candice J. Enders – Shareholder

Candice J. Enders is a Shareholder in the Antitrust practice group. She concentrates her practice in complex antitrust litigation.

Ms. Enders has significant experience investigating and developing antitrust cases, navigating complex legal and factual issues, negotiating discovery, designing large-scale document reviews, synthesizing and distilling conspiracy evidence, and working with economic experts to develop models of antitrust impact and damages. Her work on antitrust conspiracy cases has contributed to significant settlements totaling hundreds of millions of dollars, including in *In re Domestic Drywall Antitrust Litigation*, No. 13-2437 (E.D. Pa.) (\$190 million in total settlements); *In re Commodity Exchange, Inc. Gold Futures & Options Trading Litigation*, No. 14-2548 (S.D.N.Y.) (\$60 million settlement with Deutsche Bank preliminarily approved; preliminary approval of \$42

million settlement with Defendant HSBC pending; litigation continuing against remaining defendants); *In re Microcrystalline Cellulose Antitrust Litigation*, No. 01-111 (E.D. Pa.) (\$50 million settlement achieved shortly before trial).

In addition to her case work, Ms. Enders contributes to the administration of the firm by serving as the firm's Attorney Recruitment Coordinator, Paralegal Coordinator, and a member of the Diversity, Equity & Inclusion Task Force.

Michael T. Fantini – Shareholder

Michael T. Fantini is a Shareholder in the Consumer Protection and Commercial Litigation practice groups. Mr. Fantini concentrates his practice on consumer class action litigation.

Mr. Fantini has considerable experience in notable consumer cases such as: *In re TJX Companies Retail Security Breach Litigation*, Master Docket No. 07-10162 (D. Mass) (class action brought on behalf of persons whose personal and financial data were compromised in the largest computer theft of personal data in history - settled for various benefits valued at over \$200 million); *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grade 7-12 Litigation*, MDL No. 1643 (E.D. La. 2006) (settlement of \$11.1 million on behalf of persons who were incorrectly scored on a teachers' licensing exam); *Block v. McDonald's Corporation*, No: 01CH9137 (Cir. Ct. Of Cook County, Ill.) (settlement of \$12.5 million where McDonald's failed to disclose beef fat in french fries); *Fitz, Inc. v. Ralph Wilson Plastics Co.*, No. 1-94-CV-06017 (D. N.J.) (claims-made settlement whereby fabricators fully recovered their losses resulting from defective contact adhesives); *Parker v. American Isuzu Motors, Inc.*; No: 3476 (CCP, Philadelphia County) (claims-made settlement whereby class members recovered \$500 each for their economic damages caused by faulty brakes); *Crawford v. Philadelphia Hotel Operating Co.*, No: 04030070 (CCP Phila. Cty. 2005) (claims-made settlement whereby persons with food poisoning recovered \$1,500 each); *Melfi v. The Coca-Cola Company* (settlement reached in case involving alleged misleading advertising of Enviga drink); *Vaughn v. L.A. Fitness International LLC*, No. 10-cv-2326 (E.D. Pa.) (claims made settlement in class action relating to failure to cancel gym memberships and improper billing); *In re Chickie's & Pete's Wage and Hour Litigation*, Master File No. 12-cv-6820 (E.D. Pa.) (settled class action relating to failure to pay proper wage and overtime under FLSA).

Notable security fraud cases in which Mr. Fantini was principally involved include: *In re PSINet Securities Litigation*, No: 00-1850-A (E.D. Va.) (settlement in excess of \$17 million); *Ahearn v. Credit Suisse First Boston, LLC*, No: 03-10956 (D. Mass.) (settlement of \$8 million); and *In re Nesco Securities Litigation*, 4:01-CV-0827 (N.D. Okla.).

Mr. Fantini has represented the City of Chicago in an action against certain online travel companies, such as Expedia, Hotels.com, and others, for their alleged failure to pay hotel taxes. He also represented the City of Philadelphia in a similar matter.

Prior to joining the firm, Mr. Fantini was a litigation associate with Dechert LLP. At George Washington University Law School, he was a member of the Moot Court Board. From 2017 - 2021, Mr. Fantini was named a Pennsylvania Super Lawyer by Thomson Reuters.

Michael J. Kane – Shareholder

Michael J. Kane, a Shareholder of the firm, is a graduate of Rutgers University and Ohio Northern University School of Law, with distinction, where he was a member of the Law Review. Mr. Kane is admitted to practice in Pennsylvania and various federal courts.

Mr. Kane joined the antitrust practice in 2005. Prior to joining the firm, Mr. Kane was affiliated with Mager, White & Goldstein, LLP where he represented clients in complex commercial litigation involving alleged unlawful business practices including: violations of federal and state antitrust and securities laws, breach of contract and other unfair and deceptive trade practices. Mr. Kane has extensive experience working with experts on economic issues in antitrust cases, including impact and damages. Mr. Kane has served in prominent roles in high profile antitrust, securities, and unfair trade practice cases filed in courts around the country.

Currently, Mr. Kane is one the lead attorneys actively litigating and participating in all aspects of the *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) alleging, *inter alia*, that certain of Visa and MasterCard rules, including anti-steering restraints and default interchange fees, working in tandem have caused artificially inflated interchange fees paid by Merchants on credit and debit card transactions. After over a decade of litigation, a settlement of as much as \$6.24 billion and no less than \$5.54 billion was preliminary approved in January 2019. He is also one of the lead counsel in *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.) alleging a conspiracy among horizontal competitors to fix the prices of foreign currencies and certain foreign currency instruments to recover damages caused by defendants on behalf of plaintiffs and members of a proposed class of indirect purchasers of FX instruments from defendants.

Mr. Kane was also one of the lead lawyers in *Castro v. Sanofi Pasteur, Inc.*, No. 2:11-cv-07178-JMV-MAH (D.N.J.), a certified class action of over 26,000 physician practices, other healthcare providers, and vaccine distributors direct purchasers, alleging that defendant Sanofi engaged in anticompetitive conduct to maintain its monopoly in the market for MCV4 vaccines resulting in artificially inflated prices for Sanofi's MCV4 vaccine Menactra and the MCV4 vaccine Menveo. In October 2017 the court granted final approval the \$61.5 million settlement.

Mr. Kane also had a leading role in *Ross v. American Express Company* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied). In the related matter *Ross v. Bank of America* (S.D.N.Y.) involving claims that the defendant banks and American Express unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions, Mr. Kane was one of the primary trial counsel in the five week bench trial. Mr. Kane also has had a prominent role in several antitrust cases against pharmaceutical companies challenging so-called pay for delay agreements wherein the brand drug company allegedly seeks

to delay competition from generic equivalents to the brand drug through payments by the brand drug company to the generic drug company. Mr. Kane served as co-lead counsel in *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct., Middlesex Cty.), in which plaintiffs alleged that as a result of Microsoft Corporation's anticompetitive practices, Massachusetts consumers paid more than they should have for Microsoft's operating systems and software. The case was settled for \$34 million. Other cases in which Mr. Kane has had a prominent role include: *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.) (settlement for \$336 million and injunctive relief); *In re Nasdaq Market Makers Antitrust Litig.* (S.D.N.Y.); *In re Compact Disc Antitrust Litig.* (C.D. Cal.); *In re WorldCom, Inc. Securities Litig.* (S.D.N.Y.); *In re Lucent Technologies, Inc. Securities Litig.* (D.N.J.); *City Closets LLC v. Self Storage Assoc., Inc.* (S.D.N.Y.); *Rolite, Inc. v. Wheelabrator Environmental Sys. Inc.*, (E.D. Pa.); and *Amin v. Warren Hospital* (N.J. Super.).

Robert Litan – Shareholder

Robert Litan is a Shareholder in the Antitrust practice group. Litan is one of the few practicing lawyers (in any field, including antitrust) with a PhD in economics and an extensive research and testimonial career in economics. During his legal career, Litan has specialized in administrative and antitrust litigation, concentrating on economic issues, working closely with economic experts (having been a testimonial witness in more than 20 legal and administrative proceedings himself). He previously was a partner with Powell, Goldstein, Frazier and Murphy (Washington, D.C. and Atlanta) and Korein Tillery (St. Louis Chicago). He began his legal career as an Associate at Arnold & Porter (Washington, D.C.)

Litan has directed economic research at three leading national organizations: the Brookings Institution, the Kauffman Foundation and Bloomberg Government.

Litan has held several appointed positions in the federal government. In 1993, he was appointed Principal Deputy Assistant Attorney General in the Antitrust Division of the Justice Department, where he oversaw civil non-merger litigation and the Department's positions on regulatory matters, primarily in telecommunications. During his tenure, he settled the Department's antitrust lawsuit against the Ivy League and MIT for fixing financial aid awards, oversaw the Department's first monopolization case against Microsoft (resulting in 1994 consent decree) and the initial stages of the Antitrust Division's price fixing case against Nasdaq (also resulting in a consent decree). In 1995, Litan was appointed Associate Director of the Office of Management and Budget, where he oversaw the budgets of five cabinet level agencies.

Litan has co- chaired two panels of studies for the National Academy of Sciences (Measuring Innovation and Disaster Loan Estimation), has served on one other NAS Committee (Use of Scientific Evidence), and consulted for NAS (on energy modeling). He has also been a member of the Presidential-Congressional Commission on the Causes of the Savings and Loan Crisis (1991-93).

Litan has consulted for a broad range of private and governmental organizations, including the U.S. Justice Department (antitrust division), the U.S. Treasury Department, the Federal Reserve

Bank of New York, the Federal Home Loan Bank of San Francisco, and the Financial Institutions Subcommittee of the House Banking Committee, the Monetary Authority of Singapore and the World Bank.

Litan has been adjunct professor teaching banking law at the Yale Law School and a Lecturer in Economics at Yale University. He also has taught economics and counter-insurgency at the U.S. Army Command General Staff College, Ft. Leavenworth

Hans Lodge – Shareholder

Hans Lodge is a zealous advocate and is dedicated to protecting the rights of consumers in and out of court. Hans assists consumers who have been denied jobs or housing due to inaccurate criminal history information reporting in their employment/tenant background check reports. Hans also assists consumers who have been denied credit due to inaccurate information reporting in their credit reports and have suffered harm due to unlawful debt collection behavior.

Hans is an aggressive and strategic litigator who has a reputation of working tirelessly to get favorable outcomes for his clients. Hans understands how frustrating it can be trying to deal with background check companies, credit reporting agencies, credit bureaus, and debt collectors, and has a passion for helping clients navigate these areas of the law during their times of need.

Prior to joining the firm, Hans combined his passions for fighting for the little guy and oral advocacy by representing consumers in individual and class action litigation where he held businesses, banks, background check companies, credit bureaus, and debt collectors accountable for illegal practices. As an Associate Attorney at a consumer rights law firm, Hans represented consumers who had trouble paying their bills and were abused and harassed by debt collection agencies, some of whom had their motor vehicles wrongfully repossessed, bringing numerous individual and class action claims under the Fair Debt Collection Practices Act (FDCPA).

Hans also represented consumers who had trouble obtaining credit, employment, and housing due to inaccuracies in their credit reports and background check reports, bringing numerous individual and class action claims under the Fair Credit Reporting Act (FCRA). As an Associate Attorney at a national employment and consumer protection law firm, Hans represented consumers who purchased defective products and employees misclassified as independent contractors, bringing class action claims under consumer protection statutes and the Fair Labor Standards Act (FLSA).

Hans grew up in the Twin Cities and received his Bachelor's Degree from Gustavus Adolphus College in St. Peter, Minnesota, where he double-majored in Political Science and Communication Studies and graduated with honors. His first experience resolving quasi-legal disputes began as a Student Representative on the Campus Judicial Board, where he served for three years and resolved numerous complex disputes between students and the College. His interests in sports and ethics took him to New Zealand, Australia, and Fiji, where he studied Sports Ethics.

During his time at Marquette University Law School, Hans concentrated his legal studies on civil litigation and sports law. As a second-year law student, Hans gained valuable experience working as a law clerk for the Honorable Joan F. Kessler at the Wisconsin Court of Appeals. He also served as a member of the Marquette Sports Law Review where he wrote and edited articles about legal issues impacting the sports industry.

As a member of Marquette Law's moot court team, his brief writing and oral advocacy skills earned him a regional championship and an appearance in the national competition at the New York City Bar Association. Hans was also a member of Marquette's mock trial team, finishing in third place at the regional competition at the Daley Center in Chicago, Illinois.

Mr. Lodge is admitted to practice law in the United States District Court, District of Minnesota; United States District Court, Western District of Wisconsin; and both Minnesota and Wisconsin state courts.

In addition to practicing law, Hans is an Adjunct Professor at Concordia University, St. Paul, where he teaches a sports law course in the Master of Arts in Sports Management program.

Patrick F. Madden – Shareholder

Patrick F. Madden is a Shareholder in the Antitrust, Consumer Protection, Insurance Fraud, and Predatory Lending and Borrowers' Rights practice groups. His practice principally focuses on class actions concerning antitrust violations, financial practices, and insurance products.

Mr. Madden has served in key roles in multiple nationwide consumer class actions. For example, he represented homeowners whose mortgage loan servicers force-placed extraordinarily high-priced insurance on them and allegedly received a kickback from the insurer in exchange. Collectively, Mr. Madden's force-placed insurance settlements have made more than \$175 million in recoveries available to class members.

He has also represented plaintiffs in antitrust class actions. For example, Mr. Madden represents a proposed class of elite mixed martial arts fighters in an antitrust lawsuit against the Ultimate Fighting Championship. *Le, et al. v. Zuffa, LLC*, No. 15-cv-1045 (D. Nev.). Mr. Madden also represents a proposed class of broiler chicken farmers in an antitrust suit against the major chicken processing companies for colluding to suppress compensation to the farmers.

Prior to attending law school, Mr. Madden worked at the United States Department of Labor, Office of Labor-Management Standards as an investigator during which time he investigated allegations of officer election fraud and financial crimes by union officers and employees. While at Temple Law School, Mr. Madden was the Executive Editor of Publications for the Temple Journal of Science, Technology & Environmental Law.

Ellen T. Noteware – Shareholder

Ms. Noteware has successfully represented investors, retirement plan participants, employees, consumers, and direct purchasers of prescription drug products in a variety of class action cases. She currently chairs the firm's Pro Bono Committee.

Ms. Noteware served on the trial team for *Cook v. Rockwell Int'l Corp.* No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Ms. Noteware also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *In re Loestrin 24 Fe Antitrust Litigation*, (D.R.I.) (\$120 million settlement 3 weeks before trial was set to begin); *In re Ovcon Antitrust Litigation*, (D.D.C.) (\$22 million settlement); *In re Tricor Direct Purchaser Antitrust Litigation*, (D. Del.) (\$250 million settlement); *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) (Norvir) (\$52 million); and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.) (\$95 million).

Ms. Noteware is also extensively involved in litigating breach of fiduciary duty class action cases under the Employee Retirement Income Securities Act ("ERISA"). Her ERISA settlements include: *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.) (\$21 million settlement); *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.) (\$69 million settlement); *In re SPX Corporation ERISA Litigation* (W.D.N.C.) (\$3.6 million settlement); *Short v. Brown University*, (D.R.I.) (\$3.5M settlement plus requirement that independent adviser for ERISA plans be retained); *Dougherty v. The University of Chicago*, No. 1:17-cv-03736 (N.D. Ill.) (\$6.5M settlement); and *Nicolas v. The Trustees of Princeton University*, No. 3:17-cv-03695 (D.N.J.) (settlement announced).

Ms. Noteware is a graduate of Cornell University (B.S. 1989) and the University of Wisconsin-Madison Law School (J.D. *cum laude* 1993) where she won the Daniel H. Grady Prize for the highest grade point average in her class, served as Managing Editor of the Law Review, and earned Order of the Coif honors. She is currently a member of the Pennsylvania, New York, and District of Columbia bars.

Russell D. Paul – Shareholder

Russell Paul is a Shareholder in the Consumer Protection, Qui Tam/Whistleblower, and Securities/Governance/Shareholder Rights practice groups and heads the Automobile Defect practice area. He concentrates his practice on consumer class actions, securities class actions and derivative suits, complex securities, and commercial litigation matters, and False Claims Act suits.

Mr. Paul has successfully litigated and led consumer protection and product defect actions in the automotive, pet food, soft drink, and home products industries. He has been appointed to a leadership position in several automotive defect cases. See *Francis v. General Motors, LLC*, No. 2:19-cv-11044-DML-DRG (E.D. Mich.), ECF No. 40 (appointed as member of Plaintiffs' Steering Committee); *Weston v. Subaru of America, Inc.*, No. 1:20-cv-05876 (D.N.J.), ECF No. 49 (appointed as Interim Co-Lead Counsel); *Miller v. Ford Motor Co.*, No. 2:20-cv-01796 (E.D. Cal.) ECF No. 60 (appointed to Interim Class Counsel Executive Committee) and *Powell v. Subaru of America, Inc.*, No. 1:19-cv-19114 (D.N.J.), ECF No. 26 (appointed as Interim Co-Lead Counsel). Mr. Paul has litigated securities class actions against Tyco International Ltd., Baxter Healthcare Corp., ALSTOM S.A., Able Laboratories, Inc., Refco Inc., Toll Brothers and the Federal National Mortgage Association (Fannie Mae). He has also litigated derivative actions in various state courts around the country, including in the Delaware Court of Chancery. Mr. Paul has also briefed and argued several federal appeals, including in the Third, Sixth and Ninth Circuits.

In addition to securities litigation, Mr. Paul has broad corporate law experience, including mergers and acquisitions, venture capital financing, proxy contests, and general corporate matters. He began his legal career in the New York office of Skadden, Arps, Slate, Meagher & Flom.

Mr. Paul has been designated a "Pennsylvania Super Lawyer" and a "Top Attorney in Pennsylvania."

Mr. Paul graduated from the Columbia University School of Law (J.D. 1989) where he was a Harlan Fiske Stone Scholar, served on the Moot Court Review Board, was an editor of Pegasus (the law school's catalog) and interned at the United States Attorneys' Office for the Southern District of New York. He completed his undergraduate studies at the University of Pennsylvania, earning a B.S. in Economics from the Wharton School (1986) and a B.A. in History from the College of Arts and Sciences (1986). He was elected to the Beta Gamma Sigma Honors Society.

Alexandra Korohey Piazza – Shareholder

Alexandra Korohey Piazza, Shareholder, is a member of the firm's Employment Law, Consumer Protection and Lending Practices & Borrowers' Rights practice groups. In the Employment Law practice group, Ms. Piazza primarily focuses on wage and hour class and collective actions arising under state and federal law. Ms. Piazza's work in the Consumer Protection and Lending Practices & Borrowers' Rights practice groups involves consumer class actions concerning financial practices.

Ms. Piazza is a graduate of the University of Pennsylvania and Villanova University School of Law. During law school, Ms. Piazza served as a managing editor of the Villanova Sports and Entertainment Law Journal and as president of the Labor and Employment Law Society. Ms. Piazza also interned at the United States Attorney's Office and served as a summer law clerk for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

Barbara A. Podell – Shareholder

Barbara A. Podell is a Shareholder in the Securities practice group at the firm. She concentrates her practice on securities class action litigation.

Ms. Podell graduated from the University of Pennsylvania (*cum laude*) and the Temple University School of Law (*magna cum laude*), where she was Editor-in-Chief of the Temple Law Quarterly.

Ms. Podell was one of the firm's senior attorneys representing the Pennsylvania State Employees' Retirement System ("SERS") as the lead plaintiff in the *In re CIGNA Corp. Sec. Litig.*, No. 02-CV-8088 (E.D. Pa.), a federal securities fraud class action in which SERS moved for, and was appointed, lead plaintiff. CIGNA allegedly concealed crucial operational problems, which, once revealed, caused the company's stock price to fall precipitously. The firm obtained a \$93 million settlement. This was a remarkable recovery because there were no accounting restatements, government investigations, typical indicators of financial fraud, or insider trading. Moreover, the case was settled on the eve of trial (22.7% of losses recovered).

Before joining the firm, Ms. Podell was a founding member of Savett Frutkin Podell & Ryan, P.C., and before that, a shareholder at Kohn, Savett, Klein & Graf and an associate at Dechert LLP, all in Philadelphia.

Camille Fundora Rodriguez – Shareholder

Ms. Rodriguez is a Shareholder in the firm's Employment & Unpaid Wages, Consumer Protection, and Lending Practices & Borrowers' Rights practice groups. Ms. Rodriguez primarily focuses on wage and hour class and collective actions arising under the Fair Labor Standards Act and state laws. She is also the Diversity, Equity, and Inclusion Coordinator and leads the Firm's DEI Task Force, which enacts a broad range of diversity efforts, including efforts to hire and retain attorneys and non-attorneys from diverse backgrounds and to foster an inclusive work environment, including through Firmwide trainings on implicit bias issues that may impact the workplace.

Prior to joining the firm, Ms. Rodriguez practiced in the litigation department at a boutique Philadelphia law firm where she represented clients in a variety of personal injury, disability, and employment discrimination matters. Ms. Rodriguez is a graduate of Widener University School of Law.

Ms. Rodriguez was recently named a 2023 The Best Lawyers in America: Ones to Watch. She was also a Pennsylvania Super Lawyer "Rising Star" in 2022. In 2021, Ms. Rodriguez was named a "Rising Star" by *Law360*, a "Rising Star of the Plaintiffs Bar" by the *National Law Journal*, and

“Lawyer on the Fast Track” by *The Legal Intelligencer*. She also has been a Pennsylvania Super Lawyer “Rising Star” between 2017 and 2021.

Ms. Rodriguez is an active member of the Pennsylvania, Philadelphia, and Hispanic Bar Associations.

Y. Michael Twersky – Shareholder

Y. Michael Twersky concentrates his practice primarily on representing plaintiffs in complex litigation, including on insurance, antitrust, and environmental matters.

In the past, Mr. Twersky has worked on a wide variety of insurance matters including an insurance case in which a Federal District Court found on Summary Judgement that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan. Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including: *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement in 2014), and *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (combined settlements in excess of \$76 million in 2018). Mr. Twersky has also represented inmates in connection with allegations that various inmate calling services charged unreasonable rates and fees in violation of the Federal Communication Act.

Currently, Mr. Twersky is litigating a number of complex class actions related to insurance products, including proposed class actions in multiple forums against a workers’ compensation insurance company alleging that the company deceptively sold illegal workers’ compensation programs that were not properly filed with state regulators. *E.g.*, *Shasta Linen Supply, Inc. v Applied Underwriters et al.*, No. 2:16-cv-0158 (N.D. Cal.). Mr. Twersky is also involved in a proposed class action in Federal Court brought on behalf of Alaska-enrolled Medicaid Healthcare Providers against the developers of the Alaska Medicaid Management Information System Company alleging that providers were harmed as a result of the negligent and faulty design and implementation of the MMIS system. *See South Peninsula Hospital et al v. Xerox State Healthcare, LLC*, 3:15-cv-00177 (D. Alaska). Mr. Twersky is also involved in environmental litigation on behalf of various states to recover the costs of remediation for contamination to groundwater resources.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition, Mr. Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.

Daniel J. Walker – Shareholder

Dan Walker is a Shareholder of the firm, which he rejoined in July 2017 after serving three years in the Health Care Division at the Federal Trade Commission. Mr. Walker practices in the firm's Washington, D.C. office.

While at the Federal Trade Commission, Mr. Walker investigated and litigated antitrust matters in the health care industry. In addition to leading various nonpublic investigations in the pharmaceutical and health information technology sectors, Mr. Walker litigated *Federal Trade Commission v. AbbVie Inc., et al.*, a case alleging that a brand pharmaceutical manufacturer engaged in sham patent litigation to delay generic competition, and *Federal Trade Commission v. Cephalon Inc.*, a "pay-for-delay" lawsuit over a brand pharmaceutical manufacturer's payment to four generic competitors in return for the generics' agreement to delay entry into the market. The Cephalon case settled shortly before trial for \$1.2 billion-the largest equitable monetary relief ever secured by the Federal Trade Commission-as well as significant injunctive relief.

During his time in private practice, Mr. Walker has litigated cases on behalf of plaintiffs and defendants in many areas of law, including antitrust, financial fraud, breach of contract, bankruptcy, and intellectual property. Mr. Walker has helped recover hundreds of millions of dollars on behalf of plaintiffs, including in *In re Titanium Dioxide Antitrust Litigation* (with settlements totaling \$163.5 million for purchasers of titanium dioxide), *In re High Tech Employee Antitrust Litigation* (with settlements totaling \$435 million for workers in the high tech industry), and *Adriana Castro, M.D., P.A., et al. v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.) (with a \$61.5 million settlement pending court approval for purchasers of pediatric vaccines). Mr. Walker was also a member of the team that recovered the funds lost by account holders during MF Global's collapse and a member of the trial team that successfully represented the Washington Mutual stockholders seeking to recover investments lost in the bankruptcy.

In addition, Mr. Walker has spoken frequently on antitrust issues, including on the intersection of antitrust and intellectual property in the health care industry.

Mr. Walker is a *magna cum laude* graduate of Amherst College and Cornell University Law School, where he was an Articles Editor for the Cornell Law Review. Before entering private practice, Mr. Walker clerked for the Honorable Richard C. Wesley of the United States Court of Appeals for the Second Circuit.

Michaela Wallin – Shareholder

Michaela Wallin is a Shareholder in the Antitrust and Employment Law practice groups. Ms. Wallin's work in the Antitrust group involves complex class actions, including those alleging that pharmaceutical manufacturers have wrongfully kept less expensive drugs off the market, in violation of the antitrust laws. In the Employment Law Group, Ms. Wallin focuses on wage and hour class and collective actions arising under federal and state law.

Prior to joining the firm, Ms. Wallin served as a law clerk for the Honorable James L. Cott of the United States District Court of the Southern District of New York. She also completed an Equal Justice Works Fellowship at the ACLU Women's Rights Project, where she worked to challenge local laws that target domestic violence survivors for eviction and impede tenants' ability to call the police.

Ms. Wallin is a graduate of Columbia Law School, where she was a Harlan Fiske Stone Scholar. Ms. Wallin graduated *magna cum laude* from Bowdoin College, where she was Phi Beta Kappa and a Sarah and James Bowdoin Scholar.

Alfred W. Zaher – Shareholder

Alfred Zaher is a Shareholder with the firm's Intellectual Property Department and he focuses his practice on patent, trademark, and trade secret litigation, licensing, and counseling. He has experience representing clients before the U.S. Patent and Trademark Office and the U.S. Copyright Office. He counsels companies in the biotechnology, pharmaceuticals, medical devices, electronics, and software industries. Having close relationships with Chinese officials and law firms, Alfred has a particular focus on managing clients' patent and trademark portfolios in China, including securing and prosecuting infringers in the Chinese court system. In his role as the firm's Chief Diversity & Inclusion Officer, Alfred is responsible for overseeing, implementing, and providing leadership to Montgomery McCracken's diversity initiatives. Prior to his legal career, Alfred was a research engineer and electrical engineer with more than 10 years of technical experience with companies like The Boeing Company and Litton Industries.

Senior Counsel

Andrew Abramowitz – Senior Counsel

Andrew Abramowitz, Senior Counsel in the Securities Department, concentrates his practice in shareholder litigation, representing investors in matters under the federal securities laws and state law governing breach of fiduciary duty. Prior to joining the firm, Mr. Abramowitz was a partner with a prominent Philadelphia law firm where he practiced for more than twenty years.

Mr. Abramowitz has served as one of the lead counsel in numerous cases, including, of note, *In re Parmalat Securities Litigation* (S.D.N.Y.), often referred to as "the Enron of Europe," which was a worldwide securities fraud involving an international dairy conglomerate; *In re SCOR Holding (Switzerland) AG Litigation* (S.D.N.Y.), the first case ever to secure recovery for investors in both a U.S. jurisdiction and a foreign forum; and *In re Abbott Depakote Shareholder Derivative Litigation* (N.D. Ill.), involving the off-label marketing of an anti-seizure drug.

Other notable cases in which Mr. Abramowitz played a significant role include: *Howard v. Liquidity Services, Inc.* (D.D.C.); *In re The Bancorp, Inc. Securities Litigation* (D. Del.); *In re Life Partners Holdings, Inc. Derivative Litigation* (W.D. Tex.); *In re Synthes Inc. Shareholder Litigation* (Del. Ch.); *In re Atheros Communications, Inc. Shareholder Litigation* (Del. Ch.); *Utah Retirement Systems v. Strauss* (American Home Mortgage) (E.D.N.Y.); *In re PSINet, Inc. Securities Litigation* (E.D. Va.); *Penn Federation BMW v. Norfolk Southern Corp.* (E.D. Pa.); *Inter-Local Pension Fund of the Graphic Communications Conference of the International Brotherhood of Teamsters v. Cybersource Corp.* (Del. Ch.).

He previously served as Legal Counsel to Tradeoffs, a popular health policy podcast launched by a prominent Philadelphia journalist.

Mr. Abramowitz graduated *cum laude* from Franklin & Marshall College (1993) where he earned membership in Phi Beta Kappa. He earned a J.D. from the University of Maryland School of Law (1996), where he was Assistant Editor for *The Business Lawyer*, published jointly with the American Bar Association.

He was a long-standing member of the Corporate Advisory Board of the Pennsylvania Association of Public Employee Retirement Systems (PAPERS), an organization dedicated to educating trustees and fiduciaries of public pension funds throughout Pennsylvania. He has also participated for more than fifteen years in the University of Pennsylvania School of Law's Mentoring Program, in which he mentors international students in the L.L.M. program about the practice of law in the U.S. He has written and spoken extensively on matters relating to securities litigation and corporate governance.

Mr. Abramowitz is also the author of two novels, *A Beginner's Guide to Free Fall* (Lake Union Publishing, 2019), and *Thank You, Goodnight* (Touchstone/Simon & Schuster, 2015).

Natisha Aviles – Senior Counsel

Natisha Aviles is Senior Counsel in the firm's Antitrust practice group. She concentrates her practice on complex antitrust litigation.

Stephanie K. Benecchi – Senior Counsel

Stephanie K. Benecchi is Senior Counsel with the firm's Intellectual Property Department in Philadelphia. Prior to joining Berger Montague, Stephanie was a partner at Montgomery McCracken Walker & Rhoads in their Philadelphia and Cherry Hill, NJ offices, where she focused her practice on commercial litigation, including class action defense, as well as white collar defense and government investigations. Prior to her time at MMWR, Stephanie was an associate at Kasowitz Benson Torres in New York.

Stephanie manages an interdisciplinary litigation team representing a medical device manufacturer in multiple patent infringement suits. Stephanie's experience focuses on health care, where she represents both entities and individuals from health systems, medical practices, and medical device and pharmaceutical manufacturers in conjunction with government investigations including billing, labeling and monitoring of medical devices, and pharmaceutical sales practices.

Stephanie is a member of the Legal Ethics and Professional Responsibility committee for the Pennsylvania Bar Association, and has devoted time to speaking and writing on legal ethics issues. Her presentations have yielded "wow" reviews from attendees impressed with her ability to tackle difficult issues like mental health services on campus. Her publications regarding the ethics of representing clients at risk of suicide provided valuable guidance to the bar. Stephanie co-wrote articles on the merits of removing "zeal" from the ABA model rules of professional conduct, published by the ABA Section of Litigation Ethics and Professionalism ("Exploring the Bounds of Professionalism: Is it Time to Remove 'Zeal' from the ABA Model Rules of Professional

Conduct?”) and the Pennsylvania Lawyer (“The Pennsylvania Supreme Court Should Remove the ‘Z’ Words from the Rules of Professional Conduct”).

Stephanie is a graduate of Fordham Law School, where she served as a staff member on the Fordham Journal of Corporate & Financial Law, and received the Archibald R. Murray Public Service Award for externing at the NYSE. Stephanie also graduated from Columbia University with a B.A. in Psychology, where she was a member of the Varsity Women’s Swim Team.

Mark DeSanto – Senior Counsel

Mark B. DeSanto is Senior Counsel in the Firm’s Consumer Protection department in Philadelphia. Prior to joining Berger Montague, Mark was an associate at Sauder Schelkopf where he litigated various consumer class actions with a particular emphasis on automotive defect cases, Chimicles Schwartz Kriner & Donaldson-Smith where he litigated various consumer, data breach, and ERISA class actions that helped recover over \$82 million for aggrieved class members and was a member of the firm’s securities financial institution marketing committee, and Kessler Topaz Meltzer & Check where he worked as an associate in the securities department and helped secure over \$220 million for investors in securities fraud class actions. In April 2023, Mark was selected by the Legal Intelligencer as a “Lawyer on the Fast Track.”

Mark graduated from the University of Miami School of Law, cum laude, in 2013, where he was a member of the National Security and Armed Conflict Law Review and earned President’s Honor Roll and Dean’s List distinction in multiple semesters. Mark also earned his Bachelor of Business Administration in Finance from the University of Miami in 2009. Mark is admitted to practice law in Florida, Pennsylvania, and New Jersey.

Jennifer Elwell – Senior Counsel

Jennifer Elwell is Senior Counsel in the firm’s Consumer Protection group. She concentrates her practice in complex civil litigation involving actions brought on behalf of consumers for corporate wrongdoing and consumer fraud.

Patrick J. Farley – Senior Counsel

Patrick J. Farley is Senior Counsel in the firm’s Intellectual Property Department. Mr. Farley has over 20 years of international experience in intellectual property law and concentrates his practice on all aspects of intellectual property, including patent drafting, patent prosecution, patent litigation, patent and trademark portfolio management, and licensing. Patrick counsels companies in the biotechnology and pharmaceuticals industries with a particular focus on patent and trademark portfolios, agreements, and due diligence. Prior to joining Berger Montague, Patrick was a partner at a Philadelphia law firm.

Abigail J. Gertner – Senior Counsel

Abigail J. Gertner is an attorney in the firm’s Philadelphia office and practices in the firm’s Consumer Protection and ERISA Litigation practice groups.

Before joining the firm, Ms. Gertner worked at both plaintiff and defense firms, where she gained experience in complex litigation, including consumer fraud, ERISA, toxic tort, and antitrust matters. She concentrates her current practice on automotive defect, consumer fraud, and ERISA class actions.

Ms. Gertner graduated from Santa Clara University School of Law in 2003, where she interned for the Santa Clara County District Attorney's Office in the Child and Elder Abuse Unit. She completed her undergraduate studies at Tulane University in 2000, earning a B.S. in Psychology and a B.A. in Classics.

She is also active in her community, formerly serving as a Youth Aid Panel chairperson for Upland in Delaware County. She now serves on the Upland Borough Council, beginning her four-year term in January 2020.

Ms. Gertner is admitted to practice in state courts in Pennsylvania and New Jersey; and the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan.

Aaron Haleva – Senior Counsel

Aaron Haleva is Senior Counsel in the firm's Intellectual Property Department where he focuses his practice on intellectual property litigation, trademarks, and patent preparation and prosecution in various industries including healthcare, pharmaceuticals and immunology, chemical preparations and manufacture, computing systems and architectures, digital technology and coding, memory devices and interfaces, large data mining and artificial intelligence. Aaron has developed on-board interactive vision systems for mobile autonomous robots, created big data analytical tools for immunology-based patient data to predict onset of disease and severity of conditions, and has navigated the patent procurement process both as an inventor and as an attorney. Prior to joining Berger Montague, Aaron was an attorney at a national law firm.

Karen L. Handorf – Senior Counsel

Karen L. Handorf is Senior Counsel at Berger Montague and a member of the firm's Employee Benefits & ERISA practice group, where she represents the interests of employees, retirees, plan sponsors, plan participants and beneficiaries in employee benefit and ERISA cases in the district court and on appeal. Ms. Handorf brings four decades of ERISA knowledge to Berger Montague's practice, where she will focus on emergent issues in health care, with a particular focus on the actions of insurance carrier TPAs that exercise fiduciary duties under ERISA-covered health plans. Ms. Handorf also advises employers and other plan sponsors on the provisions in their administrative service agreements that might cause them to unwittingly violate ERISA or other employee benefit laws. Ms. Handorf is also focused on other legal violations related to patient health care under other (non-ERISA) federal statutes and state consumer statutes in her efforts to address the exorbitant health care costs facing most Americans.

Prior to joining Berger Montague, Ms. Handorf was a partner at another prominent plaintiffs' class action firm and the immediate-past chair and then co-chair of that firm's Employee Benefits/ERISA practice group, where she led efforts in identifying, litigating, and when necessary, appealing often

novel employee benefits issues. In that role, Ms. Handorf was one of the pioneers of the church plan litigation against organizations claiming to be exempt from ERISA due to their affiliation with or status as religious organizations.

Prior to that, Ms. Handorf had a distinguished career in government service. She spent 25 years at the Department of Labor, where, among other senior positions, she was the Deputy Associate Solicitor in the Plan Benefits Security Division. During her tenure at the Department of Labor, Ms. Handorf played a major role in formulating and litigating the Government's position on a wide variety of ERISA issues, from conception through expression in amicus briefs filed by the United States Solicitor General in the United States Supreme Court.

Matthew Hartman – Senior Counsel

Matthew Hartman is Senior Counsel in the firm's San Diego office. He primarily practices in complex litigation.

Joseph C. Hashmall – Senior Counsel

Joe Hashmall, Senior Counsel, is a member of the firm's Consumer Protection practice group. In that practice group, Mr. Hashmall primarily focuses on consumer class actions concerning financial and credit reporting practices.

Mr. Hashmall is a graduate of the Grinnell College and the Cornell University School of Law. During law school, Mr. Hashmall served as the Executive Editor of the Cornell Legal Information Institute's Supreme Court Bulletin and as an Editor for the Cornell International Law Journal. Mr. Hashmall has also worked as law clerk for President Judge Bonnie B. Leadbetter of the Pennsylvania Commonwealth Court and for the Honorable David J. Ten Eyck of the Minnesota District Court.

Mariyam Hussain – Senior Counsel

Mariyam Hussain is Senior Counsel with the Firm's Employment department. Before joining Berger Montague, Mariyam was counsel at Justice Catalyst Law, where she developed interdisciplinary impact litigation cases and legal strategies to advance economic and social justice. Prior to that, Mariyam served as a supervising attorney with Legal Aid Chicago's Immigrant and Workers' Rights Practice Group, managing a team of attorneys and paralegals in complex multi-plaintiff litigation on behalf of migrant farmworkers in Illinois. During her time with Legal Aid Chicago, Mariyam played a leading role in the filing of a federal complaint in U.S. Bankruptcy Court alleging racketeering, human trafficking, forced labor, and FLSA violations and other wrongful conduct against H-2A employers doing business under various names. Mariyam also previously worked as a senior associate doing class-action and wage-and-hour litigation at a plaintiff side law firm in New York, and as staff attorney with the New York City Commission on Human Rights.

Mariyam received her Juris Doctorate and undergraduate degrees from DePaul University and a Masters in Comparative Literature from the University of London.

J. Quinn Kerrigan – Senior Counsel

J. Quinn Kerrigan is Senior Counsel in the firm's Consumer Protection practice group. He concentrates his practice in the area of complex consumer litigation, prosecuting actions against corporate defendants and other institutions for violations of state and federal law, including state causes of action challenging unfair and deceptive practices.

Before joining the firm, Mr. Kerrigan gained notable experience litigating antitrust and consumer class actions, corporate mergers, derivative claims, and insurance coverage disputes.

Mr. Kerrigan is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey.

Mr. Kerrigan is a graduate of Temple University's Beasley School of Law and John Hopkins University.

Joseph P. Klein – Senior Counsel

Joseph Klein is Senior Counsel in the Antitrust practice group and focuses his work on complex antitrust litigation.

David A. Langer – Senior Counsel

David A. Langer is Senior Counsel in the Antitrust practice group. He concentrates his practice in complex antitrust litigation.

Mr. Langer has had a primary role in the prosecution of the following antitrust class actions: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. Visa and MasterCard cardholders; extraordinary settlement participation from class members drawing more than 10 million claimants in one of the largest consumer antitrust class actions); *Ross and Wachsmuth v. American Express Co., et al.* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied); *Ross, et al. v. Bank of America, N.A. (USA), et al.* (S.D.N.Y.) (obtained settlements with four of the nations' largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years, and a settlement with the non-bank defendant arbitration provider (NAF), who agreed to cease administering arbitration proceedings involving business cards for 3.5 years); and *In re Linerboard Antitrust Litigation* (E.D. Pa.) (helped obtain settlements of more than \$200 million dollars).

Mr. Langer was one of the trial team chairs in the 5-week consolidated bench trial of arbitration antitrust claims in *Ross v. American Express* and *Ross v. Bank of America*, where the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, commended the "extraordinary talents of Plaintiffs' counsel."

Mr. Langer has also had a primary role in appellate proceedings, obtaining relief for his clients in a number of matters, including *Ross, et al. v. American Express Co., et al.*, 547 F.3d 137 (S.D.N.Y. 2008) (precluding an alleged co-conspirator from relying on the doctrine of equitable estoppel to invoke arbitration clauses imposed by its competitor co-conspirators); *Ross, et al. v. Bank of America, N.A. (USA), et al.*, 524 F.3d 217 (S.D.N.Y. 2008) (holding that antitrust plaintiffs possess Article III standing to challenge the defendants' collusive imposition of arbitration clauses barring participation in class actions); *In re Pharmacy Benefit Managers Antitrust Litig.*, 700 F.3d 109 (3d Cir. 2012) (finding opposing party waived the right to compel arbitration and reversing district court).

While at Vermont Law School, Mr. Langer was Managing Editor and a member of the Vermont Law Review.

Natalie Lesser – Senior Counsel

Natalie Lesser is Senior Counsel in the firm's Consumer Protection and Employee Benefits & ERISA practice groups. She concentrates her practice on automotive defect, consumer fraud, and ERISA class actions.

Before joining the firm, Ms. Lesser gained experience at both plaintiff and defense firms, litigating complex matters involving consumer fraud, securities fraud, and managed care disputes.

Ms. Lesser is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan, and the United States Courts of Appeals for the Third Circuit and the Ninth Circuit.

Ms. Lesser received her law degree from the University of Pittsburgh School of Law in 2010 and her undergraduate degree in English from the State University of New York at Albany in 2007. While attending the University of Pittsburgh School of Law, Ms. Lesser was Editor in Chief of the University of Pittsburgh Law Review.

Shawn S. Li – Senior Counsel

Dr. Shawn Li is Senior Counsel in the firm's Intellectual Property Department. Dr. Li has developed global protection strategies, drafted, and prosecuted U.S. and international patent applications, prosecuted patent reexaminations, and negotiated and prepared complex licenses and related agreements. Relying on his education in the medical sciences, he provides counsel to clients in biotechnology, pharmaceutical, chemical, medical device, and other technology related industries. He also advises U.S. and multinational clients on issues related to protecting intellectual property in China, including patent, trademark, and trade secret enforcement actions, as well as cross border technology transfers and joint ventures. Prior to joining Berger Montague, Shawn gained experience working for nationally recognized law firms in Philadelphia. He has conducted patent infringement, validity, and inequitable conduct analysis and assisted in preparation for expert reports and prepared expert witnesses. Shawn worked as a postdoctoral research fellow in the department of physiology at the University of Pennsylvania School of

Medicine and as a graduate research assistant at the Skirball Institute of Biomolecular Medicine at the New York University School of Medicine.

James Maro – Senior Counsel

James Maro is Senior Counsel with the Firm's Securities department in Philadelphia. Prior to joining Berger Montague, Jim was a partner at Kessler Topaz Meltzer & Check, LLP, where he focused his practice on securities fraud and consumer protection class action litigation. Jim also represented investors in derivative, as well as mergers and acquisitions litigation. Most recently, Jim managed Kessler Topaz's "startup" department where he developed policies and practices regarding the firm's marketing efforts, potential investor and client communications, and client retention.

Jim graduated from Villanova University School of Law and received his undergraduate degree from the Johns Hopkins University.

Richard L. Moss – Senior Counsel

Richard L. Moss is Senior Counsel in the firm's Intellectual Property Department. He focuses his practice on U.S. and foreign patent prosecution matters in electrical, electromechanical, general mechanical, medical device, computer software, and process technology areas. Richard also represents and counsels clients in intellectual property litigation matters and post-grant proceedings before the U.S. Patent and Trademark Office Patent Trial and Appeal Board, as well as in business transactions involving intellectual property assets, including licensing and corporate due diligence matters.

Prior to joining Berger Montague, Richard was a Partner at a Philadelphia law firm and, before that, a Special Counsel at a prominent New York City based international law firm.

Jeffrey L. Osterwise – Senior Counsel

Mr. Osterwise pursues relief for consumers and businesses in a broad array of matters.

Mr. Osterwise litigates class actions on behalf of consumers who have been damaged by automobile manufacturers that conceal known defects in their vehicles and refuse to fulfill their warranty obligations. His experience includes actions against General Motors, Nissan North America, American Honda Motor Company, among others.

Mr. Osterwise also has substantial experience advising consumers and businesses of their rights with respect to a variety of other defective products. He has helped injured parties pursue their claims arising from defects in pharmaceuticals, solar panels, riding lawn tractors, and HVAC and plumbing products.

In addition to defective product claims, Mr. Osterwise has fought to protect consumers from unfair business practices. For example, he has represented clients deceived by their auto insurance carriers and consumers improperly billed by a national health club chain.

Mr. Osterwise also has significant experience representing the interests of shareholders in securities fraud and corporate governance matters. And, he represented the City of Philadelphia

and the City of Chicago in separate actions against certain online travel companies for their failure to pay hotel taxes.

Kerri Petty – Senior Counsel

Kerri Petty is Senior Counsel for the firm and concentrates her practice on complex litigation.

Jacob M. Polakoff – Senior Counsel

Since joining the firm in 2006, Mr. Polakoff has concentrated his practice on the prosecution of class actions and other complex litigation, including the representation of plaintiffs in consumer protection, securities, and commercial cases.

Mr. Polakoff currently represents homeowners throughout the country in various product liability actions concerning defective construction products, including plumbing and roofing. He served on the teams of co-lead counsel in two nationwide class action plumbing lawsuits: (i) against NIBCO, Inc., claiming that NIBCO's cross-linked polyethylene (PEX) plumbing tubes and component parts were defective and prematurely failed (\$43.5 million settlement), and (ii) in *George v. Uponor, Inc., et al.*, a class action about Uponor's high zinc yellow brass PEX plumbing fittings (\$21 million settlement).

He represented the shareholders of the Philadelphia Stock Exchange in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, in the Delaware Court of Chancery, which settled for in excess of \$99 million in addition to significant corporate governance provisions. He also is on the team of co-lead counsel representing the shareholders of Patriot National, Inc., and helped secure a \$6.5 million settlement with the bankrupt company's directors and officers.

Mr. Polakoff's experience also includes representing entrepreneurs and small businesses in actions against Fortune 500 companies.

Mr. Polakoff was selected as a Pennsylvania Super Lawyer in 2021, an honor conferred upon only the top 5% of attorneys in Pennsylvania. He was previously selected as a Pennsylvania Super Lawyer – Rising Star in 2010 and 2013-2019.

Mr. Polakoff is a 2006 graduate of the joint J.D./M.B.A. program at the University of Miami, where he was the recipient of the Dean's Certificate of Achievement in Legal Research & Writing, was awarded a Graduate Assistantship and was honored with the Award for Academic Excellence in Graduate Studies.

He holds a 2002 B.S.B.A. from Boston University's School of Management, where he concentrated in finance.

Mr. Polakoff is the Judge of Election for Philadelphia's 30th Ward, 1st Division. He was also a member of the planning committee and the sponsorship sub-committee for the Justice for All 5K from its inception. The event benefited Community Legal Services of Philadelphia, which provides free legal services, in civil matters, to low-income Philadelphians.

Geoffrey C. Price – Senior Counsel

Geoffrey C. Price is Senior Counsel in the firm's antitrust division, specializing in complex litigation related to pharmaceuticals, investment fraud, and general anti-competitive business practices.

Richard Schwartz – Senior Counsel

Richard Schwartz is Senior Counsel in the Antitrust practice group. Mr. Schwartz concentrates his practice in the area of complex antitrust litigation with a focus on representation of direct purchasers of prescription drugs.

Prior to joining the firm, Mr. Schwartz was an attorney in the New York and Philadelphia offices of a firm where he represented plaintiffs in a variety of matters before trial and appellate courts with a focus on antitrust and shareholder class actions.

Mr. Schwartz is a member of the teams prosecuting a number of antitrust class actions on behalf of direct purchasers of prescription drugs in which the purchasers allege that generic drugs have been illegally kept off the market. Those cases include *In re Opana ER Antitrust Litigation*, No. 14-cv-10151 (N.D. Ill.); *In re Suboxone*, No. 13-MD-2445 (E.D. Pa.); *In re Solodyn*, No. 14-MD-2503 (D. Mass.) and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.).

Mr. Schwartz is admitted to practice in New York, Pennsylvania, and Illinois.

Julie Selesnick – Senior Counsel

Julie S. Selesnick is Senior Counsel at Berger Montague and a member of the firm's Employee Benefits & ERISA practice group, where she represents the interests of employees, retirees, plan sponsors, plan participants and beneficiaries in employee benefit and ERISA cases in the district court and on appeal. Ms. Selesnick's practice is focused on health care, where she brings more than a decade of insurance coverage experience to good use focusing on the behaviors of insurance carrier TPAs that exercise fiduciary duties under ERISA-covered health plans and counseling employers and other plan sponsors on provisions in their administrative service agreements that might cause them to unwittingly violate ERISA or other employee benefit laws. Ms. Selesnick is also focused on other legal violations related to patient health care under various federal statutes and state consumer statutes to help everyday American's bring down the out-of-control health care costs they face.

Prior to joining Berger Montague, Ms. Selesnick was of counsel at another prominent plaintiffs' class action firm, where she practiced primarily in the ERISA group representing plaintiffs in class cases related to 401K excessive fee disputes, actuarial equivalence pension issues, church plan litigation, and cases against third-party administrators for breach of fiduciary duty in connection with their administration of ERISA-covered group health plans. Ms. Selesnick also worked in that firm's Consumer Protection group litigating consumer class action lawsuits and policyholder insurance coverage actions on behalf of individual and class plaintiffs.

Prior to that, Ms. Selesnick was a partner at a Washington D.C. law firm in both the insurance coverage and employment law groups, where she represented carriers in insurance coverage litigation and subrogation litigation in state and federal courts throughout the United States, and represented both employers and employees in employment litigation, as well as negotiating severance agreements and reviewing and updating employee handbooks. Ms. Selesnick has first chair trial experience in jury and bench trials and has experience with arbitration and mediation of complex disputes.

Ms. Selesnick is an accomplished writer and has written numerous legal and non-legal articles and blog posts. She has also contributed to ERISA Litigation textbooks and cumulative supplements, and written materials for use in health-care litigation conferences.

Ms. Selesnick graduated with a B.A., cum laude, from the San Diego State University and was elected Phi Beta Kappa and Pi Sigma Alpha, and she received her J.D., from the George Washington University School of Law, where she was a member of the George Washington University Law Review and was inducted into the Order of the Coif.

John Timmer – Senior Counsel

John Timmer is senior counsel in the Firm's Commercial Litigation Department. Prior to joining Berger Montague, John was a partner at Schnader Harrison Segal & Lewis LLP where he focused on commercial litigation matters. John represented a manufacturer of roofing shingles and a truck manufacturer in numerous matters involving product defect claims, and also represented the School District of Philadelphia in various matters alleging breaches of contract. John also successfully represented the Philadelphia District Attorney's Office in litigation relating to an alleged "Do Not Call" list that went to trial in June 2023 in which a nonsuit was entered at the close of plaintiff's case.

Prior to working at Schnader Harrison, John worked at the Hoyle Law Firm, where he represented defendants in class actions involving defective roofing shingles and violations of the Driver's Privacy Protection Act, and where he was counsel for a receiver charged with recovering money for defrauded investors in a Ponzi scheme. John started his career at Pepper Hamilton (now Troutman Pepper) where he represented pharmaceutical and medical device companies.

John has represented numerous pro bono clients, including on behalf of incarcerated individuals asserting civil rights claims and on behalf of tenants in landlord-tenant court. John graduated from Wake Forest University and Vanderbilt Law School.

Zachary M. Vaughan – Senior Counsel

Zach Vaughan is Senior Counsel who works with the Firm's consumer department remotely from New York. Prior to joining Berger Montague, Zach was an associate at Scott+Scott Attorneys at Law LLP in New York, where he represented institutional and retail investors in securities class actions under the '33 and '34 Acts. Prior to that, Zach

was a general commercial litigator at Patterson Belknap Webb & Tyler LLP, also in New York.

Zach graduated from the Georgetown University Law Center in 2011. Before beginning his career as a litigator, he served as a law clerk to Judge D. Michael Fisher of the U.S. Court of Appeals for the Third Circuit in Pittsburgh and to Judge Colleen McMahon of the U.S. District Court for the Southern District of New York.

Lane L. Vines – Senior Counsel

Lane L. Vines's practice is concentrated in the areas of securities/investor fraud, consumer and *qui tam* litigation. For more than 17 years, Mr. Vines has prosecuted both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Mr. Vines also represents consumers in class actions involving unlawful and deceptive practices, as well as relators in *qui tam*, whistleblower and False Claims Act litigations. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and numerous federal courts.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the firm's principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

During law school, Mr. Vines was a member of the Villanova Law Review and served as a Managing Editor of *Outside Works*. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

Mr. Vines has achieved the highest peer rating, "AV Preeminent" in Martindale-Hubbell for legal abilities and ethical standards. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and several federal courts.

William Walsh – Senior Counsel

William Walsh is Senior Counsel within the Environmental Department. Prior to joining Berger Montague, he was part of the environmental team at Weitz & Luxenberg for 16 years. There, Will played a significant role representing several states and municipal water providers in actions against polluters for groundwater contamination. He was also directly involved in PFOA/PFOS litigation and the Roundup litigation, representing individuals who developed non-Hodgkin's lymphoma from their exposure to glyphosate.

Will graduated from Haverford College with a degree in political science and worked as a legislative assistant on a Senate staff for two years before attending law school. At the University of Minnesota Law School, Will assisted in the rewriting of the law school's Honor Code and was a member of the Minnesota Law Review and served as a moot court director.

Dena Young – Senior Counsel

Dena Young is Senior Counsel in the firm's Consumer Protection practice group. She concentrates her practice in the area of complex consumer litigation, prosecuting actions against pharmaceutical and product manufacturers for violations of state and federal law.

Before joining the firm, Dena worked for prominent law firms in the Philadelphia region where she worked on personal injury and mass tort cases involving dangerous and defective medical devices, pharmaceutical, and consumer products including Talcum Powder, Transvaginal Mesh, Roundup, Risperdal, Viagra, Zofran, and Xarelto. She also assisted in the prosecution of cases on behalf of the U.S. Government and other government entities for violations of federal and state false claims acts and anti-kickback statutes.

Recently, the Honorable Brian R. Martinotti appointed Dena to serve on the plaintiffs' steering committee (PSC) of MDL 2921 in the *Allergan BIOCELL Textured Breast Implant Products Liability Litigation*, situated in the United States District Court for the District of New Jersey. In this case, Dena represents plaintiffs diagnosed with breast implant associated anaplastic large cell lymphoma (BIA-ALCL), a deadly form of cancer caused by Allergan's textured breast implants.

Early in her legal career, Dena represented clients diagnosed with devastating asbestos-related diseases, including mesothelioma and lung cancer. Cases she handled resulted in millions of dollars in settlements for her clients.

During law school, Dena represented defendants in preliminary hearings and misdemeanor trials while working for the Defender Association of Philadelphia. She also clerked for the Animal Protection Litigation section of the United States Humane Society. In 2008-2009, Young worked for the Honorable Renee Cardwell Hughes of Philadelphia's Court of Common Pleas.

In 2010, she received her Juris Doctor degree, with honors, from Drexel University's Thomas R. Kline School of Law where she founded the School's Student Animal Legal Defense Fund chapter.

Dena is admitted to practice in state courts in Pennsylvania and New Jersey, the U.S. District Court for the Eastern District of Pennsylvania, and the U.S. District Court for the District of New Jersey.

Associates

Michael Anderson – Associate

Michael Anderson is an Associate in the Wage and Hour department based out of the Firm's Philadelphia office. Michael graduated cum laude from William & Mary Law School and was recognized for his work in public service. Michael represented his third-year class on the Student Bar Association, participated in the Leadership Institute, and served as a member of the William & Mary Journal of Race, Gender, and Social Justice.

During law school, Michael completed two federal judicial externships with the Hon. Raymond A. Jackson and the Hon. John A. Gibney in the Eastern District of Virginia. In his final year, Michael spent much of his time advocating for students with disabilities through William & Mary's Special Education Advocacy Clinic. In the clinic, Michael counseled families, represented clients at special education meetings, and negotiated with school districts to provide appropriate special education services under the Individuals with Disabilities Education Act (IDEA). Michael also worked as a law clerk at Victor M. Glasberg & Associates, where he assisted the firm with litigating complex civil rights cases involving law enforcement misconduct, police brutality, and employment discrimination under federal laws.

Prior to law school, Michael worked as the Director of Auxiliary Programs and taught a high school philosophy course at a nationally recognized charter school in southern Arizona.

Robert Berry – Associate

Robert Berry is with the Firm's Antitrust department in Philadelphia. Robert graduated Magna Cum Laude from the University of Pennsylvania Carey Law School in May 2022. At Penn, Robert served on the editorial board of the University of Pennsylvania Journal of Law and Public Affairs as Research Editor. Robert was heavily engaged in clinic programs, directly representing clients in landlord-tenant disputes, social security matters, and asylum-seeking matters with the Civil Practice Clinic and the Transnational Legal Clinic. Robert also worked heavily with Professor Herbert Hovenkamp on antitrust matters, taking two separate antitrust classes from the professor, serving as the professor's antitrust TA during the summer of 2021, and working with the professor on an independent study project examining the current state of horizontal merger law.

Prior to law school, Robert graduated from Cornell University with a bachelor's degree in history with a minor in classical civilizations. While at Cornell Robert was inducted into the Phi Beta Kappa honor society for academic excellence.

Laurel Boman – Associate

Laurel Boman is an associate with the Firm's antitrust department in Philadelphia. Laurel returned to Berger Montague after being a summer associate at the Firm in 2020. Upon graduating from NYU School of Law in 2021, Laurel clerked for the Honorable Richard G. Andrews in the District of Delaware and the Honorable Timothy B. Dyk at the U.S. Court of Appeals for the Federal Circuit.

At NYU, Laurel was involved in the Law Review as an Executive Editor, the Herman Biggs Society (a health policy lecture series), and the Technology Law & Policy Clinic. With the Clinic, Laurel co-authored the white paper Clinical Trial Cost Transparency at the National Institutes of Health: Law and Policy Recommendations, which sets forth recommendations to achieve greater transparency into the costs of pharmaceutical research and development. During law school, Laurel also worked as a research assistant for Rhochelle Dreyfuss and interned with Knowledge Ecology International in Washington, D.C. At NYU, Laurel was a Pomeroy Scholar, a Florence Allen Scholar, and graduated magna cum laude.

Laurel received her Bachelor's degree in Classics from Gustavus Adolphus College in St. Peter, MN.

Grace Ann Brew – Associate

Grace Ann Brew is an Associate in the Antitrust group at the Firm's Philadelphia office. Before joining the Firm, Grace Ann clerked for the Honorable Maryellen Noreika in the United States District Court for the District of Delaware. Grace Ann is a graduate of Stanford Law School, where she received high pro bono distinction for her work with various organizations including Legal Aid at Work and the ACLU of Pennsylvania. She earned the Judge Thelton E. Henderson Prize for Outstanding Performance for her work in Stanford's Juelsgaard Intellectual Property and Innovation Clinic. While in law school, Grace Ann worked as a summer associate at a civil rights litigation firm specializing in prisoners' rights class actions and interned for the Los Angeles City Attorney's Civil Litigation Branch. Grace Ann served as a member of the Stanford Law Review and a managing editor of the Stanford Journal of Civil Rights & Civil Liberties.

Grace Ann completed her undergraduate degree at Pomona College, where she studied English and Classics.

Hope Brinn – Associate

Hope Brinn is an Associate in the firm's Antitrust group. Prior to joining the firm, Ms. Brinn clerked for the Honorable Janet Bond Arterton in the District of Connecticut. Ms. Brinn graduated from the University of Michigan Law School, where she was a senior editor for the Michigan Law Review, and the executive notes editor for the Michigan Journal of Race & the Law.

Prior to law school, Ms. Brinn worked at The Philadelphia School and Breakthrough of Greater Philadelphia.

William H. Fedullo – Associate

William H. Fedullo is an Associate in the firm's Philadelphia office, practicing in the Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Fedullo represents whistleblowers in active litigation throughout the country. He also assists in the pre-litigation investigation and evaluation of potential whistleblower claims.

Prior to joining the firm, Mr. Fedullo was a commercial litigation associate at a large full-service Philadelphia law firm. His practice there focused on protecting small businesses that had been the victims of usurious “merchant cash advance” lending practices. He also took an active role in franchisee rights litigation in the hospitality industry. He served as lead associate in numerous state and federal litigations as well as AAA and JAMS arbitrations. His accomplishments included primarily authoring briefs that obtained critical injunctive relief in bet-the-business arbitration; primarily authoring dispositive and appellate briefs in parallel state and federal actions against one of the largest debt collection companies in the world, resulting in a federal court denying a motion to dismiss a consumer’s Fair Debt Collections Practices Act claims; and authoring a complaint brought by over ninety hotel franchisees against a prominent international hotel franchisor. Additionally, Mr. Fedullo played key roles in several other cases that resulted in favorable verdicts or settlements for his clients.

Mr. Fedullo received a Bachelor of Arts from Swarthmore College with High Honors, with a major in Philosophy and minor in English Literature. He graduated from the University of Pennsylvania Law School *cum laude*. In law school, he was an executive editor of the Penn Law Journal of Constitutional Law, where he published a Comment, “Classless and Uncivil.” He also worked as a research assistant for the reporter for the forthcoming Restatement (Third) of Conflicts of Law, and as a teaching assistant at the Wharton School of Business for the undergraduate class “Constitutional Law and Free Enterprise.” He was the recipient of the 2019 Penn Law Fred G. Leebron Memorial Prize for Best Paper in Constitutional Law for his paper “Original Public Meaning Originalism and Women Presidents.” Finally, he received honors from both the Philadelphia Bar Association and Penn Law for his involvement in pro bono activities, which included serving as a board member for the Custody and Support Assistance Clinic, a student-run organization that provides legal assistance to low-income Philadelphians facing family law issues; working on low-income housing and utility issues at Community Legal Services; and working as a certified legal intern in the Civil Practice Clinic, litigating several cases for low-income Philadelphians before the Philadelphia Court of Common Pleas.

Mr. Fedullo is admitted to practice law in the state courts of the Commonwealth of Pennsylvania as well as the United States District Court for the Eastern District of Pennsylvania.

Kyla Gibboney – Associate

Kyla Gibboney is an Associate with the Firm’s antitrust department in San Francisco. Kyla joined Berger Montague from Gibbs Law Group LLP, where she prosecuted antitrust, consumer protection, and securities class actions on behalf of plaintiffs harmed by corporate and government misconduct. During her time at Gibbs, Kyla was part of trial teams that successfully enforced a provision of the California Constitution against two water districts in Southern California. In 2023, she won the California Attorney Lawyer of the Year Award, which recognizes outstanding California lawyers “whose extraordinary work and cases had a major impact on the law,” for her work on those cases.

Prior to joining Gibbs, Kyla spent five years as an associate at the Joseph Saveri Law Firm. While there, Kyla litigated primarily antitrust class actions, including cases challenging “reverse

payment” settlement agreements between pharmaceutical companies in In re Lidoderm Antitrust Litigation and In re Cipro Cases I & II. In addition to her antitrust work, she also represented content moderators impacted by harmful conduct on Facebook in a case that resulted in a fund being established to provide mental health services for affected workers.

Kyla graduated from University of California College of the Law in San Francisco. During law school, she was active in the pro bono community, competed with, coached, and was as a board member of the moot court team, and served as the Executive Articles Editor of the UC Law Constitutional Law Quarterly. Kyla also spent a semester as an extern with the Antitrust Division of the Department of Justice and completed two judicial externships.

Kyla is currently an executive committee member of the California Lawyers’ Association’s Antitrust and UCL section.

Jeremy Gradwohl – Associate

Jeremy is an Associate in the Antitrust group at the Firm’s Philadelphia office.

Before joining the Firm, Jeremy clerked for Judge Harvey Bartle III of the United States District Court for the Eastern District of Pennsylvania.

Jeremy is a graduate of Temple University Beasley School of Law’s evening program. During law school, he served as an intern with the American Civil Liberties Union of Pennsylvania as well as for Judges Michael A. Shipp of the United States District Court for the District of New Jersey and Cheryl Ann Krause of the United States Court of Appeals for the Third Circuit. He represented noncitizens in Third Circuit immigration appeals through the Federal Appellate Litigation Clinic. He was also a member of the Temple Law Review editorial board.

Before law school, Jeremy worked as a constituent services representative for a member of Philadelphia City Council.

Taylor Hollinger – Associate

Taylor is in the Firm’s Antitrust group in the Philadelphia office. Taylor is a recent graduate of Georgetown Law. There, Taylor was an Articles Editor with The Georgetown Law Journal and Treasurer for the First Generation Student Union. During her time as a law student in D.C., Taylor externed with the Division of Enforcement of the CFTC, the Bureau of Competition of the FTC, and the Antitrust Division of the DOJ. Taylor received her undergraduate degree from Pitzer College in Claremont, California, with a major in Creative Writing.

Najah Jacobs – Associate

Ms. Jacobs is an Associate in the firm’s Consumer Protection & ERISA Departments.

Prior to joining Berger Montague, Najah Jacobs was an associate at Stevens & Lee, P.C., where she focused her practice on commercial litigation matters with an emphasis on litigation involving financial products and representation of broker-dealers in FINRA arbitration matters related to the

purchase and sale of securities and insurance products. Prior to that, Najah was an associate at a large New Jersey law firm, where she defended large oil companies in complex statewide environmental litigation. During her time there, Najah played a major role in formulating a defense strategy and obtaining a favorable disposition for the City of Philadelphia in a constitutional rights case brought by the Fraternal Order of Police over an alleged “do not call list.”

Najah graduated from Drexel University Thomas R. Kline School of Law, where she was an active leader. Najah served as the President of the Black Law Students Association, a Law School Ambassador, a Diversity and Inclusion Fellow, and as a Marshall Brennan Constitutional Literacy Fellow, where she taught high school students about their constitutional rights. Najah was also the Executive Symposium Editor of the Drexel Law Review and a competitor on Drexel’s nationally recognized Trial Team, leading the group to back-to-back victories in national mock trial competitions against some of the nation’s top law schools. During law school, Najah served as a judicial extern for the Honorable Robert B. Kugler of the United States District Court for the District of New Jersey and also served as an intern for the Philadelphia District Attorney’s Office. At graduation, Najah received the Faculty Award for Contributions to the Intellectual Life of the Law School and the Thomas R. Kline School of Law Trial Team Award for Outstanding Advocacy.

Najah is currently an adjunct faculty member at the Kline School of Law, serving as a coach and mentor for teams competing in national trial advocacy competitions. In her spare time, Najah enjoys playing basketball, mentoring high school and college students, and hosting events for her non-profit organization, which focuses on giving back to underserved communities.

Ariana B. Kiener – Associate

Ariana B. Kiener is an Associate in the firm’s Minneapolis office and practices in the firm’s Consumer Protection group.

Before joining the firm, Ms. Kiener worked for several years in education, first as a classroom teacher (through a Fulbright Scholarship in Northeastern Thailand) and eventually as the communications director for an education advocacy nonprofit organization. While in law school, she clerked at the Firm and served as a Certified Student Attorney and Student Director with the Mitchell Hamline Employment Discrimination Mediation Representation Clinic.

Olivia Lanctot – Associate

Olivia Lanctot is an Associate with the Firm’s Wage and Hour department in Philadelphia. Prior to joining Berger Montague, she was an associate at Comegno Law Group in Moorestown, NJ, where she focused her practice on education and employment law.

Olivia received her law degree from William & Mary Law School and her B.A. from Gettysburg College.

During law school, she was heavily involved with William & Mary’s Special Education Advocacy Clinic, where she negotiated with school districts to provide students with the appropriate accommodations and services necessary to access their education. During her final year, Olivia

also worked as a law clerk for a plaintiffs' employment litigation firm, assisting with employee rights violations and discrimination cases before the Equal Employment Opportunity Commission (EEOC) and the Merit Systems Protection Board (MSPB).

Julia McGrath – Associate

Julia McGrath is an Associate in the firm's Antitrust practice group. She represents consumers, businesses, and public entities in complex class action litigation, prosecuting anticompetitive conduct such as price-fixing, bid-rigging, and illegal monopolization.

Ms. McGrath has challenged anticompetitive conduct in a variety of industries, including the single-serve coffee industry in *In Re Keurig Green Mountain Single-Serve Antitrust Litigation*; the pharmaceutical industry in *In Re: Ranbaxy Generic Drug Application Antitrust Litigation* (D. Mass) and *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation* (E.D. Pa.); and the financial industry in *In re London Silver Fixing Ltd. Antitrust Litigation* (S.D.N.Y.) and *In re: GSE Bonds Antitrust Litigation* (S.D.N.Y.).

Prior to law school, Ms. McGrath had a successful career in government and politics. She worked on political campaigns at the local, state, and federal level. She's advised top-tier congressional, gubernatorial, and U.S. Senate candidates in Pennsylvania and New Jersey and served as the Finance Director for U.S. Senator Bob Casey. In 2013, she was appointed by President Obama to serve as Special Assistant to the Mid-Atlantic Regional Administrator of the U.S. General Services Administration.

Ms. McGrath earned her J.D., *cum laude*, from Temple University Beasley School of Law and her B.A. in History from Boston University.

Marika O'Connor Grant – Associate

Marika O'Connor Grant is an Associate with the Firm's consumer department in its Minneapolis office. Prior to joining Berger Montague, Marika worked as an Associate at Tycko & Zavareei LLP, where she focused on consumer, appellate, and False Claims Act cases. Most notably, while at TZ, Marika worked on a class-action suit against Facebook for tracking users' location without their consent; a case brought by the District of Columbia against major oil companies for deceiving DC consumers regarding the existence of climate change and for misrepresenting the environmental friendliness of the companies' products; and a case against USC for misrepresenting its online graduate program. Prior to joining TZ, Marika served as a Law Clerk for the Honorable Wilhelmina M. Wright on the United States District Court for the District of Minnesota, worked as an Associate in Cooley LLP's general litigation practice group, and served as a Vetting Attorney for the Biden-Harris Administration's Transition Team.

Marika graduated from Stanford Law School with high pro bono distinction. While at Stanford, Marika worked in the Immigrants' Rights Clinic and volunteered with the Economic Advancement Pro Bono Project. While at SLS, Marika also served as a Research Assistant to Professor Michelle Wilde Anderson, analyzing local governments' novel efforts to address poverty, and as a Teaching Assistant to Professor Keith Hennessey at the Stanford Graduate School of Business.

While in law school, Marika served as a board member of Women of Stanford Law and as the Technical Managing Editor of the Stanford Journal of Civil Rights and Civil Liberties. Marika spent her 2L summer working at Debevoise & Plimpton LLP, where she contributed to abortion impact litigation cases, assisted on data-privacy and cybersecurity matters, and first-chaired the appeal of the Social Security Administration's denial of disability benefits for a pro bono client. Marika spent her 1L summer as the Janet D. Steiger Fellow in the Consumer Protection Division at the Massachusetts Attorney General's Office, where she worked on data-breach enforcement actions and investigations; fair-lending investigations; enforcement actions against for-profit schools; and the MA AGO's response to the Department of Education's Borrower Defense rulemaking.

Before law school, Marika worked as a paralegal for three years. Marika first worked as a paralegal for two years at the civil rights impact litigation firm Relman Colfax PLLC and then spent another year working as a paralegal at what was then Harvard Law School's Project on Predatory Student Lending. Marika earned her undergraduate degree at Carleton College.

Amey J. Park – Associate

Amey J. Park is an Associate in the firm's Philadelphia office and practices in the firm's Consumer Protection and Commercial Litigation practice groups.

Before joining the firm, Ms. Park was an associate in the litigation department of a large corporate defense firm. She represented corporate and individual clients in complex commercial litigation, product liability, and personal injury matters in a wide variety of industries, including financial services, insurance, trust administration, and real estate. Ms. Park also represented clients *pro bono*, serving as first-chair counsel in a federal jury trial for violations of an inmate's constitutional rights by law enforcement officers and assisting a young refugee seeking asylum in federal immigration court.

Ms. Park is admitted to practice in state courts in Pennsylvania and New Jersey; the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey; and the United States Court of Appeals for the Third Circuit.

Julie Pollock – Associate

Julie Pollock is part of the Firm's San Francisco Bay Area office in the Antitrust Department.

Julie graduated summa cum laude from USF School of Law. While in law school, Julie clerked in the Firm's Antitrust Department, and served as a judicial extern to Chief Justice Cantil-Sakauye of the California Supreme Court. Julie also served on the Board of Directors for the Legal Aid Association of California, advocating to expand access to critical legal services for low-income Californians.

Julie is passionate about social and economic justice. Prior to joining the firm, she earned a Master's Degree in Social Welfare from UCLA, and started her career doing policy work to improve healthcare and housing access for low-income older adults. Julie believes in aggressive

antitrust enforcement as a tool to combat the excessive concentration of economic power and its resulting structural inequities.

Radha Raghavan – Associate

Radha Raghavan is an associate with the Firm's Consumer Department. Prior to joining Berger Montague, Radha was an associate at Wolf Popper LLP, where she focused her practice on consumer fraud, healthcare and securities class action litigation representing clients in state and federal courts across the country. Prior to that, Radha worked with well-respected dispute resolution firms in India and New York focusing on international disputes. At these firms, she represented clients in both international commercial and investor-state arbitrations under the ICC and UNCITRAL rules respectively.

Radha graduated from University Law College, Bangalore University with a law degree (BA.L., LL.B.) in 2014, where she was valedictorian for the Bachelor of Academic Law (BA.L.) program. Subsequently, Radha received her masters of law degree (LL.M.) from NYU in 2015. After her LL.M., Radha served as a judicial extern for Judge Gerald Lebovits at the New York State Supreme Court.

Sophia Rios – Associate

Sophia Rios is an associate in the firm's San Diego office and practices in the Consumer Protection and Antitrust practice groups.

Before joining the firm, Sophia was an associate in the litigation department of a large international law firm. She represented corporate and individual clients in consumer protection, complex commercial litigation, securities, and Americans with Disabilities Act (ADA) matters. In her pro bono practice, Sophia assisted refugees seeking asylum in the United States.

Sophia is committed to furthering diversity and inclusion in law firms. She serves on the firm's Diversity, Equity & Inclusion Task Force. Sophia has also participated in the Leadership Council on Legal Diversity's Pathfinder Program.

While at Stanford Law School, Sophia served as an extern Legal Adviser in the Office of Commissioner Julie Brill at the Federal Trade Commission in Washington, DC. Sophia co-founded the Stanford Critical Law Society, which serves as a student forum for the discussion of the relationship between law and race. Sophia was a Lead Article Editor for the Stanford Environmental Law Journal.

Before beginning law school, Sophia attended UC Berkeley and served as an intern on the White House Council of Environmental Quality. She is a first-generation college student and a San Diego native.

Joseph Samuel – Associate

Joseph Samuel is an Associate in the Intellectual Property department, where he focuses his practice on patent, trademark, copyright, and trade secret litigation.

Joe is licensed to practice in Pennsylvania and California. He earned his J.D. degree, magna cum laude, from Villanova University Charles Widger School of Law, where he was elected to the Order of the Coif. Joe served as an editor and staff writer of the Villanova Law Review and as a judicial extern to the Honorable Elizabeth T. Hey in the Eastern District of Pennsylvania. He also worked in Villanova's Federal Tax Clinic, where he represented low-income taxpayers in IRS assessment and collections matters before the United States Tax Court.

Before becoming a lawyer, Joe worked as a political consultant for campaigns at the federal, state, and local level. He has experience advising clients on Pennsylvania election law issues.

Counsel**Zubair Ahmad – Counsel**

Zubair Ahmad is Counsel with the Antitrust department in the Philadelphia office. He has extensive experience with e-discovery in large scale litigation and has also spent time as associate in-house counsel with a developer of ambulatory surgical centers as well as a large regional hospital.

Mr. Ahmad graduated from the University of Michigan Law School where he was a member of the Journal of Law Reform. He received his undergraduate degree from Franklin & Marshall College where he was pre-med with a physics and sociology double major.

Caitlin Adorni – Counsel

Caitlin works at the Firm as Counsel. Prior to joining the team at Berger Montague, her professional experience included work at JP Morgan Chase as well as CBS/Showtime Networks in New York City. Her professional background is focused on corporate and securities litigation. Additionally, with the rise in AI technology being utilized within the legal profession, she recently completed a professional certification in Artificial Intelligence (AI) Strategy and utilizes this education and knowledge with the Firm's Antitrust group.

Alexandra Antoniou – Counsel

Alexandra Antoniou is an attorney in the firm's Philadelphia office, and works in the firm's Auto Defect practice area.

David Catherine – Counsel

David M. Catherine is Counsel with the Firm's Antitrust department in Philadelphia. Prior to joining Berger Montague, David was an Attorney in a boutique law firm, representing numerous plaintiffs in class-action pharmaceutical antitrust litigation, specializing in electronic discovery as well as legal research and deposition preparation. Prior to that, David was a Project Attorney at a large American multinational firm, representing clients in pharmaceutical products liability multi-district

litigation, specializing in discovery and evidentiary preparation. Before that, David spent several years assisting several firms throughout the Philadelphia region with various aspects of discovery, legal research and litigation preparation.

David graduated from Syracuse University College of Law, where he also served in the Criminal Law Clinic, representing indigent clients in Syracuse City Court. David also graduated from Duquesne University, earning a Bachelor of Arts with a major in English while also serving in the Student Government Association and as an Officer in the National Service Fraternity, Alpha Phi Omega.

James Christensen – Counsel

James Christensen is Counsel in the Firm's Antitrust department. He possesses expertise across various legal domains, with a particular focus on eDiscovery. In this capacity, he offers solutions for complex managed reviews and litigation preparation, with a specific emphasis on antitrust/M&A, financial and securities regulations, internal investigations, and FTC/DOJ 2nd Requests.

Previously, during his tenure as Enforcement Counsel at the Chicago Stock Exchange (CSE), Jim conducted investigations into potential violations of federal securities laws, prosecuted disciplinary matters, and oversaw the arbitration program, which included the issuance of Wells Notices. Before his time at the CSE, Jim served as an Associate Attorney at a mid-sized firm, where his practice revolved around general civil litigation.

Jim obtained his Juris Doctor from the John Marshall Law School in Chicago, Illinois, and during his time there, he served as a Staff Editor on the Journal of Information Technology & Privacy Law. He also holds a Bachelor of Arts in Economics and English from the University of Wisconsin-Madison.

Carl Copenhaver – Counsel

Carl Copenhaver is Counsel in the Firm's Antitrust Department. Carl has almost 18 years of experience in complex securities and antitrust class action litigation as a discovery specialist. Over that span, he has worked independently, and later through his own discovery firm, with a wide variety of firms on a range of cases assisting in discovery and evidentiary-related matters.

Mr. Copenhaver received his Bachelor of Arts with Scholastic Distinction in History and a concentration in African American Studies from Carleton College, graduating magna cum laude. He was a member of the Mortar Board National Honor Society and was a nationally ranked member of the tennis team while winning multiple All-Conference Awards.

Mr. Copenhaver attended The George Washington University Law School where he was a Murray Snyder Public Interest Fellow and worked with local and national civil rights organizations on Fair Housing issues.

Cate Crowe – Counsel

Cate Crowe is Counsel in the Firm's antitrust department. She joined Berger Montague from Lockridge Grindal Nauen P.L.L.P. where her practice focused on private enforcement of antitrust laws against price fixing cartels and pay-for-delay schemes. Cate has supported plaintiff-side discovery and trial teams in complex consumer fraud, data breach, and antitrust litigations. She

has experience identifying and vetting damages experts, mining evidence from document databases and phone records, and synthesizing evidence to develop narratives of overarching conspiracies for depositions and trial.

Cate also managed large-scale document reviews and is comfortable drafting coding instructions, administering document databases, and supervising coders. Before that, she operated a general litigation practice in Iowa where she practiced family law, juvenile law, and criminal defense.

Cate is active in Complex Litigation E-Discovery Forum and with the Committee to Support the Antitrust Laws.

Stephen Federbusch – Counsel

Stephen Federbusch is counsel in the Antitrust department, with a focus on eDiscovery. Prior to joining Berger Montague, Stephen was a Staff Attorney at Simpson Thacher & Bartlett, LLP, where he worked in Discovery on numerous high-profile cases, specifically on shareholder class action suits and DOJ Second Requests. Prior to that, Stephen worked as a Family Law and Real Estate Attorney at Federbusch & Weinstein in New Jersey. Additionally, he has been an attorney for various independent production companies, writers, and actors, having negotiated licensing agreements, partnership agreements, option agreements and other entertainment related contracts.

Stephen graduated from Yeshiva University's Cardozo School of law. During law school, Stephen interned at the Legal Department for BBC American, and worked as a Contract Analyst for Universal Music Group, where he reviewed recording agreements and producer agreements, specifically focusing on Universal's rights in new digital formats.

Stephen graduated from New York University's Tisch School of the Arts, with a degree in Film/Theater.

Dominic Gallucci – Counsel

Dominic Gallucci is Counsel with the Firm's Antitrust Department. Prior to joining Berger Montague, Dominic worked contractually on many discovery matters, serving in leadership and fact development roles; these included several 2nd Request merger productions and complex antitrust litigations. Prior to that, Dominic conducted research for and edited two books for Judge Scott Hempling, pertaining to public utility mergers and regulation. Before that, Dominic worked with a small DC-based practice, gaining experience with class action and consumer protection matters.

At Georgetown University Law Center, Dominic co-founded and served as Treasurer for Georgetown Law Students for Democratic Reform, and contributed to the American Constitutional Society and National Lawyers Guild. There he also took significant antitrust coursework, including: Antitrust Economics and Law, International Antitrust Law, Advanced Antitrust Economics and Law Seminar, and Hot Topics in Antitrust Seminar.

Dominic is currently providing pro bono assistance to U-visa applicants with the Northwest Immigration Rights Project, and detained asylum-seekers with the Immigration Justice Project.

Clare Kirui – Counsel

Clare Kirui is Counsel practicing in the Firm's Antitrust practice group. Clare has extensive experience working in eDiscovery. Prior to joining Berger Montague, she worked on eDiscovery reviews and managed complex review projects. Clare has extensive experience conducting fact development for large-scale litigations, culling through large volumes of documents and analyzing and summarizing pertinent factual findings for relevance to legal issues.

Clare has served in an eDiscovery project management role during various phases of litigation. Clare has worked on multiple Antitrust matters conducting fact development for depositions, expert discovery, and trial preparation.

Clare is a California licensed attorney. She received her undergraduate degree from UCLA and earned her J.D. from the George Washington University Law School.

Daniel E. Listwa – Counsel

Daniel E. Listwa has worked on a number of antitrust matters, with a focus on the suppression of generic competition by major pharmaceutical manufacturers. Before joining the firm, Mr. Listwa clerked for the Honorable J. Brian Johnson of the Lehigh County Court of Common Pleas, and was an associate at a medical malpractice defense firm in Blue Bell, PA. While in law school, Mr. Listwa was a staff writer for the Boston College Environmental Affairs Law Review, and interned at the U.S. District Court for the Eastern District of Pennsylvania.

Ivy Marsnik – Counsel

Ivy L. Marsnik is a litigation attorney based out of the Firm's Minneapolis office where she focuses her current practice on representing individuals who have been harmed by violations of the Fair Credit Reporting Act.

Prior to joining Berger Montague, Ms. Marsnik worked on behalf of individual plaintiffs at a premier employment and civil rights law firm and in several legal counsel positions at the Minnesota state legislature. She has also provided legal services to individual clients at Tubman, a nonprofit serving survivors of domestic violence, and at a University of Minnesota Law School clinic where she worked primarily as an advocate for tenants' rights.

Elaine Oldenettel – Counsel

Elaine Oldenettel is Counsel with the Firm's Antitrust department. Prior to joining the Firm, Elaine was a staff attorney at Kessler Topaz Meltzer & Check, LLC, where she focused her practice on pharmaceutical antitrust litigation.

Elaine received her law degree from University of Maryland Francis King Carey School of Law and her undergraduate degree from University of Oregon. While in law school, she interned at the United States Court of Federal Claims and the Circuit Court for Baltimore City.

Bryan Plaster – Counsel

Bryan L. Plaster is based out of the Firm's Minneapolis office and serves as Counsel to the Credit Reporting and Background Checks practice group. Prior to joining Berger Montague, Bryan was employed as in-house counsel through a fellowship with SICK, Inc., an international manufacturer of industrial sensor technology. During his time at the University of Minnesota Law School, he served as a Student Attorney in the Consumer Protection Clinic, clerked at a mid-sized commercial litigation firm, and completed two judicial internships.

Bryan graduated cum laude from the University of Minnesota Law School and completed a B.A. with distinction in Economics and Geography at the University of Wisconsin-Madison. Prior to embarking on a career in law, he spent five years in a variety of positions in the technology industry, including leadership roles in a late-stage startup where, in part, he assisted in guiding the company through various stages of growth and acquisition.

Lara Sawczuk – Counsel

Lara Sawczuk has joined the Firm as counsel within the Antitrust practice group. Lara has extensive experience with e-discovery, and brings with her a dedicated and thoughtful approach to all stages of the discovery process. She served as a discovery staff attorney at a prominent law firm in New York City, where she worked on large scale litigation including antitrust cases, bankruptcy cases, and class action lawsuits. She has helped firms with a wide range of discovery needs, including document productions, witness preparation, and quality control.

Lara received her undergraduate degree from New York University and earned her J.D. from Brooklyn Law School. Upon graduating from Brooklyn Law, she began her career with a judicial clerkship in the New York State Supreme Court, Civil Term. She is admitted to practice in New Jersey and New York.

Shannon Sawyer – Counsel

Shannon is Counsel with the Firm's Antitrust department. She earned her undergraduate degree from Purdue University and her Juris Doctorate degree from Loyola New Orleans College of Law. While in law school, Shannon worked at the Louisiana Supreme Court Office of Special Counsel and the United States Attorney's Office (EDLA) in New Orleans, Louisiana. She also clerked for the Allen County Public Defender's Office in Fort Wayne, Indiana.

Shannon's practice has included numerous complex litigations nationwide, including: In re Taxotere (Docetaxel) Products Liability Litigation (E.D. LA), and In re Broiler Chicken Grower Litigation (E.D. Okla.). Shannon is licensed to practice in Louisiana and Indiana and focuses her practice on securities fraud and antitrust litigation.

Alston Slay – Counsel

Prior to joining Berger Montague, Alston was an eDiscovery Attorney at Motley Rice, where he worked on multiple large-scale eDiscovery projects, including the ongoing litigation between states and major opioid manufacturers and distributors. Alston concurrently assisted a small law

firm in Greensboro, North Carolina, with a diverse range of personal injury matters. Over the course of his career, Alston has developed extensive knowledge of eDiscovery tools, expertise in constructing case narratives through document review and analysis, and best practices in the use of legal technology in large, complex case settings.

Alston graduated from Charleston School of Law in Charleston, South Carolina, where he was active in the Maritime Law Society, Family Law Society, and other groups. He clerked at law firms of various sizes and areas of law throughout his law school career. Prior to law school, Alston studied History and Political Science at the College of Charleston in Charleston, South Carolina.

Richa Sprung – Counsel

Richa Sprung is Counsel with the Firm's Antitrust department. Prior to joining Berger Montague, Richa was an eDiscovery Review Manager at Consilio where she focused her practice on large-scale eDiscovery projects ranging in various civil actions. Prior to that, Richa was involved in eDiscovery client services ranging from in-house to vendor positions. During her eDiscovery career, Richa has developed extensive knowledge into tools, best practices to gather and produce ESI, and expert level communication with clients to achieve the optimal discovery process while minimizing costs.

Richa graduated from The Catholic University of America, Columbus School of Law, where she was active in various clubs as well as the Health Law Journal. Richa served as the President of the South Asian Law School Association, Secretary of the Federalist Society, Vice-President of the Criminal Law society, and had active membership in additional groups. Richa was also a member of the National Moot Trial Team where she competed throughout the states and received high praises for her advocacy skills.

Francine D. Wilensky - Counsel

Francine D. Wilensky is Counsel in the Firm's Philadelphia Office in the Antitrust Department. She has more than fifteen years of experience in discovery, trial preparation and litigation. Ms. Wilensky has experience in Antitrust, Commercial Litigation, Pharmaceutical Litigation, Securities Litigation, Construction Litigation and Real Estate Law.

Prior to joining the firm, most recently, Fran practiced as a public interest attorney for a legal aid organization representing tenants facing eviction and homelessness and was Co-Chair of the City of Philadelphia's Committee to prevent Illegal Evictions. She also served on the Philadelphia Court of Common Pleas Committee for Real Estate Working Professionals.

Ms. Wilensky graduated from Temple University School of Law with Honors in Real Estate Law. Fran received her undergraduate degree from Temple University with a Bachelor of Arts Degree in History and an Accounting Minor, Summa Cum Laude, Phi Beta Kappa.

Fran is admitted to practice law in the Federal and State Courts in Pennsylvania and New Jersey.

Of Counsel

H. Laddie Montague Jr. – Chair *Emeritus* & Of Counsel

H. Laddie Montague Jr. is Chairman *Emeritus* of the firm, in addition to his continuing work as Of Counsel. Mr. Montague was Chairman of the firm from 2003 to 2016 and served as a member of the firm's Executive Committee for decades, having joined the firm's predecessor David Berger, P.A., at its inception in 1970.

In addition to being one of the courtroom trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague has served as lead or co-lead counsel in many class actions, including, among others, *High Fructose Corn Syrup Antitrust Litigation* (2006), *In re Infant Formula Antitrust Litigation* (1993) and *Bogosian v. Gulf Oil Corp.* (1984), a nationwide class action against thirteen major oil companies. Mr. Montague was co-lead counsel for the State of Connecticut in its litigation against the tobacco industry. He is currently co-lead counsel in several pending class actions. In addition to the *Exxon Valdez Oil Spill Litigation*, he has tried several complex and protracted cases to the jury, including three class actions: *In re Master Key Antitrust Litigation* (1977), *In re Corrugated Container Antitrust Litigation* (1980) and *In re Brand Name Prescription Drugs Antitrust Litigation*, M.D.L. (1997-1998). For his work as trial counsel in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague shared the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award.

Mr. Montague has been repeatedly singled out by *Chambers USA: America's Leading Lawyers for Business* as one of the top antitrust attorneys in the Commonwealth of Pennsylvania. He is lauded for his stewardship of the firm's antitrust department, referred to as "the dean of the Bar," stating that his peers in the legal profession hold him in the "highest regard," and explicitly praised for, among other things, his "fair minded[ness]." He also is or has been listed in *Lawdragon*, *An International Who's Who of Competition Lawyers*, and *The Legal 500: United States (Litigation)*. He has repeatedly been selected by *Philadelphia Magazine* as one of the top 100 lawyers in Pennsylvania. Mr. Montague has also been one of the only two inductees in the American Antitrust Institute's inaugural Private Antitrust Enforcement Hall of Fame.

He has been invited and made a presentation at the Organization for Economic Cooperation and Development (Paris, 2006); the European Commission and International Bar Association Seminar (Brussels, 2007); the Canadian Bar Association, Competition Section (Ottawa, 2008); and the 2010 Competition Law & Policy Forum (Ontario).

Mr. Montague is a graduate of the University of Pennsylvania (B.A. 1960) and the Dickinson School of Law (L.L.B. 1963), where he was a member of the Board of Editors of the Dickinson Law Review. He is the former Chairman of the Board of Trustees of the Dickinson School of Law of Penn State University and current Chairman of the Dickinson Law Association.

Harold Berger –Of Counsel, Executive Shareholder *Emeritus*

Judge Berger is an Executive Shareholder *Emeritus* & Of Counsel. He participated in many complex litigation matters, including the *Exxon Valdez Oil Spill Litigation*, No. A89-095, in which he served on the case management committee and as Co-Chair of the national discovery team. He also participated in the *Three Mile Island Litigation*, No. 79-0432 (M.D. Pa.), where he acted as liaison counsel, and in the nationwide school asbestos property damage class action, *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.), where the firm served as co-lead counsel.

A former Judge of the Court of Common Pleas of Philadelphia, he has long given his service to the legal community and the judiciary. He is also active in law and engineering alumni affairs at the University of Pennsylvania and in other philanthropic endeavors. He serves as a member of Penn's Board of Overseers and as Chair of the Friends of Penn's Biddle Law Library, having graduated from both the engineering and law schools at Penn. Judge Berger also serves on the Executive Board of Penn Law's Center for Ethics and Rule of Law. In 2017, he was the recipient of Penn Law's Inaugural Lifetime Commitment Award, which recognizes graduates "who through a lifetime of service and commitment to Penn Law have truly set a new standard of excellence."

He is past Chair of the Federal Bar Association's National Committee on the Federal and State Judiciary and past President of the Federal Bar Association's Eastern District Chapter. He is the author of numerous law review articles, has lectured extensively before bar associations and at universities, and has served as Chair of the International Conferences on Global Interdependence held at Princeton University. Judge Berger has served as Chair of the Aerospace Law Committees of the American, Federal and Inter-American Bar Associations and, in recognition of the importance and impact of his scholarly work, was elected to the International Academy of Astronautics in Paris.

As his biographies in *Who's Who in America*, *Who's Who in American Law* and *Who's Who in the World* outline, he is the recipient of numerous awards, including the Special Service Award of the Pennsylvania Conference of State Trial Judges, a Special American Bar Association Presidential Program Award and Medal, and a Special Federal Bar Association Award for distinguished service to the Federal and State Judiciary. He has been given the highest rating (AV Preeminent) for legal ability as well as the highest rating for ethical standards by Martindale-Hubbell. Judge Berger was also presented with a Lifetime Achievement Award in 2014 by *The Legal Intelligencer* in recognition of figures who have helped shape the law in Pennsylvania and who had a distinct impact on the legal profession in the Commonwealth.

He is a permanent member of the Judicial Conference of the United States Court of Appeals for the Third Circuit and has served as Chair of both the Judicial Liaison and International Law Committees of the Philadelphia Bar Association. He has also served as National Chair of the FBA's Alternate Dispute Resolution Committee.

Recipient of the Alumnus of the Year Award of the Thomas McKean Law Club of the University of Pennsylvania Law School, he was further honored by the University's School of Engineering

and Applied Science by the dedication of the Harold Berger Biennial Distinguished Lecture and Award given to a technical innovator who has made a lasting contribution to the quality of our lives. He was also honored by the University by the dedication of an auditorium and lobby bearing his name and by the dedication of a student award in his name for engineering excellence.

Long active in diverse, philanthropic, charitable, community and inter-faith endeavors Judge Berger serves as a Lifetime Honorary Trustee of the Federation of Jewish Charities of Greater Philadelphia, as a Director of the National Museum of Jewish History, as a National Director of the Hebrew Immigrant Aid Society (HIAS) in its endeavors to assist refugees and indigent souls of all faiths, as A Charter Fellow of the Foundation of the Federal Bar Association and as a member of the Hamilton Circle of the Philadelphia Bar Foundation.

Among other honors and awards, as listed above, Judge Berger was honored by the University of Pennsylvania Law School at its annual Benefactors' Dinner and is the recipient of the "Children of the American Dream" award of HIAS for his leadership in the civic, legal, academic and Jewish communities.

Gary E. Cantor – Of Counsel

Gary E. Cantor is Of Counsel in the Philadelphia office. He concentrates his practice on securities and commercial litigation and derivatives valuations.

Mr. Cantor served as co-lead counsel in *Steiner v. Phillips, et al. (Southmark Securities)*, Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), (class settlement of \$82.5 million), and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB), (class settlement involving 119 separate limited partnerships resulting in cash settlement, oversight of partnership governance and debt restructuring (with as much as \$100 million in wrap mortgage reductions)). Mr. Cantor also represented plaintiffs in numerous commodity cases.

In recent years, Mr. Cantor played a leadership role in *In re Oppenheimer Rochester Funds Group Securities Litigation* (\$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc.), No. 09-md-02063-JLK (D. Col.); *In re KLA-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.) (\$65 million class settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement.); *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.) (\$70 million class settlement). He was also actively involved in the *Merrill Lynch Securities Litigation* (class settlement of \$475 million) and *Waste Management Securities Litigation* (class settlement of \$220 million).

For over 20 years, Mr. Cantor also has concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's cases involving stocks, bonds, derivatives, and commodities. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor was a member of the Moot Court Board at University of Pennsylvania Law School where he authored a comment on computer-generated evidence in the University of Pennsylvania Law Review. He graduated from Rutgers College with the highest distinction in economics and was a member of Phi Beta Kappa.

Peter R. Kahana –Of Counsel

Peter R. Kahana is Of Counsel in the Insurance and Antitrust practice groups. He concentrates his practice in complex civil and class action litigation involving relief for insurance policyholders and consumers of other types of products or services who have been victimized by fraudulent conduct and unfair business practices.

Significant class cases vindicating the rights of insurance policyholders or consumers in which Mr. Kahana was appointed as co-class counsel have included: settlement in 2012 for \$90 million of breach of fiduciary duty and negligence claims (certified for trial in 2009) on behalf of a class of former policyholder-members of Anthem Insurance Companies, Inc. ("Anthem") alleging the class was paid insufficient cash compensation in connection with Anthem's conversion from a mutual insurance company to a publicly-owned stock insurance company (a process known as "demutualization") (*Ormond v. Anthem, Inc., et al.*, USDC, S.D. Ind., Case No. 1:05-cv-01908 (S.D. Ind. 2012)); settlement in 2010 for \$72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against The Hartford and its affiliates on behalf of a class of personal injury and workers compensation claimants for the Hartford's alleged deceptive business practices in settling these injury claims for Hartford insureds with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); settlement in 2009 for \$75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia automobile policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37); and, settlement in 2004 for \$20 million on behalf of a class of cancer victims alleging that their insurer refused to pay for health insurance benefits for chemotherapy and radiation treatment (*Bergonzi v. CSO, USDC, D.S.D.*, Case No. C2-4096). For his efforts in regard to the Bergonzi matter, Mr. Kahana was named as the recipient of the American Association for Justice's Steven J. Sharp Public Service Award, which is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policymakers and the public about the importance of consumers' rights.

Mr. Kahana has also played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* (\$723 million settlement), *In re Ashland Oil Spill Litigation* (\$30 million settlement), and *In re Exxon Valdez* (\$287 million compensatory damage award and \$507.5 million punitive damage award). In connection with his work as a member of the trial team that prosecuted *In re The Exxon Valdez*, Mr. Kahana was selected in 1995 to share the Trial Lawyer of the Year Award by the Public Justice Foundation.

Maryellen Madden – Of Counsel

Maryellen Madden focuses her practice on complex litigation and commercial disputes, including securities, corporate governance, real estate, commercial contracts, health care and the sale and distribution of goods. She has handled litigation, including complex, multi-district litigation, in 22 states, as well as before domestic and international arbitration panels, administrative agencies and industry self-regulatory organizations. Prior to joining Berger Montague, she was an attorney with a national law firm.

Susan Schneider Thomas – Of Counsel

Susan Schneider Thomas concentrates her practice on *qui tam* litigation.

Ms. Thomas has substantial complex litigation experience. Before joining the firm, she practiced law at two Philadelphia area firms, Schnader, Harrison, Segal & Lewis and Greenfield & Chimicles, where she was actively involved in the litigation of complex securities fraud and derivative actions.

Upon joining the firm, Ms. Thomas concentrated her practice on complex securities and derivative actions. In 1986, she joined in establishing Zlotnick & Thomas where she was a partner with primary responsibility for the litigation of several major class actions including *Geist v. New Jersey Turnpike Authority*, C.A. No. 92-2377 (D.N.J.), a bond redemption case that settled for \$2.25 million and *Burstein v. Applied Extrusion Technologies*, C.A. No. 92-12166-PBS (D. Mass.), which settled for \$3.4 million.

Upon returning to the firm, Ms. Thomas has had major responsibilities in many securities and consumer fraud class actions, including *In re CryoLife Securities Litigation*, C.A. No. 1:02-CV-1868 BBM (N.D.Ga.), which settled in 2005 for \$23.25 million and *In re First Alliance Mortgage Co.*, Civ. No. SACV 00-964 (C.D.Cal.), a deceptive mortgage lending action which settled for over \$80 million in cooperation with the FTC. More recently, Ms. Thomas has concentrated her practice in the area of healthcare *qui tam* litigation. As co-counsel for a team of whistleblowers, she worked extensively with the U.S. Department of Justice and various State Attorney General offices in the prosecution of False Claims Act cases against pharmaceutical manufacturers that recovered more than \$2 billion for Medicare and Medicaid programs and over \$350 million for the whistleblowers. She has investigated or is litigating False Claims Act cases involving defense contractors, off-label marketing by drug and medical device companies, federal grant fraud, upcoding and other billing issues by healthcare providers, drug pricing issues and fraud in connection with for-profit colleges and student loan programs.

Tyler E. Wren – Of Counsel

Mr. Wren is a trial lawyer with over 35 years of experience in both the public and private sectors.

Mr. Wren has represented both plaintiffs and defendants in a broad spectrum of litigation matters, including class actions, environmental, civil rights, commercial disputes, personal injury, insurance coverage, election law, zoning and historical preservation matters and other

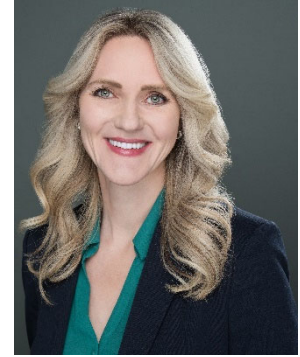
government affairs. Mr. Wren routinely appears in both state and federal courts, as well as before local administrative agencies.

Following his graduation from law school, Mr. Wren served as staff attorney to the Committee of Seventy, a local civic watchdog group. Mr. Wren then spent a decade in the Philadelphia City Solicitor's Office in various positions in which his litigation and counseling skills were developed: Chief Assistant City Solicitor for Special Litigation and Appeals, Divisional Deputy City Solicitor for the Environment, Counsel to the Philadelphia Board of Ethics and Counsel to the Philadelphia Planning Commission. After leaving government employ and before joining the Firm in 2010, Mr. Wren was in private practice, including nine years with the Sprague and Sprague firm, headed by nationally recognized litigator Richard Sprague.

EXHIBIT 5

E. MICHELLE DRAKE

BERGER MONTAGUE PC
1229 Tyler Street NE, Suite 205
Minneapolis, Minnesota 55413
612.594.5933
emdrake@bm.net



Experience

Admissions

- ◇ U.S. Supreme Court, 2017
- ◇ State Bar of Georgia, 2001
- ◇ Georgia Supreme Court, 2006
- ◇ Minnesota Supreme Court, 2007
- ◇ U.S. Court of Appeals for the 8th Cir., 2010
- ◇ U.S. Court of Appeals for the 1st Cir., 2011
- ◇ U.S. Court of Appeals for the 7th Cir., 2014
- ◇ U.S. Court of Appeals for the 9th Cir., 2015
- ◇ U.S. Court of Appeals for the 10th Cir., 2018
- ◇ U.S. Court of Appeals for the 3d Cir., 2019
- ◇ U.S. District Court for the Northern District of Georgia, 2007
- ◇ U.S. District Court for the District of Minnesota, 2007
- ◇ U.S. District Court for the Eastern District of Wisconsin, 2011
- ◇ U.S. District Court for the Western District of Texas, 2011
- ◇ U.S. District Court for the Western District of Wisconsin, 2015
- ◇ U.S. District Court for the Eastern District of Michigan, 2015
- ◇ U.S. District Court for the Central District of Illinois, 2016
- ◇ U.S. District Court for the Southern District of Texas, 2017
- ◇ U.S. District Court for the Western District of New York, 2017
- ◇ U.S. District Court for the Western District of Michigan, 2018
- ◇ U.S. District Court for the Northern District of Illinois, 2020

Executive Shareholder

Berger Montague

Minneapolis, Minnesota

January 2016-present

Manage the firm's Minneapolis office. Chair of the FCRA Department. Co-chair of the Consumer Protection & Mass Tort Department. Serve as lead class counsel on dozens of consumer class actions filed throughout the United States, including cases involving improper credit and background reporting, defective consumer products and unlawful financial services practices.

Partner

Nichols Kaster, PLLP

Minneapolis, Minnesota

May 2007-December 2015

Represented thousands of employees and consumers in collective and class actions. Led the firm's Consumer Class Action Team which originated individual and class action cases.

Solo Practitioner

E. Michelle Drake, LLC

Atlanta, Georgia

March 2006-May 2007

Practiced both civil and criminal law. Served as "of counsel" attorney to Richard S. Alembik, P.C., a civil firm focused on real estate litigation. Served as co-counsel in pending death penalty case which was accepted by the Georgia Supreme Court for interim appellate review.

Attorney

Georgia Capital Defender Office

Atlanta, Georgia

October 2004-March 2006

Provided trial level representation for indigent clients facing the death penalty. Directed all aspects of death penalty litigation in capital cases throughout Georgia.

Staff Attorney

Fulton County Conflict Defender, Major Case Division

Atlanta, Georgia

May 2002-August 2004

Served as lead counsel for over one hundred indigent defendants facing felony criminal charges. Had primary responsibility for cases where juveniles were being tried as adults in Superior Court. Served as lead counsel in four murder trials to verdict.

Staff Attorney

Fulton County Public Defender,

Atlanta, Georgia

August 2001-May 2002

Served as lead counsel for pre-indictment felony cases and probation revocations.

Recent
Judicial Praise

You're **very articulate** on this issue...
Obviously, you're **very thoughtful** and you have given it a great deal of thought...
You're **demonstrating credibility by a mile** as you go ...
You are **extraordinarily impressive...**
You have allayed all of my concerns and have persuaded me that this is an important issue, and that **you have done a great service to the class...** I congratulate you on your **excellent work.**

Hon. Harold E. Kahn, Cal. Super. Ct., San Fran. Cnty., Nov. 7, 2017 Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146 (emphasis added)

Law Clerk

Defense Team For Kristen Gilbert

Springfield, Massachusetts

Fall 1999-May 2001

Assisted in the first federal death penalty trial in Massachusetts. Lived in Springfield, MA three days a week during last year of law school to assist with eighth month trial which resulted in a life sentence.

Education

Harvard Law School, J.D., *cum laude*

June 2001

Recipient of Edith Fine Fellowship, awarded to graduating woman most committed to public interest law. Recipient of Kauffman Fellowship, awarded to graduating students most committed to public interest law. Co-chair of Harvard Innocence and Justice Project, an organization which provided legal research and assistance to capital defense attorneys nationwide.

Oxford University, M.Sc. in Sociology

June 1998

Recipient of Rotary International Ambassadorial Scholarship, nominated by Edina Rotary Club. Thesis: *Criticisms of Herbert Packer's Two Models of the Criminal Process.*

Harvard College, B.A. in Government, *cum laude*

June 1996

Harvard Nominee for the Rhodes Scholarship. Graduated with Advanced Standing (in three years instead of four).

Titles, Awards, Memberships

Partner's Council Member for the National Consumer Law Center, 2014 – present

Board Member for the National Association of Consumer Advocates, 2014 – present

Board Member for the Southern Center for Human Rights, 2018 – present

CO-Chair of Minnesota State Bar Association Consumer Litigation Section, 2016 – present

Member of Ethics Committee for the National Association of Consumer Advocates, 2015

2014-2015 Treasurer, MSBA Consumer Litigation Section Council. 2013-14 At-Large Council Member.

Named an Elite Woman of the Plaintiffs' Bar by National Law Journal, 2020

Named to LawDragon's 500 Leading Plaintiff Financial Lawyers List, 2019

Named to The Best Lawyers of America since 2016

Named to the Top 50 Women Minnesota Super Lawyers since 2015

Named to the Super Lawyers list, Minnesota Super Lawyers, Minneapolis/St. Paul Magazine, and Minnesota Business Journal, –since 2013

Named to the Rising Stars list, Minnesota Super Lawyers, Minneapolis/St. Paul Magazine, and Minnesota Business Journal, 2011-2012

Federal Practice Committee, U.S. District Court, Minnesota, Appointed 2010

Thurgood Marshall Defender Award, Massachusetts Committee for Public Counsel Services Recipient, 2001

American Bar Association Member

Hennepin County Bar Association Member

Minnesota Association for Justice Member

National Association of Consumer Advocates Member

Public Justice Member

American Association for Justice Member

Publications/Speaking Engagements

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

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

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

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

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

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

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

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

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

“Current Accuracy Topics for Traditional Credit Reporting,” Accuracy in Consumer Reporting, FTC/CFPB Workshop, Washington, DC, December 2019.

Plaintiffs' Food Fraud Litigation Forum, Cambridge Forums, Manalapan, FL, November 2019.

"Sealing, Expungement, and FCRA: Criminal Records Reporting in a New Era," Consumer Rights Litigation Conference, National Consumer Law Center, Boston, MA, November 2019.

"Stop Stealing the Microphone! Amped-Up Judicial Scrutiny of Class-Action Settlements," Class Action Institute, American Bar Association, Nashville, TN, October 2019.

"The Complete Lawyer: Consumer Law," Minnesota Continuing Legal Education, Minneapolis, MN, June 2019.

"Fair Credit Reporting Act/Debt Collection Issues," 24th Annual Consumer Financial Services Institute, Practising Law Institute, Chicago, IL, May 2019.

"Ethics Session: Referrals and Fee-Sharing," Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Long Beach, CA, May 2019.

Contributing Author, "Consumer Law," The Complete Lawyer's Quick Answer Book, Minnesota Continuing Legal Education, 2d. ed. (forthcoming.)

Contributing Author, "Financial and Criminal Background Checks," Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, 2d. Edition (forthcoming).

Contributing Author, "Chapter 1: Case and Claims Selection, Other First Considerations," Consumer Class Actions, National Consumer Law Center, 10th ed. (forthcoming),

"Consumer Law: Recent Trends and Hot Topics in FCRA Litigation," Minnesota Continuing Legal Education, Minneapolis, MN, January 2019.

"Diamonds in the Rough: Identifying Good Class Claims," Mass Torts Made Perfect Fall Seminar, Las Vegas, NV, October 2018.

"Nationwide Settlement Classes – The Impact of the Hyundai/Kia Litigation," Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.

"Developments in Public Records Litigation," Consumer Rights Litigation Conference, National Consumer Law Center, Denver, CO, October 2018.

"Big Challenges in the City of BIG Shoulders, Electronic Discovery's Rise to Prominence," ABA 22nd Annual National Institute on Class Actions, Chicago, IL, October 2018.

"Jurisdiction Issues Post *Bristol-Myers*," Bridgeport 2018 Class Action Litigation Conference, San Francisco, CA, September 2018.

"New Developments in the Law of Personal Jurisdiction in the Aftermath of the Supreme Court's Decisions in *BNSF Railway Co. v. Tyrrell* and *Bristol Myers* and the Strategies," Plaintiffs' Class Action Roundtable, Rancho Palos Verdes, CA, April 2018.

"New Developments in Personal Jurisdiction," Litigator's Short Course, Minnesota Continuing Legal Education, Minneapolis, MN, February 2018.

"Game Changing Blindspots that Create Privacy Liabilities – a Plaintiff-Side Litigator's Insights," Midwest Legal Conference on Privacy & Data Security, Minneapolis, MN, January 2018.

“Federal Discovery: Winning Your Cases Early,” “FCRA Report Disclosures: Issues and Litigation,” Consumer Rights Litigation Conference, National Consumer Law Center, Washington, D.C., November 2017.

“Strategic Response to Recent Supreme Court Decision in *Bristol-Myers*,” Consumer Rights Litigation Conference, Class Action Symposium, National Consumer Law Center, Washington, D.C., November 2017.

Conference Co-Chair, “Class Actions: Legislative Developments, Updates & More,” CLE International, Los Angeles, CA, November 2017.

“The Times They Are a-Changin’: The Role of Administrative Agencies and Private Counsel in the Trump Era,” American Bar Association Annual National Institute on Class Actions, Washington, D.C., October 2017.

“The CFPB’s New Rule on Arbitration: What It Is and What Comes Next,” Minnesota State Bar Association Continuing Legal Education Presentation, Minneapolis, MN, September 2017.

“Standing: Assessing Article III Jurisdiction One Year After Spokeo,” Minnesota State Bar Association Continuing Legal Education Presentation, Minneapolis, MN, June 2017.

“House Resolution 985 – Update and Strategies for Defeat,” Cambridge Forums – Plaintiffs’ Class Action Forum, Carefree, AZ, May 2017.

“TCPA/Fair Credit Reporting Act/Debt Collection Issues,” PLI 22nd Annual Consumer Financial Services Institute, Chicago, IL, May 2017.

“Case Law and Recent Trial Update,” Panelist, Fair Credit Reporting Act Conference, National Association of Consumer Advocates, Baltimore, MD, April 2017.

“Using the FCRA for Criminal Background Checks,” “Spokeo Standing Challenges (and Opportunities).” Consumer Rights Litigation Conference, National Consumer Law Center, Anaheim, CA, October 2016.

“Appeals: Whether, When and How.” Consumer Rights Litigation Conference Class Action Symposium, National Consumer Law Center, Anaheim, CA, October 2016.

“Recent Developments in Food Class Action Litigation.” Perrin Food & Beverage Litigation Conference, New York, NY, October 2016.

“A Winning Hand or a Flop? After 50 Years are Class Actions Still Legit?” American Bar Association Annual National Institute on Class Actions, Las Vegas, NV, October 2016.

Contributing Author, “Consumer Law,” *The Complete Lawyer’s Quick Answer Book*, Minnesota Continuing Legal Education, 2016.

“Changing Standard for Class Certification Including a Discussion of the Use of Experts and Statistical Sampling at Class Certification in Light of Spokeo and Tyson.” Bridgeport Continuing Education 2016 Class Action Litigation Conference, San Francisco, CA, September 2016.

“The U.S. Supreme Court’s Big New Decisions.” Minnesota Continuing Legal Education Presentation, Minneapolis, MN, August 2016.

“The Complete Lawyer Series: Consumer Law, Debt Collection and Credit Reporting.” Minnesota Continuing Legal Education Webcast, Minneapolis, MN, July 2016.

“What Does the Spokeo Decision Mean for Consumer Lawyers.” National Association of Consumer Advocates Webinar, May 2016.

“Hot Button Consumer Issues.” Practising Law Institute’s Annual Consumer Financial Services Institute, Chicago, IL, May 2016.

“Consumer Law.” Minnesota Continuing Education Seminar, Minneapolis, MN, May 2016.

“Hot Topics in Class Actions.” Bridgeport Class Action Conference, Hollywood, CA, April 2016.

“Hot Button Consumer Issues.” Practising Law Institute’s Annual Consumer Financial Services Institute, New York, NY, April 2016.

“Beyond the Headlines – What EVERY Lawyer Should Know About the U.S. Supreme Court’s Big New Decisions.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, August 2015.

“Financial and Criminal Background Checks.” National Employment Lawyers Association Annual Convention Presentation, Atlanta, GA, June 2015.

“The Complete Lawyer: Consumer Law.” Minnesota Continuing Legal Education Presentation, Minneapolis, MN, May 2015.

“Protecting Your Plaintiffs and the Class: Rule 68 Offers and Other Pick-Off Tactics.” Impact Fund Class Action Conference, Berkeley, CA, February 2015.

“Be Careful what you Wish For: Trends in Arbitration.” ACI Wage & Hour Claims and Class Actions Summit Panel, Miami, FL, January 2015.

“Job Applicant Screening, Financial & Criminal Background Checks – Applicant Rights and Employer Best Practices.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, December 2014.

“Economics of Objecting for the Right Reasons.” Class Action Symposium Panel, National Consumer Rights Litigation Conference, Tampa, FL, November 2014.

“Data Harvesting, Background Checks, and the Fair Credit Reporting Act for Criminal Attorneys.” Criminal Law Section, Minnesota State Bar Association Presentation, November 2014.

“Discovery Strategies in Class Actions: When Less is More and When it Isn’t.” Bridgeport Class Action Conference, Chicago, IL, June 2014.

“Job Applicant Screening Crash Course.” Upper Midwest Employment Law Institute, Saint Paul, MN, May 2014.

“Financial and Criminal Background Checks.” Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May 2014.

“The Complete Lawyer: Quick Answers to Questions about Consumer Law.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, May 2014.

“Employment Law 360.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, February 2014.

“Precertification Discovery Strategies including Issues of Standing & Certification.” Bridgeport Class Action Conference, San Francisco, CA, August 2013.

“Beyond the Headlines – What Every Lawyer Should Know About the U.S. Supreme Court’s Big New Decision.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, August 2013.

“The Complete Lawyer: Quick Answers to Questions about Consumer Law.” Minnesota Continuing Legal Education Seminar, Minneapolis, MN, June 2013.

"The Misclassification Mess – What Do You Do If You Have Misclassified Workers as Exempt?" Upper Midwest Employment Law Institute, Minneapolis, MN, May 2013.

"Housing Finance – Consumer Financial Services." Panelist, American Bar Association Business Law Section Spring Meeting, Washington, D.C., April 2013.

"5 Developments in E-Discovery." The Civil Litigator's Annual Short Course, Minnesota Continuing Legal Education, Minneapolis, MN, February 2013.

"Employment Rights & Criminal Backgrounds in the Context of the FCRA and Title VII." Goodwill Easter Seals Presentation, Saint Paul, MN, December 2012.

"Federal Court 101." National Business Institute Webinar, Eau Claire, WI, December 2012.

"Employment Law Series: Ethics Issues for Employment Law Lawyers." Minnesota Continuing Legal Education Webcast, Minneapolis, MN, October 2012.

"Real World Ethics Issues and Answers for the Employment Lawyer." Upper Midwest Employment Law Institute, Minneapolis, MN, May 2012.

"Real World Ethics Issues and Answers for the Employment Lawyer." Minnesota Continuing Legal Education Seminar, Minneapolis, MN, November 2011.

"The Complete Lawyer: Consumer Law 101." Minnesota Continuing Legal Education Seminar, Minneapolis, MN, November 2011.

"Litigation and the Federal Rules. What Every Paralegal Should Know", National Federation of Paralegal Associations, Annual Convention, Bloomington, MN, October 2011.

"Dukes v. Wal-Mart: the View from the Plaintiff's Bar." American Conference Institute's Defending and Managing Retaliation and Discrimination Claims Conference, New York City, NY, July 2011.

"How to Practice in Federal Court: Complaints, Answers, and Service of Process." Minnesota Continuing Legal Education Seminar, Minneapolis, MN, October 2010.

"Recent Trends in FLSA Collective Actions Panel." Minnesota Federal Bar Association Annual Seminar, Minneapolis, MN, June 2010,

Minnesota Continuing Legal Education Panel on Real-World Ethics Issues and Answers for the Employment Lawyer, Minneapolis, MN, June 2010.

"Maintaining Privilege and Confidentiality." National Federation of Paralegal Association Annual Convention, Bloomington, MN, June 2010.

"Strategic Discovery Practice", Upper Midwest Employment Law Institute, Minneapolis, MN, May 2010.

Minnesota Continuing Legal Education Panel on the Impact of Twombly and Iqbal on the Pleading standard, Minneapolis, MN, February 2010.

Interviewed by National Law Journal regarding recent wave of tip pooling cases (June 2009).

Strategic Discovery: How to Fight Discovery Abuses and Win Discovery Disputes, Minnesota Institute for Continuing Legal Education (May 2009).

Who's the Boss? Joint employers, successor employers and integrated enterprises, Equal Employment Opportunity Commission Investigator training (March 2008).

Litigating Capital Cases Under Georgia's New Discovery Statutes, Advanced Capital Defender Training (St. Simons Island, GA, January 2006).

Responding to Changes in Georgia's Criminal Discovery Statutes, Advanced Capital Defender Training. (St. Simons Island, GA, July 2005).



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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ANGEL LUIS RODRIGUEZ, JR., individually
and as a representative of the class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC.

Defendant.

Case No.: A-23-869000-B

Dept. No.: 16

**DECLARATION OF RITESH
PATEL IN SUPPORT OF
PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
ACTION SETTLEMENT &
PRELIMINARY
CERTIFICATION OF
SETTLEMENT CLASS**

**EGLET ADAMS
EGLET HAM HENRIOD**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC,

Defendant.

CASE No. A-23-869000-B

**DECLARATION OF RITESH PATEL RE:
CONTINENTAL DATALOGIX LLC AND
PROPOSED NOTICE PLAN**

I, Ritesh Patel, hereby declare as follows:

1. My name is Ritesh Patel and I make this declaration in Montgomery County, Pennsylvania. The statements that follow are all made of my personal knowledge.

2. I am a Partner at Continental DataLogix LLC (“Continental”), a provider of class action settlement administration services with an office in Lansdale, Pennsylvania. Prior to my current position, I was a manager with RSM US LLP, a nationwide provider of audit, tax, and consulting services. Since 2004, I have been associated with the administration of a variety of class action settlements ranging from 50 class members to over 20 million class members.

3. My experience includes administering various types of class action settlements, including consumer products, fraud, employment law, product liability, antitrust, credit reporting, and financial and securities cases. A list of settlements that I have been involved with can be made available upon request.

4. Continental’s class action administration services include coordination of notice requirements, document design, notice fulfillment services, coordination with the United States Postal Service, settlement website development and maintenance, dedicated phone lines with recorded information for Class Members and live operator availability, receipt and processing of opt-outs, management of claims databases, claims adjudication, funds management, and award calculations and distribution services. Continental works with

1 the settling parties, the Court, and the Class Members in a neutral role to implement the administration
2 services based on the terms of the Settlement and following the Court's direction. A detailed description of
3 Continental's experience and service offerings, along with a list of representative cases previously
4 administered, is attached as Exhibit A.

5 5. Continental has been approved by both federal and state courts to provide notice of class actions
6 and claims processing services. Continental has extensive experience successfully administering various
7 projects involving product liability, antitrust, consumer products, employment law, credit reporting, debt
8 collection, and financial and securities cases.

9 **Data Security**

10 6. Continental understands the importance of securely handling class member data and has
11 implemented strict procedures to ensure compliance with all relevant regulations and requirements. This
12 includes the use of technical, administrative, and physical controls to protect data, retention and destruction
13 policies to ensure data is only kept for as long as necessary, reviews to monitor our processes and identify
14 areas for improvement, and crisis response plans to mitigate any potential data breaches.

15 7. Continental maintains comprehensive insurance coverage to protect against any such incidents. Our
16 commitment to data security and accountability is unwavering and we will continue to prioritize the
17 protection of class member information above all else.

18 **Summary**

19 8. This declaration will outline the Notice Plan to be implemented in this matter, detailing the steps
20 Continental will take to provide Notice to the Class.

21 9. The proposed Notice Plan includes individual direct notice via email and mail to all reasonably
22 identifiable Class Members. This will be supplemented by the creation of a dedicated website and a toll-
23 free telephone line, enabling Settlement Class Members to learn more about their rights and options under
24 the terms of the Settlement. Additionally, extensive reminder notice efforts, as detailed below, will be
25 undertaken primarily in order to (1) remind Class Members for whom an updated mailing address has not
26 been located that they must submit a Payment Election Form in order to receive a Pro Rata Award; and (2)

1 provide Class Members with reminders and instructions on how to submit a Claim Form in order to be
2 eligible for an additional Actual Damages Award.

3 **Class Member Data & Reverse Lookups**

4 10. Continental will receive, review, and analyze the data provided for Class Members. Continental
5 will conduct a comprehensive analysis to identify and remove duplicate records and address any missing
6 or incomplete data fields. Subsequently, Continental will assign identification numbers to each unique
7 record, creating the final Class Member list ("Class List"). The Parties currently estimate that the Class will
8 include between 400,000 and 440,000 Settlement Class Members. For those records on the Class List which
9 were provided without a valid email address, Continental will process them through a reverse look-up, via
10 a third-party search firm, LexisNexis, to locate email addresses.

11 **Mail Notice**

12 11. In accordance with the Notice Plan, Continental will send the Mail Notice via first class U.S. Mail,
13 postage pre-paid, to all Settlement Class Members for whom mailing addresses are included on the Class
14 List. The Mail Notice will be provided in both English and Spanish.

15 12. Prior to mailing, Continental will implement the following best practices to increase the
16 deliverability rate of the Mail Notice:

- 17 • Continental will update the mailing addresses by using the United States Postal Service's ("USPS")
18 National Change of Address database, which provides updated address information for individuals
19 who have moved during the past four years and filed a change of address with the USPS.
 - 20 • Mail Notices which are returned to Continental by the USPS with forwarding addresses will be re-
21 mailed to the new addresses provided by the USPS.
 - 22 • Mail Notices which are returned to Continental by the USPS without forwarding addresses will be
23 processed through a third-party search firm, LexisNexis, in an attempt to locate updated mailing
24 addresses.
 - 25 • Mail Notice will be re-mailed to Class Members for whom updated addresses are available.
- 26
27

Email Notice

13. In accordance with the Notice Plan, Continental will send the Email Notice to all Settlement Class Members for whom an email address has been located. The Email Notice will be provided in both English and Spanish.

14. Continental follows best practices to validate email addresses and increase deliverability. Specifically, prior to distributing the email notice, Continental subjects the email addresses to a cleansing process that removes extra spaces, corrects common typographical errors, and fixes incorrect domain suffixes (e.g., gmal.com to gmail.com, gmail.co to gmail.com, yaho.com to yahoo.com).

15. Continental designs the email notice to avoid "red flags" that might trigger spam filters and prevent the email notice from being delivered. For instance, Continental does not include attachments, such as the Long Form Notice, in the email notice because attachments are often flagged as spam by various ISPs.

Reminder Email Notices

16. In addition to the Mail Notice and Email Notice described above, Continental will send targeted Reminder Email Notices as follows:

- For those Settlement Class Members whose Mail Notice was returned and not successfully mailed, Continental will designate such Class Members as "Mail Notice Undeliverable." If Continental has located an email address for such Class members, Continental will send them the "Undeliverable Mail Email Notice" at least twice prior to the Final Approval Hearing. This Notice will notify Mail Notice Undeliverable Class Members that Continental has been unable to reach them by U.S. Mail and, therefore, that the Class Members must submit a Payment Election Form in order to receive a Pro Rata Award payment. The Notice will also provide directions on how to submit a Claim Form in order to be eligible for an additional Actual Damages Award.
- For those Settlement Class Members who have not submitted a Payment Election Form and for whom an email address is available, Continental will send either (1) the Undeliverable Mail Reminder Notice described above or (2) the Standard Reminder Email Notice on two occasions after the Final Approval Hearing. The Standard Reminder Email Notice will encourage Class

Members to submit a Payment Election Form and provide directions on how to submit a Claim Form in order to be eligible for an additional Actual Damages Award.

- All Reminder Email Notices will be sent in both English and Spanish.

17. Such reminder notices, sent after final approval and when payment is no longer contingent, are effective in increasing the number of individuals who actually receive payments that are owed to them.

Settlement Website

18. In accordance with the Notice Plan, Continental will establish a case-specific Settlement Website, where Class Members can view general information about this Settlement and review relevant Court documents, including the Complaint, Long Form Notice, the Settlement Agreement, Plaintiff's Motion for Attorneys' Fees, Costs, and Service Award (when filed), and the Preliminary Approval Order. The Settlement Website will also include a version of the Mail Notice in English, Spanish, and Arabic.

19. The Settlement Website will be optimized for viewing on both desktop and mobile devices, will allow Class Members the ability to submit a Claim Form and a Payment Election Form electronically, and have important dates, frequently asked questions, and procedural information regarding the status of the settlement and any distribution made available as well.

Telephone and Email Assistance

20. A toll-free hotline will be created and made available to further inform Class Members of the rights and options in the Settlement. The toll-free hotline will use an interactive voice response ("IVR") system to provide Class Members with answers to frequently asked questions about the Settlement in English, Spanish, and Arabic. Settlement Class Members will also have the ability to leave a message in the event they have additional questions about the Settlement.

21. An email address will also be made available to Settlement Class Members. This email address will be provided in the Notice and on the Settlement Website and can be used by Settlement Class Members to contact Continental with questions about the Settlement.

Claims for Actual Damages Awards

22. Settlement Class Members will be able to submit claims electronically or by mail from the Settlement Notice Date through and including the Claims Deadline (60 days after the Final Approval Order is entered).

23. Continental will implement procedures to process and review Claim Forms from Settlement Class Members who submit claims for Actual Damages Award Payments, in accordance with Section 5.2.4 of the Settlement Agreement. Continental will employ a point system to determine each valid claimant's qualifying Actual Damages Award.

Administrative Costs and Fees

24. Continental currently estimates that the costs for administering the Settlement will be approximately \$970,000.00. This estimate is based on certain specifications provided to Continental and related assumptions. Actual costs may vary based on actual volumes and required procedures. A breakdown of this estimate is as follows:

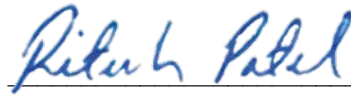
<u>Process</u>	<u>Estimated Cost</u>
Initial Coordination	\$29,250
Skip-tracing and Translation	\$36,500
Notice Implementation	\$143,468
Website Development	\$8,940
Claims Processing	\$12,125
Telephone Support and Communications	\$25,750
Distribution Services	\$197,390
Tax Services	\$3,700
Postage	\$513,069
Total Estimate	\$970,192

1 **Conclusion**

2 25. Continental is prepared to effectuate the Notice Plan and steps outlined above, in accordance with
3 the terms of the Settlement Agreement and the Court's Orders.

4
5 I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

6 Executed on this 11th day of June 2024.

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8 Ritesh Patel
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EXHIBIT A

Our About Us is About You.

Professional. Accessible.
Dedicated.





Document Review and Design

- Settlement Agreement and other relevant documents
- Class Notices and Claim Form
- Publication Notice

Coordinate Notice Mailing and Emailing

- Obtain class list, update mailing and email addresses
- Arrange for the publication of a summary notice

Website Development

- Online claim filing platform development
- Post all case related documents
- Allow for class member inquiries via email

Claim Form Processing

- Develop customized claim database
- Review all claims pursuant to settlement terms
- Correspond with class members

Prepare Required Reports for Counsel

- Affidavits / Declarations
- Summarization of activity in the Settlement Fund
- Submit all exclusion requests and objections to counsel and the Court

Distribution to the Class

- Calculate class member payment amounts
- Coordinate with bank and printer
- Locate class members with uncashed checks
- Search for updated addresses

Post Distribution

- Tax filings
- Bank Reconciliations
- Check Reissues
- Disposition of remaining funds

EXPERIENCE: POWER OF KNOWLEDGE

CDLX provides class action services nationwide from our suburban Philadelphia headquarters. With over 40 years of experience, our leadership team has specialized in providing notice and administration solutions to the legal community throughout the country. Drawing on our knowledge and capability, we strive to obtain a complete understanding of your needs, offer suggestions to make the process more efficient and cost effective, and provide customized solutions for every situation.

Through the years, we have successfully administered various projects involving product liability, antitrust, consumer products, employment law, credit reporting, debt collection, and financial and securities cases. Knowing that each one of these is distinct and different, we understand that each engagement does not fit into the same template.

OUR SERVICES

The CDLX team offers a full range of services which can be tailored to fit the needs of any engagement:

Legal Notification
Data Management

Communications
Claims Management

Distribution
Tax Services

WHY WORK WITH US

- **Comprehensive Case Management**
 - Our management team has the knowledge and hands-on experience that clients rely on. Having developed proprietary platforms, we are able to provide solutions that are tailored to each engagement, whether for 75 class members or 20 million class members.
- **Unconventional Focus**
 - Our focus on technological innovation along with our extensive experience results in a powerful combination that is valued by our clients.
- **Established Efficiency**
 - By understanding the price-driven nature of class action administration services, CDLX executes operational efficiency to realize cost savings and maximize benefits to the class.
- **Trusted Partner**
 - CDLX prides itself on being a transparent partner for every client from the proposal phase through the final reconciliation report. Our goal is to deliver superior performance for every client.

MANAGEMENT TEAM

CDLX is motivated on meeting your needs and delivering results. By utilizing the resources of our experienced team, we are able to guarantee the quality of all our work.

Frank Barkan

Continental DataLogix LLC

📞 215.327.4997

✉️ frank.barkan@continentaldlx.com

📍 Lansdale, Pennsylvania



Summary of Experience

Frank Barkan provides class action administration services to attorneys across the country. Frank has practiced public accounting for more than 40 years and has been involved in all aspects of the administration of class action settlements since 1980. With over four decades of experience working at RSM, Frank has taken his extensive knowledge and expertise to start the boutique firm Continental DataLogix in 2021.

Frank, a Partner at Continental DataLogix, administers various types of class actions including consumer products, credit reporting, employment law, product liability, antitrust and financial and securities matters. Throughout his career, he has been involved in numerous settlements ranging in size from 50 class members to several million. He supervises all aspects of the claims administration process. This includes proposal and affidavit preparation, notice and proof of claim mailing, loss calculations, custom database creation, corresponding with claimants, tax return preparation, final review of claims, and distribution of settlement funds to approved class members.

Professional Affiliations and Credentials

- Certified Public Accountant
- American Institute of Certified Public Accountants
- Pennsylvania Institute of Certified Public Accountants

Education

- Master of Accounting, The Ohio State University
- Bachelor of Arts, Economics, Temple University

Sue Mouck

Continental DataLogix LLC

📞 610.416.5305

✉ sue.mouck@continentaldlx.com

📍 Lansdale, Pennsylvania



Summary of Experience

Sue Mouck, a Partner at Continental DataLogix, is an experienced class action claims administration professional with a proven track record of success in managing all aspects of the claims administration process. With over 35 years of expertise spanning across a variety of industries, including consumer products, employment law, product liability, antitrust, and securities matters, Sue has the knowledge and skills necessary to navigate the complex legal and procedural issues involved in class action settlements.

Throughout her career, Sue has demonstrated her ability to manage settlements of all sizes, from those involving a handful of class members to those with millions. She is known for her problem-solving abilities, critical thinking skills, and data expertise, which allow her to analyze complex data sets and develop innovative solutions to settlement administration challenges. Sue's strong attention to detail and ability to work under tight deadlines ensure that settlements are executed efficiently and effectively while protecting the interests of all parties involved.

As a class action claims administration professional, Sue is committed to providing her clients with strategic guidance and collaborating with legal teams and other stakeholders to ensure that settlements are managed with the utmost professionalism and efficiency. Her expertise in database management, website development and design, and tax return preparation enables her to provide comprehensive services to clients throughout the settlement administration process.

Education

- Master of Business Administration, Accounting, St. Joseph's University
- Bachelor of Science, Finance, Pennsylvania State University

Ritesh Patel

Continental DataLogix LLC

📞 215.410.2944

✉️ ritesh.patel@continentaldlx.com

📍 Lansdale, Pennsylvania



Summary of Experience

Ritesh Patel is a highly experienced class action settlement administrator, currently serving as Partner of Continental DataLogix. With over 19 years of experience in the industry, he has extensive knowledge and expertise in managing all aspects of the claims administration process, ranging from proposal and declaration preparation to distribution of funds.

Throughout his career, Ritesh has demonstrated his ability to handle a wide variety of class action settlements, from those involving only 50 class members to those with several million. His areas of specialization include consumer products, credit reporting, employment law, product liability, antitrust, and securities matters.

Ritesh is known for his problem-solving abilities, critical thinking skills, and data expertise, which enable him to analyze complex data sets and develop innovative solutions to settlement administration challenges. Ritesh's extensive experience has given him a deep understanding of the complex legal and procedural issues involved in class action settlements. His strong attention to detail and ability to work under tight deadlines ensure that settlements are executed efficiently and effectively, while protecting the interests of all parties involved.

As a Partner at Continental DataLogix, Ritesh is responsible for providing strategic guidance to clients and collaborating with legal teams and other stakeholders to ensure that settlements are managed with the utmost professionalism and efficiency. His expertise in database management, website development and design, and tax return preparation enables him to provide comprehensive services to clients throughout the settlement administration process.

Education

- Bachelor of Science, Finance, Drexel University

Case Experience

A.R v. City of Philadelphia	Court of Common Pleas, Philadelphia. County, Pennsylvania
Abbas v. Early Warning Services, LLC	USDC, District of Arizona
Advanced Neuromodulation Systems	USDC, Eastern District of Texas
Advanced Systems, Inc.	USDC, Northern District of Illinois
Airlines Anti-trust	USDC, Northern District of Georgia
Air Products	USDC, Eastern District of Pennsylvania
Alabama By-Products	State of Delaware Court of Chancery
Alfin	USDC, Southern District of New York
Allegheny Beverage	USDC, District of Maryland
Amboy Bancorp	Superior Court of New Jersey Chancery Division
American Express	USDC, Southern District of New York
American Medical	Superior Court of California
Amerifirst Bank	USDC, Southern District of Florida
ARCS Mortgage	Superior Court of California
Armada Securities	USDC, Eastern District of Michigan
Avandia Settlement	Twentieth Judicial Circuit Court., St. Clair County, Illinois
Baer v. Shannondell	Court of Common Pleas, Montgomery County, Pennsylvania
Bally Shareholder	USDC, District of New Jersey
BankAmerica Sec.	USDC, Central District of California
BankTech	State of Delaware Court of Chancery
Baptist Estates	USDC, Eastern District of Pennsylvania
Barnes v. Fleet National Bank Settlement	USDC, District of Massachusetts
BEACH v. AHFCU	USDC, Eastern District of Pennsylvania
Berryman, Jr., v. Avantus, LLC	USDC, District of Connecticut
Beneficial Securities	USDC, District of Delaware
Bernetich, Hatzell & Pascu, LLC vs. MRO, Inc.	Superior Court of New Jersey Chancery Division
Best Lock Corp	State of Delaware Court of Chancery
Bishop's Glen Bondholder	USDC, Middle District of Florida
Bolar Securities	USDC, Eastern District of Pennsylvania
Brady v. Air Line Pilots Association, Intl.	USDC, District of New Jersey
Brice v. Stinson	USDC, Northern District of California
Broadview Financial	USDC, Northern District of Ohio
Burke v. Seterus, Inc.	USDC, Eastern District of Virginia
Butterline v. City of Philadelphia	USDC, Eastern District of Pennsylvania
C.I. Realty Investors	USDC, Southern District of New York
C & S Sovran	USDC, Northern District of Georgia
Campos-Carranza v. Credit Plus, Inc.	USDC, Eastern District of Virginia
Carenetwork	USDC, Eastern District of Wisconsin
Ceccone v. Equifax Information Services, LLC	USDC, District of Colorado
Charter Securities	USDC, District of Georgia
Cherry Hill Toyota, Inc.	USDC, District of New Jersey
Cineplex	USDC, Central District of California
City of Philadelphia	Court of Common Pleas, Philadelphia County, Pennsylvania
Clark v. Trans Union, LLC	USDC, Eastern District of Virginia

Coast Securities	USDC, Middle District of Florida
Coldata Inc	USDC, Western District of Texas
Commonwealth Savings	USDC, Southern District of Florida
Commonwealth of VA v. Allied Title Lending, LLC	Commonwealth of Virginia, Office Attorney General
Commonwealth of VA v. Skyline Metrics, LLC	Commonwealth of Virginia, Office Attorney General
Concord Camera Corp	USDC, Southern District of Florida
Continental Group	USDC, District of New Jersey
Continental Illinois	USDC, Northern District of Illinois
Continental Midlantic	USDC, Eastern District of Pennsylvania
Copper Water Tubing Antitrust	USDC, Eastern District of Pennsylvania
Corporate Software	State of Delaware Court of Chancery
Craddock v. Hayt, Hayt & Landau	USDC, District of New Jersey
Craftmatic	USDC, Eastern District of Pennsylvania
Criimi Mae	Circuit Court Montgomery County, Maryland
Crowley Maritime	State of Delaware Court of Chancery
Cytogen Corporation	USDC, District of New Jersey
DBA Securities	USDC, Middle District of Florida
Deaton v. Trans Union	USDC, Eastern District of Pennsylvania
Dime Savings Bank	USDC, Eastern District of New York
Disney	USDC, Southern District of New York
Diversified Investment	USDC, Eastern District of Pennsylvania
Doe v. Franklin County	Court of Common Pleas, Franklin County, Pennsylvania
Donna K. Soutter v. TransUnion, LLC	USDC, Eastern District of Virginia
Duquesne Light Company	USDC, Western District of Pennsylvania
Durand v. Allmerica Class Settlement	USDC, Western District of Kentucky
Dycom	USDC, Southern District of Florida
Edward Montgomery v. Erickson, Inc.	State of Delaware Court of Chancery
Empire Shareholder	USDC, Western District of New York
Enserch	State of Delaware Court of Chancery
Ensource Securities	USDC, District of Colorado
Fiddler's Woods Bondholder	USDC, Eastern District of Pennsylvania
Fidelity Federal Bank and Trust	USDC, Southern District of Florida
Firestone Tire & Rubber	USDC, Northern District of Ohio
First American Bank	USDC, Southern District of Florida
First Interstate	USDC, Central District of California
FirstEastern	USDC, Eastern District of Pennsylvania
First People's	USDC, District of New Jersey
Fleet National Bank	USDC, District of Massachusetts
Flores v. Express Personnel	USDC, Eastern District of Pennsylvania
Florida Power & Light	USDC, Southern District of Florida
Fogelman Mortgage	USDC, Eastern District of New York
Freckleton v. Target Settlement	USDC, District of Maryland
Frigitronics, Revlon	USDC, Southern District of New York
GDV, Inc.	State of Delaware Court of Chancery
General Nutrition	USDC, Western District of Pennsylvania
Giddiens v. First Advantage	USDC, Eastern District of Pennsylvania
Glendale Federal Bank	Superior Court of California, Orange County

Goldome Securities	USDC, Southern District of New York
Granada 4	District Court of Texas, Harris County
Greenwich Securities	USDC, Eastern District of Pennsylvania
Greer v. Shapiro	USDC, Eastern District of Pennsylvania
Gustafson's Dairy	USDC, Middle District of Florida
Hans v. Tharaldson	USDC, District of North Dakota
Henderson v. First Advantage	USDC, Eastern District of Virginia
Hercules	USDC, District of Delaware
Hines v. CoreLogic, LLC	USDC, Eastern District of Virginia
Hinkel v. Universal Credit Services, LLC	USDC, Eastern District of Pennsylvania
Home Unity Savings	USDC, Eastern District of Pennsylvania
Insurance Management Solutions Group	USDC, Middle District of Florida
Iowa Indirect Vitamin Products Settlements	Iowa District Court for Carroll County
Jos. A. Bank Securities	USDC, District of Maryland
Kang v. Credit Bureau Connection, Inc.	USDC, Eastern District of California
Kenrich Corporation	State of Delaware Court of Chancery
King v. Glenn O. Hawbaker, Inc.	Court of Common Pleas, Centre County, Pennsylvania
KTI, Inc.	USDC, District of New Jersey
L.A. Fitness Settlement	USDC, Eastern District of Pennsylvania
Larson and Miller v. Trans Union LLC	USDC, Northern District of California
Laurent v. PricewaterhouseCoopers LLP	USDC, Southern District of New York
Little v. Kia Motors America, Inc.	Superior Court of New Jersey, Union County
Louisville Bedding Company Litigation	State of Delaware Court of Chancery
Lundy v. Diamond Credit Union	Court of Common Pleas, Philadelphia County, Pennsylvania
Magma Copper	USDC, District of Arizona
Martinez v. Avantus, LLC	USDC, District of Connecticut
McClendon v. The Continental Group	USDC, District of New Jersey
McIntyre v. RealPage, Inc.	USDC, Eastern District of Pennsylvania
McKey v. Tenantreports.com, LLC	USDC, Eastern District of Pennsylvania
McNulty and Erzar v. H&R Block	Court of Common Pleas, Lackawanna County, Pennsylvania
Medical Staffing Network Holdings	USDC, Southern District of Florida
Meehan v. Capital One, N.A.	USDC, Eastern District of Virginia
Meeks v. Consumer Adjustment Company, Inc.	USDC, Northern District of California
Meeks v. Equifax Information Services, Inc.	USDC, Northern District of California
Mellon Bank Securities	USDC, Western District of Pennsylvania
Mendez Fuel Holdings 3, LLC v. Southern Waste	Circuit Court of Miami, Dade County, Florida
Mercedes-Benz	USDC, District of New Jersey
MGM Grand	State of Delaware Court of Chancery
MGM Pathe	USDC, Central District of California
ML Lee	USDC, District of Delaware
MNC Financial	USDC, District of Maryland
Moody v. Turner	USDC, Southern District of Ohio
Moore v. RealPage Utility Management, Inc.	USDC, District of Maryland
Mwangi v. Service 1 st FCU	Court of Common Pleas, Luzerne County, Pennsylvania
Nasdaq Market-Makers Antitrust	USDC, Southern District of New York
Newpark Resources	USDC, Eastern District of Louisiana
Nicolet Instrument	USDC, Western District of Wisconsin
Nutri/System, Inc.	USDC, Eastern District of Pennsylvania

Odimo Inc.	Circuit Court of Broward County, Florida
Optical Cable Corp	USDC, Western District of Virginia
Osberg v. Foot Locker Litigation	USDC, Southern District of New York
Pang v. Credit Plus, Inc.	USDC, District of Maryland
Paramount Packaging	State of Delaware Court of Chancery
Patel v. Trans Union LLC	USDC, Northern District of California
Pavane/First American	USDC, Southern District of Florida
Pennsylvania Life & Health Insurance Guaranty	Court of Common Pleas, Philadelphia County, Pennsylvania
People's Express Airline	USDC, District of New Jersey
Perfumania	USDC, Southern District of Florida
PNC Financial Services Group	USDC, Western District of Pennsylvania
Polifly Financial	USDC, District of New Jersey
Pressure Sensitive Labelstock Antitrust	USDC, Middle District of Pennsylvania
Public Service of NH	USDC, District of New Jersey
Ramirez v. TransUnion, LLC	USDC, Northern District of California
Red Hat Securities	USDC, Eastern District of North Carolina
Rent-A-Center Inc. v. State of Wisconsin DOJ	State of Wisconsin, Circuit Court
Rent-A-Center of America, Inc.	USDC, Eastern District of Pennsylvania
Rent-A-Center, Inc.	Superior Court of New Jersey
Restaurant Associates	State of Delaware Court of Chancery
Roberts v. Fleet Bank (R.I.), N.A.	USDC, Eastern District of Pennsylvania
Roberts v. Sidwell Air Freight, Inc.	USDC, Western District of Washington
Roe v. Intellicorp Records, Inc.	USDC, Northern District of Ohio
Rougvie v. Ascena Retail Group	USDC, Eastern District of Pennsylvania
Royal Bank	Court of Common Pleas, Montgomery County, Pennsylvania
Royal Regency Bondholder	USDC, Northern District of Georgia
Royce Laboratories	USDC, Southern District of Florida
Russell v. United States	US Court of Federal Claims
Ryals v HireRight Solutions, Inc.	USDC, Eastern District of Virginia
Samson v. United Healthcare Services, Inc.	USDC, Western District of Washington
Satterfield v. Simon & Schuster, Inc.	USDC, Northern District of California
Saw Creek	USDC, Eastern District of Pennsylvania
Saylor v. RealPage, Inc.	USDC, Eastern District of Virginia
Scott Paper	USDC, Eastern District of Pennsylvania
SEC v. PaineWebber	USDC, Southern District of New York
Security Pacific	USDC, Central District of California
Sheffield	USDC, Southern District of Florida
Shell Petroleum, Inc.	State of Delaware Court of Chancery
Singleton v. AMS, Inc.	USDC, District of North Carolina
Smith Settlement	State of Wisconsin, Circuit Court
Smith v. Harbor Freight Tools USA, Inc.	USDC, Central District of California
Southeast Bank	USDC, Southern District of Florida
Southern Company	State of Delaware Court of Chancery
Soutter v. Equifax Information Services, LLC	USDC, Eastern District of Virginia
Steele v. Pergo, Inc.	USDC, District of Oregon
Steve Ferrari v. Autobahn, Inc.	USDC, Northern District of California
Storage Technology	USDC, District of Colorado
Sunrise Securities	USDC, Eastern District of Pennsylvania
Superconductor Technologies	USDC, Central District of California
Synergen	USDC, District of Colorado

TECO Energy
Telecommunications, Inc.
Terry Brown v. RP On-Site, LLC
Think Finance Settlement
Thomas v. Backgroundchecks.com Settlement
Thomas v. FTS USA, LLC
Thoratec Corp
TomoTherapy Securities
Tri-Star Pictures
Trustcorp Securities
TSO Financial
Tyrone Henderson v. Trans Union, LLC
Uniroyal
Unisys Securities
UOP, Inc.
Upjohn Securities
US Unwired Securities
UXP Securities
Valley National
Washington Bancorporation
Watson v. Prestige Delivery Systems, LLC
Wetterau Securities
Wheels Antitrust
Winchell's Donuts
Witt v. CoreLogic, LLC
Wometco
Wood v. Sunwest Bank
Worldwide Corporation
Young's Market
Zentner v. Brenner Car Credit, LLC
Zondervan Securities

USDC, Middle District of Florida
State of Delaware Court of Chancery
USDC, Eastern District of Virginia
USDC, Eastern District of Virginia
USDC, Eastern District of Virginia
USDC, Eastern District of Virginia
USDC, Northern District of California, San Jose
USDC, Western District of Wisconsin
State of Delaware Court of Chancery
USDC, Northern District of Ohio
USDC, Eastern District of Pennsylvania
USDC, Eastern District of Virginia
USDC, Eastern District of Pennsylvania
USDC, Eastern District of Pennsylvania
State of Delaware Court of Chancery
USDC, Eastern District of Pennsylvania
USDC, Eastern District of Louisiana
USDC, Central District of California
USDC, District of Arizona
USDC, District of Columbia
Court of Common Pleas, Allegheny County, Pennsylvania
USDC, Eastern District of Missouri
USDC, Eastern District of Pennsylvania
State of Delaware Court of Chancery
USDC, Eastern District of Virginia
State of Delaware Court of Chancery
Superior Court of California, Los Angeles County
State of Delaware Court of Chancery
State of Delaware Court of Chancery
Court of Common Pleas, Lycoming County, Pennsylvania
USDC, Western District of Michigan