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 Browder Capital, LLC, and Patrick Browder*

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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION**

In re ROCKET FUEL, INC. SECURITIES  
 LITIGATION

) Docket No. 4:14-cv-03998-PJH(JCS)  
 )  
 ) CONSOLIDATED CLASS ACTION  
 )

\_\_\_\_\_  
 This Document Relates To:  
 ALL ACTIONS

) **NOTICE OF MOTION AND UNOPPOSED**  
 ) **MOTION FOR PRELIMINARY**  
 ) **APPROVAL OF PROPOSED**  
 ) **SETTLEMENT; MEMORANDUM OF**  
 ) **POINTS AND AUTHORITIES IN**  
 ) **SUPPORT THEREOF**  
 )  
 ) Judge: Hon. Phyllis Hamilton  
 ) Courtroom: 3<sup>rd</sup> Floor, No. 3  
 ) Date: May 31, 2017  
 ) Time: 9:00 a.m.

**NOTICE OF MOTION AND UNOPPOSED MOTION**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on May 31, 2017 at 9:00 a.m. in Courtroom No. 3 on the 3rd Floor of 1301 Clay Street, Oakland, CA 94612, Oklahoma Firefighters Pension and Retirement System, Browder Capital, LLC, and Patrick Browder (together, “Plaintiffs” or “Lead Plaintiffs”) will, and hereby do, move for an order pursuant to Rule 23 of the Federal Rules of Procedure: (1) preliminarily approving the proposed settlement; (2) preliminarily certifying the proposed class for purposes of settlement; (3) approving the form and manner of notice to the class; and (4) scheduling a final approval hearing before the Court.

The proposed settlement is within the range of what is fair, reasonable, and adequate such that notice of its terms may be disseminated to members of the class and a hearing for final approval of the proposed settlement scheduled. This motion is based upon this Notice of Motion and Unopposed Motion, the Memorandum of Points and Authorities, *infra*, the accompanying Declaration of Ramzi Abadou, the Stipulation of Settlement, dated April 25, 2017, filed simultaneously herewith, the pleadings and records on file in this action, and other such matters and argument as the Court may consider.

Defendants do not oppose this Motion, and do not oppose certification of the class for settlement purposes.

**STATEMENT OF ISSUES TO BE DECIDED**

1. Whether the proposed Settlement is within the range of fairness, reasonableness and adequacy as to warrant: (a) the Court’s preliminary approval; (b) the dissemination of Notice of its terms to proposed Settlement Class Members; and (c) setting a hearing date for final approval of the Settlement as well as application for attorneys’ fees and reimbursement of expenses;

2. Whether a Settlement Class should be certified;

3. Whether the proposed Notice adequately appraises the Settlement Class Members of the terms of the Settlement and their rights with respect to it;

1       4.       Whether the proposed Plan of Allocation of settlement proceeds should be preliminarily  
2 approved; and

3       5.       Whether the Claim Forms are sufficient.  
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23  
24  
25  
26  
27  
28

## **TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	SUMMARY OF THE LITIGATION .....	2
III.	SUMMARY AND REASONS FOR THE SETTLEMENT .....	4
IV.	ARGUMENT .....	5
A.	The Law Favors and Encourages Settlements .....	5
B.	The Proposed Settlement Should Be Preliminarily Approved .....	6
1.	The Proposed Settlement was Vigorously Negotiated and Is Supported by Experienced Counsel .....	8
2.	The Proposed Settlement Provides a Favorable Recovery for the Class .....	9
3.	The Proposed Settlement Does Not Unjustly Favor any Class Members, Including Lead Plaintiffs .....	10
4.	The Stage of the Proceedings and the Discovery Completed .....	11
C.	The Proposed Class Meets the Requisites for Class Certification Under Rule 23 .....	12
1.	Numerosity .....	13
2.	Commonality .....	14
3.	Typicality .....	15
4.	Adequacy .....	16
5.	Common Questions of Law Predominate and a Class Action Is the Superior Method of Adjudication .....	17
D.	The Proposed Notice to the Class is Adequate .....	19
E.	The Plan of Allocation Should Be Preliminarily Approved .....	21
F.	The Intended Request for Attorneys' Fees and Expenses .....	23
G.	The Proposed Claims Administrator .....	24
V.	PROPOSED SCHEDULE OF EVENTS AND FINAL APPROVAL PROCEEDINGS .....	24
VI.	CONCLUSION .....	25

**TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Amchem Prods. v. Windsor</i> , 521 U.S. 591 (1997) .....	16, 18
<i>Amgen Inc. v. Conn. Ret. Plans &amp; Tr. Funds</i> , 133 S. Ct. 1184 (2013) .....	17, 18
<i>Boring v. Bed Bath &amp; Beyond of Cal. Ltd. Liab. Co.</i> , 2013 U.S. Dist. LEXIS 165909 (N.D. Cal. Nov. 21, 2013) .....	23
<i>Browning v. Yahoo! Inc.</i> , 2007 U.S. Dist. LEXIS 86266 (N.D. Cal. Nov. 16, 2007) .....	5
<i>Butler v. Sears, Roebuck &amp; Co.</i> , 727 F.3d 796 (7th Cir. 2013) .....	18
<i>Carter v. Anderson Merchandisers, LP</i> , 2010 U.S. Dist. LEXIS 55581 (C.D. Cal. May 11, 2010) .....	9
<i>Chun-Hoon v. McKee Foods Corp.</i> , 716 F. Supp. 2d 848 (N.D. Cal. 2010) .....	9
<i>Destefano v. Zynga, Inc.</i> , 2016 U.S. Dist. LEXIS 17196 (N.D. Cal. Feb. 11, 2016) .....	23
<i>Ellis v. Naval Air Rework Facility</i> , 87 F.R.D. 15 (N.D. Cal. 1980) .....	8
<i>Erica P. John Fund, Inc. v. Halliburton Co.</i> , 563 U.S. 804, 131 S. Ct. 2179 (2011) .....	17
<i>Garner v. State Farm Mut. Auto. Ins. Co.</i> , 2010 U.S. Dist. LEXIS 49477 (N.D. Cal. Apr. 22, 2010) .....	23
<i>Halliburton Co. v. Erica P. John Fund, Inc.</i> , 134 S. Ct. 2398 (2014) .....	5, 7
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998) .....	12, 17
<i>Harris v. Vector Mktg. Corp.</i> , 2011 U.S. Dist. LEXIS 48878 (N.D. Cal. Apr. 29, 2011) .....	9
<i>Hodges v. Akeena Solar, Inc.</i> , 274 F.R.D. 259 (N.D. Cal. 2011) .....	16
<i>Hootkins v. Chertoff</i> , 2009 U.S. Dist. LEXIS 3243 (C.D. Cal. Jan. 6, 2009) .....	17

1	<i>In re Adobe Sys., Inc. Sec. Litig.</i> ,	
	139 F.R.D. 150 (N.D. Cal. 1991) .....	13
2	<i>In re Charles Schwab Corp. Sec. Litig.</i> ,	
3	2011 U.S. Dist. LEXIS 44547 (N.D. Cal. Apr. 19, 2011) .....	10
4	<i>In re Cooper Cos. Sec. Litig.</i> ,	
5	254 F.R.D. 628 (C.D. Cal. 2009) .....	<i>passim</i>
6	<i>In re Emulex Corp.</i> ,	
	210 F.R.D. 717 (C.D. Cal. 2002) .....	15, 18
7	<i>In re First Capital Holdings Corp. Fin. Prods. Sec. Litig.</i> ,	
8	1992 U.S. Dist. LEXIS 14337 (C.D. Cal. June 10, 1992) .....	8
9	<i>In re Heritage Bond Litig. v. U.S. Tr. Corp.</i> ,	
	546 F.3d 667 (9th Cir. 2008) .....	12
10	<i>In re Heritage Bond Litig.</i> ,	
11	2005 U.S. Dist. LEXIS 13555 (C.D. Cal. June 10, 2005) .....	5, 6, 23
12	<i>In re Immune Response Sec. Litig.</i> ,	
	497 F. Supp. 2d 1166 (S.D. Cal. 2007) .....	10, 19
13	<i>In re Infospace, Inc. Secs. Litig.</i> ,	
14	330 F. Supp. 2d 1203 (W.D. Wash. 2004) .....	10
15	<i>In re Initial Pub. Offering Sec. Litig.</i> ,	
16	260 F.R.D. 81 (S.D.N.Y. 2009) .....	17-18
17	<i>In re LDK Solar Sec. Litig.</i> ,	
	255 F.R.D. 519 (N.D. Cal. 2009) .....	18
18	<i>In re Mego Fin. Corp. Sec. Litig.</i> ,	
19	213 F.3d 454 (9th Cir. 2000) .....	10
20	<i>In re Oracle Corp. Sec. Litig.</i> ,	
	627 F.3d 376 (9th Cir. 2010) .....	7
21	<i>In re Pac. Enters. Sec. Litig.</i> ,	
22	47 F.3d 373 (9th Cir. 1995) .....	6, 23
23	<i>In re Portal Software Sec. Litig.</i> ,	
	2007 U.S. Dist. LEXIS 51794 (N.D. Cal. June 30, 2007) .....	11, 21
24	<i>In re Portal Software, Inc. Sec. Litig.</i> ,	
25	2007 U.S. Dist. LEXIS 88886 (N.D. Cal. Nov. 26, 2007) .....	12
26	<i>In re STEC Inc.</i> ,	
27	2012 U.S. Dist. LEXIS 186180 (C.D. Cal. Mar. 7, 2012) .....	14

1	<i>In re Surebeam Corp. Sec. Litig.,</i>	
2	2003 U.S. Dist. LEXIS 25022 (S.D. Cal. Dec. 31, 2003) .....	16
3	<i>In re THQ, Inc. Sec. Litig.,</i>	
4	2002 U.S. Dist. LEXIS 7753 (C.D. Cal. Mar. 22, 2002) .....	13
5	<i>In re UTStarcom, Inc. Sec. Litig.,</i>	
6	2010 U.S. Dist. LEXIS 48122 (N.D. Cal. May 12, 2010) .....	13, 14, 18
7	<i>In re VeriSign, Inc. Sec. Litig.,</i>	
8	2005 U.S. Dist. LEXIS 10438 (N.D. Cal. Jan. 13, 2005) .....	15
9	<i>In re Volkswagen “Clean Diesel” Mktg., Sales Practices, &amp; Prods. Liab. Litig.,</i>	
10	2016 U.S. Dist. LEXIS 148374 (N.D. Cal. Oct. 25, 2016) .....	12
11	<i>In re Wireless Facilities, Inc. Sec. Litig. II,</i>	
12	253 F.R.D. 607 (S.D. Cal. 2008) .....	5, 6
13	<i>In re Zynga Sec. Litig.,</i>	
14	2015 U.S. Dist. LEXIS 145728 (N.D. Cal. Oct. 27, 2015) .....	22
15	<i>Janus Capital Grp., Inc. v. First Derivative Traders,</i>	
16	131 S. Ct. 2296 (2011) .....	7
17	<i>Katz v. China Century Dragon Media, Inc.,</i>	
18	287 F.R.D. 575 (C.D. Cal. 2012) .....	13
19	<i>Lane v. Facebook, Inc.,</i>	
20	696 F.3d 811 (9th Cir. 2012) .....	19
21	<i>Livingston v. Toyota Motor Sales USA, Inc.,</i>	
22	1995 U.S. Dist. LEXIS 21757 (N.D. Cal. May 30, 1995) .....	9
23	<i>Morales v. Stevco, Inc.,</i>	
24	2011 U.S. Dist. LEXIS 130604 (E.D. Cal. Nov. 10, 2011) .....	9
25	<i>Murillo v. Pac. Gas &amp; Elec. Co.,</i>	
26	266 F.R.D. 468 (E.D. Cal. 2010) .....	6, 17
27	<i>Negrete v. Allianz Life Ins. Co. of N. Am.,</i>	
28	238 F.R.D. 482 (C.D. Cal. 2006) .....	14
	<i>Officers for Justice v. Civil Serv. Comm’m,</i>	
	688 F.2d 615 (9th Cir. 1982) .....	5, 6
	<i>Or. Pub. Emples. Ret. Fund v. Apollo Grp. Inc.,</i>	
	774 F.3d 598 (9th Cir. 2014) .....	7
	<i>Perez-Funez v. Dist. Dir., Immigration &amp; Naturalization Serv.,</i>	
	611 F. Supp. 990 (C.D. Cal. 1984) .....	14

1	<i>Rafton v. Rydex Series Funds</i> ,	
2	2011 U.S. Dist. LEXIS 103141 (N.D. Cal. Sept. 13, 2011) .....	5
3	<i>Rivera v. Bio Engineered Supplements &amp; Nutrition, Inc.</i> ,	
4	2008 U.S. Dist. LEXIS 95083 (C.D. Cal. Nov. 13, 2008) .....	16
5	<i>Sandoval v. Tharaldson Emp. Mgmt., Inc.</i> ,	
6	2010 U.S. Dist. LEXIS 69799 (C.D. Cal. June 15, 2010) .....	19
7	<i>Satchell v. Fed. Express Corp.</i> ,	
8	2007 U.S. Dist. LEXIS 99066 (N.D. Cal. Apr. 13, 2007) .....	8-9
9	<i>Schleicher v. Wendt</i> ,	
10	618 F.3d 679 (7th Cir. 2010) .....	18
11	<i>Torrisi v. Tucson Elec. Power Co.</i> ,	
12	8 F.3d 1370 (9th Cir. 1993) .....	7
13	<i>Van Bronkhorst v. Safeco Corp.</i> ,	
14	529 F.2d 943 (9th Cir. 1976) .....	5
15	<i>Vinh Nguyen v. Radiant Pharms. Corp.</i> ,	
16	287 F.R.D. 563 (C.D. Cal. 2012) .....	14
17	<i>Wahl v. Am. Sec. Ins. Co.</i> ,	
18	2011 U.S. Dist. LEXIS 59559 (N.D. Cal. June 2, 2011) .....	19
19	<i>Wehner v. Syntex Corp.</i> ,	
20	117 F.R.D. 641 (N.D. Cal. 1987) .....	14
21	<i>Williams v. Costco Wholesale Corp.</i> ,	
22	2010 U.S. Dist. LEXIS 19674 (S.D. Cal. Mar. 4, 2010) .....	6, 7
23	<i>Yamner v. Boich</i> ,	
24	1994 U.S. Dist. LEXIS 20849 (N.D. Cal. Sept. 15, 1994) .....	14
25	<i>Ybarrondo v. NCO Fin. Sys., Inc.</i> ,	
26	2009 U.S. Dist. LEXIS 100502 (S.D. Cal. Oct. 28, 2009) .....	17
27	<i>Young v. Polo Retail, L.L.C.</i> ,	
28	2006 U.S. Dist. LEXIS 81077 (N.D. Cal. Oct. 25, 2006) .....	7
	<b>Statutes</b>	
	15 U.S.C. § 78u-4 (2012) .....	10, 20, 23
	<b>Rules</b>	
	Fed. R. Civ. P. 23 .....	<i>passim</i>

Lead Plaintiffs respectfully submit this Memorandum of Points and Authorities in support of their unopposed motion for preliminary approval of the settlement in the above-captioned action (“Action”), and entry of the [Proposed] Order Preliminarily Approving Settlement and Providing for Notice (“Preliminary Approval Order”). The Preliminary Approval Order will: (i) grant preliminary approval of the proposed class action settlement on the terms set forth in the Stipulation of Settlement, dated April 25, 2017 (“Stipulation” or “Settlement”);<sup>1</sup> (ii) preliminarily certify the proposed class (“Class”) for purposes of settlement;<sup>2</sup> (iii) approve the form and manner of notice of the proposed Settlement to the Class; and (iv) schedule a hearing date for final approval of the Settlement (“Settlement Fairness Hearing”) and a schedule for various deadlines in connection with the Settlement.

## **I. INTRODUCTION**

The parties have reached an agreement to resolve the Class’ claims against Defendants Rocket Fuel, Inc., J. Peter Bardwick, George H. John, and Richard Frankel (collectively, the “Defendants”) pursuant to the accompanying Stipulation. The Settlement provides for the payment of three million one hundred fifty thousand dollars (\$3,150,000.00) in cash for the benefit of the Class.

The Settlement is the product of efficient but contentious litigation followed by well-informed and extensive arm’s-length negotiations between experienced and knowledgeable counsel, facilitated by mediator Jed Melnick, Esq. of JAMS. Kahn Swick & Foti, LLC and Kaplan Fox & Kilsheimer LLP (collectively, “Lead Counsel”) and/or its agents had: (i) conducted an extensive investigation, including review of filings with the Securities and Exchange Commission (“SEC”), press releases, news reports, filings in related litigation, analyst reports and other publicly available

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<sup>1</sup> All capitalized terms not defined herein have the meanings ascribed to them in the Stipulation.

<sup>2</sup> The proposed Class is defined in the Stipulation at ¶1.3. *See also* §IV.C, *infra*. and Notice of Pendency and Proposed Settlement of Class Action (“Notice”), attached to the Stipulation as Exhibit A-1.

information; (ii) filed one consolidated complaint, with several rounds of extensive briefing on those pleadings; (iii) consulted with experts; (iv) conducted exhaustive research of the applicable law for claims in this Action and the potential defenses thereto; (v) conducted interviews with relevant witnesses; (vi) participated in an arm's-length mediation process; and (vii) engaged in formal discovery, including extensive document production and review, subpoenas to non-parties, the taking of and defending depositions, and the further receipt and analysis of opposing expert reports.

Based on an informed evaluation of the facts and governing legal principles, and their recognition of the substantial risk and expense of continued litigation, the parties respectfully submit that the proposed Settlement is fair, reasonable, and adequate under Rule 23 of the Federal Rules of Civil Procedure ("Rule 23"). Accordingly, Lead Plaintiffs move for preliminary approval and submit this Memorandum of Points and Authorities in support thereof.

## **II. SUMMARY OF THE LITIGATION**

The initial complaint was filed by Nipu Shah, an individual, on September 3, 2014. ECF No. 1. On November 3, 2014, various persons filed competing motions for appointment as lead plaintiff and selection of counsel. *See, generally*, ECF Nos. 27 – 63. The Court held proceedings on December 10, 2014 to hear arguments from the remaining movants. ECF No. 78. The Court appointed three entities: (i) Patrick Browder; (ii) Browder Capital, LLC; and (iii) Oklahoma Firefighters Pension and Retirement System. ECF No. 85.

On February 27, 2015, Lead Plaintiffs filed the Consolidated Class Action Complaint for Violations of the Federal Securities Laws ("Consolidated Complaint"), which expanded upon the allegations contained in the original complaint and named four distinct groups of defendants: (i) the "Company Defendant" Rocket Fuel, Inc.; (ii) the "Insider Defendants," including George H. John, Richard Frankel, and J. Peter Bardwick; (iii) the "Director Defendants," including Susan L. Bostrom, Ronald E.F. Codd, William Ericson, John Gardner, Clark Kokich, and Monte Zweben; and (iv) the "Underwriter Defendants," including Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., Needham & Company, LLC, Oppenheimer & Co., Inc., Piper Jaffray & Co., BMO Capital

Markets Corp., LUMA Securities LLC, and Goldman, Sachs & Co. *See* ECF No. 92 at ¶¶ 26-56. On April 13, 2015, all defendants moved to dismiss the allegations in the Consolidated Complaint, further seeking judicial notice of certain events related to their motions. *See* ECF Nos. 99 – 103. Lead Plaintiffs opposed the motions to dismiss, also seeking judicial notice of related facts. ECF Nos. 108 - 111. Defendants replied. ECF Nos. 114 – 116.

The Court held oral argument on September 16, 2015, (ECF No. 121), and thereafter dismissed virtually all of the allegations. ECF No. 130. As all claims brought under the Securities Act of 1933 were dismissed, no claims remained against the Underwriter Defendants or the Director Defendants. *Id.* at 16. With regard to the remaining Exchange Act claims asserted against Rocket Fuel and the Insider Defendants, only statements published in a Company internet blog on November 6, 2013 remained. *Id.* These Defendants filed an answer on February 1, 2016. ECF No. 136. Shortly thereafter, the parties began discovery regarding the falsity of the published representations that the Company’s proprietary technology both “. . . undermines fraudulent practices and makes sure con artists always leave empty-handed. . .” and “. . . is able to identify and eliminate all threats before serving a single ad.” *See* ECF No. 130.

Discovery has been extensive. It has included the production and review of nearly 80,000 pages of documents from Defendants alone, the taking and defending of Mr. Browder’s deposition, a Rule 30(b)(6) deposition of Rocket Fuel, the submission of two expert reports, and the deposition of Lead Plaintiffs’ expert. Lead Plaintiffs also served multiple non-party subpoenas. Throughout discovery, Lead Plaintiffs have conducted multiple discovery conferences with Defense Counsel. Lead Plaintiffs likewise conducted multiple discovery conferences with the subpoenaed non-parties, yielding approximately 70,000 additional pages of documents.

Lead Plaintiffs and Defendants mediated their claims with Mr. Melnick during an in-person session on November 17, 2016. No agreement was reached, but good-faith, arm’s-length negotiations continued. Meanwhile, Lead Plaintiffs continued pursuing discovery by reviewing additional documents produced by Defendants, and issuing additional subpoenas.

1           Lead Plaintiffs moved for class certification, appointment of class representatives, and  
 2           appointment of class counsel on August 24, 2016; Defendants opposed. *See, generally*, ECF Nos.  
 3           168, 180. Further, Lead Plaintiffs sought leave to file an amended complaint on December 19, 2016.  
 4           *See* ECF No. 186, 196, 202. That motion was denied on January 24, 2017. ECF No. 210.  
 5           Throughout, Mr. Melnick assisted the parties in reaching a resolution, culminating in an agreement-  
 6           in-principle on February 23, 2017. On February 24, 2017, the parties informed the Court, which  
 7           stayed the Action for parties to negotiate and file a stipulation of settlement. ECF No. 219. The  
 8           Court's stay administratively terminated the pending motion for class certification. *Id.*

9           Based upon their investigation, Lead Plaintiffs and Counsel have concluded that the terms  
 10          and conditions of this Stipulation are fair, reasonable, and adequate to the Class and in their best  
 11          interests. The parties have agreed to settle the Action pursuant to the terms and provisions of the  
 12          Stipulation, after considering: (i) the substantial benefits that Class members will receive from  
 13          resolution of the Action; (ii) the risks of continued litigation of what Defendants have described as a  
 14          "one statement" case; and (iii) the desirability of permitting the Settlement to be consummated as  
 15          provided by the terms of the Stipulation.

### 16       **III. SUMMARY AND REASONS FOR THE SETTLEMENT**

17          Lead Plaintiffs entered this Settlement with an understanding of the strengths and weaknesses  
 18          of their claims, based on Lead Counsel's (or its agents') extensive investigation during the  
 19          prosecution of this Action, which included, *inter alia*: (i) review and analysis of filings made with  
 20          the SEC by Rocket Fuel during the relevant time period; (ii) review and analysis of securities analyst  
 21          reports, press releases, and media reports regarding Rocket Fuel and other publications issued by and  
 22          through the Company; (iii) review and analysis of pleadings in related actions; (iv) interviews and  
 23          depositions of witnesses; (v) research of the applicable law and potential defenses thereto; (vi)  
 24          formal discovery, including review and analysis of responsive documents produced by Defendants  
 25          and non-parties; and (vii) consultation with experts.

26          Considering the above steps, as well as the substantial expense and time necessary to

1 prosecute this Action through the completion of merits and expert discovery, trial and appeals, the  
 2 risk that the Court may not certify the Class by finding that Defendants rebutted the *Basic*  
 3 presumption,<sup>3</sup> and the considerable uncertainties in predicting the outcome of complex litigation,  
 4 Lead Plaintiffs concluded that a substantial risk existed that the Class could recover less than the  
 5 Settlement, or nothing at all, if the Action continued. Mr. Melnick also has recommended and  
 6 endorsed the Settlement. Accordingly, the Court should grant preliminary approval of the  
 7 Settlement.<sup>4</sup>

#### 8 **IV. ARGUMENT**

##### 9 **A. The Law Favors and Encourages Settlements**

10 Rule 23 requires judicial approval of any compromise of claims brought on a class-wide  
 11 basis. Rule 23(e) (“The claims...of a certified class may be settled...only with the court’s  
 12 approval.”). “In deciding whether to approve a proposed settlement, the Ninth Circuit has a ‘strong  
 13 judicial policy that favors settlements, particularly where complex class action litigation is  
 14 concerned.’”<sup>5</sup> *In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, at \*9 (C.D. Cal. June 10,  
 15 2005); *see also Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982).  
 16 “[T]here is an overriding public interest in settling and quieting litigation,” and this is “particularly  
 17 true in class action suits.” *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976); *see*  
 18 *also Browning v. Yahoo! Inc.*, 2007 U.S. Dist. LEXIS 86266, at \*39 (N.D. Cal. Nov. 16, 2007)  
 19 (“public and judicial policies strongly favor settlement of class action law suits”). Moreover, the  
 20 Ninth Circuit expressly recognizes that:

21 [I]n making its assessment pursuant to Rule 23(e), the Court’s[] ‘intrusion upon what  
 22 is otherwise a private consensual agreement negotiated between the parties to a

23 <sup>3</sup> *See generally*, Defendants’ arguments at ECF No. 180, citing *Halliburton Co. v. Erica P.*  
 24 *John Fund, Inc.*, 134 S. Ct. 2398, 2414 (2014).

25 <sup>4</sup> *See generally Rafton v. Rydex Series Funds*, 2011 U.S. Dist. LEXIS 103141 (N.D. Cal. Sept.  
 13, 2011); *In re Wireless Facilities, Inc. Sec. Litig. II*, 253 F.R.D. 607 (S.D. Cal. 2008).

26 <sup>5</sup> Here, as elsewhere, citations and footnotes have been omitted and emphasis has been added  
 unless otherwise indicated.

lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.'

*Heritage Bond*, 2005 U.S. Dist. LEXIS 13555, at \*10 (quoting *Officers for Justice*, 688 F.2d at 625). Recognizing that “[p]arties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party’s expected outcome in [the] litigation,” courts favor approval of settlements. *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995).

### **B. The Proposed Settlement Should Be Preliminarily Approved**

Class action settlements require two stages of judicial approval: (i) preliminary approval, followed by the distribution of notice to the class; and (ii) final approval. *Murillo v. Pac. Gas & Elec. Co.*, 266 F.R.D. 468, 473 (E.D. Cal. 2010). “In the first stage of the approval process, ‘the court preliminarily approve[s] the Settlement pending a fairness hearing, temporarily certifie[s] the Class. . . and authorize[s] notice to be given to the Class.’” *Id.*

At the preliminary approval stage, the “Court need only determine whether the proposed settlement appears on its face to be fair” and “falls within the range of possible approval.” *Williams v. Costco Wholesale Corp.*, 2010 U.S. Dist. LEXIS 19674, at \*15-16 (S.D. Cal. Mar. 4, 2010); *see also Wireless Facilities*, 253 F.R.D. at 612. The Court is not presently required to make a final determination as to whether the proposed Settlement will ultimately be found to be fair, reasonable, and adequate. That evaluation is made at the final approval stage, after notice of the proposed Settlement has been given to the members of the Class and Class Members have had an opportunity both to voice their views of the proposed Settlement and to exclude themselves from the Class. *See Williams*, 2010 U.S. Dist. LEXIS 19674, at \*14-15 (“Given that some [] factors cannot be fully assessed until the Court conducts a Final Approval Hearing, ‘a full fairness analysis is unnecessary at this stage.’”).<sup>6</sup>

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<sup>6</sup> In connection with final approval of the proposed Settlement, the Court will be asked to review the following factors: (1) the amount offered in Settlement; (2) the reaction of the Class Members to the proposed Settlement; (3) the strength of Lead Plaintiff’s case; (4) the risk, expense, NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF NO. 4:14-CV-03998-PJH(JCS)

1           Lead Plaintiffs’ motion requests that the Court take the first step as “[p]reliminary approval  
 2 of a settlement and notice to the proposed class is appropriate: ‘[i]f [1] the proposed settlement  
 3 appears to be the product of serious, informed, noncollusive negotiations, [2] has no obvious  
 4 deficiencies, [3] does not improperly grant preferential treatment to class representatives or segments  
 5 of the class, and [4] falls with the range of possible approval. . . .’” *Williams*, 2010 U.S. Dist.  
 6 LEXIS 19674, at \*15.<sup>7</sup> As demonstrated below, the proposed Settlement is a fair and just result.  
 7 Given the complexity of this litigation, the potential difficulty of proving certain elements of the  
 8 Class’ claims, and the continued risks if the parties proceeded to trial, the Settlement represents a  
 9 favorable resolution of this Action and eliminates the risk that the Class might otherwise recover  
 10 nothing. Indeed, the ever-shifting landscape of Private Securities Litigation Reform Act of 1995  
 11 (“PSLRA”) litigation demonstrates the risks of further litigation. *See, e.g., In re Oracle Corp. Sec.*  
 12 *Litig.*, 627 F.3d 376 (9th Cir. 2010) (affirming summary judgment on loss causation grounds); *Janus*  
 13 *Capital Grp., Inc. v. First Derivative Traders*, 131 S. Ct. 2296 (2011) (redefining who “makes” a  
 14 statement); *Halliburton*, 134 S. Ct. at 2398 (addressing price impact at class certification); *Or. Pub.*  
 15 *Emps. Ret. Fund v. Apollo Grp., Inc.*, 774 F.3d 598, 604-05, 608 (9th Cir. 2014) (applying Rule 9 to  
 16 loss causation element).

17           Accordingly, the proposed Settlement satisfies the criteria for assessing preliminary approval  
 18 of a proposed settlement set forth above, and the proposed Settlement is well within the range of  
 19 possible approval.

22 complexity, and likely duration of further litigation; (5) the extent of discovery completed, and the  
 23 stage of the proceedings; (6) the experience and views of Lead Counsel; (7) the risk of maintaining  
 class action status throughout the trial; and (8) the absence of collusion. *Williams, supra.*, at \*14-15;  
 24 *see also Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375-76 (9th Cir. 1993).

25 <sup>7</sup> *See also Young v. Polo Retail, LLC*, 2006 U.S. Dist. LEXIS 81077, at \*12-13 (N.D. Cal. Oct.  
 26 25, 2006) (“If the proposed settlement appears to be the product of serious, informed, non-collusive  
 negotiations, has no[] obvious deficiencies, does not improperly grant preferential treatment to class  
 representatives or segments of the class, and falls within the range of possible approval, then the  
 court should direct that the notice be given to the class members of a formal fairness hearing.”).

**1. The Proposed Settlement was Vigorously Negotiated and Is Supported by Experienced Counsel**

Courts recognize that the opinion of experienced counsel supporting settlement after vigorous arm's-length negotiation is entitled to considerable weight. *See, e.g., Ellis v. Naval Air Rework Facility*, 87 F.R.D. 15, 18 (N.D. Cal. 1980), *aff'd*, 661 F.2d 939 (9th Cir. 1981) ("the fact that experienced counsel involved in the case approved the settlement after hard-fought negotiations is entitled to considerable weight"); *In re First Capital Holdings Corp. Fin. Prods. Sec. Litig.*, 1992 U.S. Dist. LEXIS 14337, at \*8 (C.D. Cal. June 10, 1992) (same). Here, counsel have been actively litigating this Action, and Lead Counsel has conducted an extensive investigation into the alleged claims, including, *inter alia*: (i) review of hundreds of pages of documents obtained from Plaintiff's investigation; (ii) review of approximately 150,000 pages of documents obtained via formal discovery; (iii) review of media and analyst reports, SEC filings, and filings in related litigation; (iv) consultation with experts; (v) interviews (through investigators) with relevant witnesses; (vi) depositions of one of the Lead Plaintiffs, Lead Plaintiffs' expert, and of Rocket Fuel itself; (vii) review and analysis of opposing expert reports; and (viii) intensive research of the applicable law to the claims and defenses thereto.

Lead Counsel engaged in a rigorous negotiation process with Defense Counsel, and fully considered and evaluated the fairness of the Settlement to the Class. The parties' settlement negotiations were hard-fought, and included the determined assistance of an experienced mediator. At Mr. Melnick's direction, the parties submitted comprehensive mediation statements. After submitting their statements, counsel for all parties attended an in-person mediation before Mr. Melnick and gave aggressive, detailed, and thoughtful presentations on the perceived strengths and weaknesses of their respective cases. It was only after several months of intense discussions that the parties were ultimately able to reach an agreement-in-principle. Courts have recognized that "[t]he assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive." *Satchell v. Fed. Express Corp.*, 2007 U.S. Dist. LEXIS 99066, at \*17 (N.D. Cal. Apr. 13,

2007).<sup>8</sup>

Additionally, throughout the Action and settlement negotiations, Defendants have been vigorously represented by Wilson, Sonsini, Goodrich and Rosati. Defense Counsel is equally well-informed regarding the case, and their representation of Defendants was no less rigorous than Lead Counsel's representation of the Class. *See Livingston v. Toyota Motor Sales USA, Inc.*, 1995 U.S. Dist. LEXIS 21757, at \*16-17 (N.D. Cal. May 30, 1995). Because the Settlement is the product of serious, informed, and non-collusive negotiations among experienced counsel and a highly qualified mediator, it deserves preliminary approval.

## 2. The Proposed Settlement Provides a Favorable Recovery for the Class

The Settlement provides for the recovery of three million one hundred fifty thousand dollars (\$3,150,000.00) in cash, to be allocated among Class Members following deduction of Court-approved fees and expenses. Lead Plaintiffs and the putative Class faced numerous factual and legal obstacles. Defendants adamantly deny any wrongdoing. As in their motions to dismiss (*see, generally*, ECF No. 99) and during oral argument (ECF No. 125), the remaining Defendants were prepared to make a multi-pronged defense at trial. Lead Plaintiffs anticipate that Defendants would argue that: (i) the November 6, 2013 blog statements constituted nonactionable "puffery" related only to product marketing; (ii) the statement was prepared by lower-level employees; (iii) the Defendants did not personally make any of the blog statements; (iv) information in the market created a reasonable inference that the reader would not conclude the statement guaranteed that 100% of bot traffic would be filtered out; (v) the statement was immaterial and did not impact the Company's share price; and (vi) Defendants' actions did not cause any of the Class' alleged losses.

"Prosecuting these claims through trial and subsequent appeals would have involved significant risk, expense, and delay to any potential recovery. . . risks included proving loss

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<sup>8</sup> *See also Morales v. Stevco, Inc.*, 2011 U.S. Dist. LEXIS 130604, at \*32 (E.D. Cal. Nov. 10, 2011); *Harris v. Vector Mktg. Corp.*, 2011 U.S. Dist. LEXIS 48878, at \*25 (N.D. Cal. Apr. 29, 2011); *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010); *Carter v. Anderson Merchandisers, LP*, 2010 U.S. Dist. LEXIS 55581, at \*22 (C.D. Cal. May 11, 2010).

causation and the falsity of the representations at issue.” *In re Charles Schwab Corp. Sec. Litig.*, 2011 U.S. Dist. LEXIS 44547, at \*19 (N.D. Cal. Apr. 19, 2011).

### 3. The Proposed Settlement Does Not Unjustly Favor any Class Members, Including Lead Plaintiffs

The Plan of Allocation described in the proposed Notice to the Class (*see* Exhibit A-1 to the Stipulation) provides for distribution of the Settlement Fund (after deduction of Court-approved fees and expenses) to Class Members who have a loss on their transactions in Rocket Fuel securities purchased or otherwise acquired during the Class Period. The formula to apportion the Net Settlement Fund among Class Members is based on when members purchased, acquired and/or sold shares of common stock, as developed by Lead Plaintiffs’ damages consultant. This method ensures that Class Members’ recoveries are based upon the relative losses sustained. All Class Members, including Lead Plaintiffs, will receive a *pro rata* distribution from the Net Settlement Fund calculated in the same manner.

The Notice further discloses that Lead Plaintiffs may apply to the Court for reimbursement of reasonable costs and expenses (including lost wages) directly related to representation of the Class; a proper request pursuant to the PSLRA. 15 U.S.C. §78u-4(a)(4).<sup>9</sup> Although Lead Plaintiffs will share in the Net Settlement Fund in the same proportion as all Class Members, they may recover reasonable costs and expenses incurred as a result of activities undertaken on behalf, and directly related to their representation, of the Class.<sup>10</sup> *See id.*

<sup>9</sup> *See also In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (affirming reimbursement award to class representative in securities class action); *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1173 (S.D. Cal. 2007) (approving \$40,000 reimbursement to lead plaintiff); *In re Infospace, Inc. Sec. Litig.*, 330 F. Supp. 2d 1203, 1216 (W.D. Wash. 2004) (same)

<sup>10</sup> The PSLRA specifically provides for reimbursement to representative plaintiffs in securities fraud class actions. Pursuant to 15 U.S.C. §78u-4(a)(4): “The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class.”

Thus, the Settlement does not improperly grant preferential treatment to Lead Plaintiffs or segments of the Class. *In re Portal Software Sec. Litig.*, 2007 U.S. Dist. LEXIS 51794, at \*14-15 (N.D. Cal. June 30, 2007).

#### 4. The Stage of the Proceedings and the Discovery Completed

The stage of the proceedings and discovery completed are additional factors supporting the Settlement. As discussed in detail above, Lead Counsel (or its agents) engaged in extensive investigation, research, and analysis of the Class' claims, including, *inter alia*, review of SEC filings, analyst reports, news media, filings in related litigation, and interviews with relevant witnesses. Lead Plaintiffs and Counsel also, throughout various rounds of pleadings and motions to dismiss, engaged in extensive legal research, fine-tuning and honing their claims. As a result, the Court partially upheld Lead Plaintiffs' Consolidated Complaint and lifted the PSLRA's discovery stay.

Lead Plaintiffs thereafter aggressively pursued discovery from the Defendants through requests for production of documents, interrogatories, and admissions. Regarding document production, the parties negotiated an electronically-stored-information ("ESI") protocol, which resulted in some 78,660 pages of fact-related material produced by Defendants for review, plus another 1,758 pages of documents relied upon by their retained expert. Lead Plaintiffs also subpoenaed relevant non-parties, including (i) three of the Company's IPO underwriters; (ii) two early investor venture capital firms; (iii) the independent technology company Telemetry, whose study of the Company's Mercedes-Benz campaign was reported by the *Financial Times*; and (iv) over a dozen Rocket Fuel customers. Lead Plaintiffs' subpoenas to non-parties generated approximately 70,000 pages of additional fact-related documents. Combined, this discovery helped Lead Plaintiffs evaluate the merits of their claims—namely, the effectiveness of Rocket Fuel's technology, whether its performance was consistent with the November blog post representations, and the remaining Defendants' knowledge of same at the time the November statements were made.

One of the Lead Plaintiffs was deposed,<sup>11</sup> as was Lead Plaintiffs' retained market efficiency expert, Dr. Zachary Nye. The parties exchanged expert reports supporting their positions regarding class certification, and reviewed same in concert with their experts. The parties presented their best arguments to an objective audience in the form of the mediator, Mr. Melnick. Mr. Melnick gave the parties a reasonable assessment of the strengths and weaknesses of their case. Considering this, the litigants have sufficient basis to make informed decisions about the relative merits of the case and the fairness of the Settlement.

In a class action setting, courts look for indications that the parties carefully investigated the claims before reaching a resolution; significant written discovery (such as requests for production, interrogatories, and requests for admission) weighs in favor of approving the settlement. *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*, 2016 U.S. Dist. LEXIS 148374, at \*758-59 (N.D. Cal. Oct. 25, 2016) ("... extensive review of discovery materials indicates [Lead Plaintiffs have] sufficient information to make an informed decision about the Settlement. As such, this factor favors approving the Settlement."); *In re Portal Software, Inc. Sec. Litig.*, 2007 U.S. Dist. LEXIS 88886, at \*10-11 (N.D. Cal. Nov. 26, 2007).

In light of these considerations, the Settlement is reasonable and within the range of possible approval. Lead Plaintiffs therefore respectfully ask the Court to grant preliminary approval of the Settlement and direct that notice be given to the Class.

### **C. The Proposed Class Meets the Requisites for Class Certification Under Rule 23**

The Ninth Circuit has long recognized that class actions may be certified solely for the purpose of settlement. *In re Heritage Bond Litig. v. U.S. Tr. Corp.*, 546 F.3d 667, 674-75 (9th Cir. 2008) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)). Rule 23(a) sets forth the following four prerequisites: (i) numerosity; (ii) commonality; (iii) typicality; and (iv) adequacy of representation. In addition, the class must meet one of the three requirements of Rule 23(b). *See*

<sup>11</sup> Patrick Browder gave testimony on behalf of himself and his former investment company, Browder Capital, LLC.

1 Rule 23; *In re UTStarcom, Inc. Sec. Litig.*, 2010 U.S. Dist. LEXIS 48122, at \*29-33 (N.D. Cal. May  
2 12, 2010). The proposed Class is defined in the Stipulation as follows:

3 [A]ll Persons who purchased or otherwise acquired Rocket Fuel common stock  
4 between September 20, 2013 to August 5, 2014, inclusive, and were damaged  
5 thereby, excluding anyone named as a defendant in this action including the  
6 Company, Individual Defendants, Director Defendants, Underwriter Defendants; their  
7 respective former and current directors and officers, majority-owned legal affiliates,  
8 representatives, controlling persons, predecessors-in-interest, heirs, assigns, and any  
9 successors-in-interest; members of the immediate family of any defendant; and any  
10 entity in which any defendant has a majority interest. Also excluded are those  
11 Persons who timely and validly request exclusion from the Class pursuant to the  
12 Notice.

13 See Stipulation at ¶1.3. The proposed Class is identical to that proposed in the Consolidated  
14 Complaint. Courts routinely endorse the use of the class action device to resolve claims brought  
15 under the federal securities laws. See, e.g., *In re Cooper Cos. Inc. Sec. Litig.*, 254 F.R.D. 628, 642  
16 (C.D. Cal. 2009); *In re THQ, Inc. Sec. Litig.*, 2002 U.S. Dist. LEXIS 7753, at \*8-9 (C.D. Cal. Mar.  
17 22, 2002). “[C]lass actions commonly arise in securities fraud cases as the claims of separate  
18 investors are often too small to justify individual lawsuits, making class actions the only efficient  
19 deterrent against securities fraud [and] [a]ccordingly, the Ninth Circuit and courts in this district hold  
20 a liberal view of class actions in securities litigation.” *In re Adobe Sys., Inc. Sec. Litig.*, 139 F.R.D.  
21 150, 152-53 (N.D. Cal. 1991); see *Cooper*, 254 F.R.D. at 642 (“The availability of the class action  
22 to redress such frauds has been consistently upheld, in large part because of the substantial role that  
23 the deterrent effect of class actions plays in accomplishing the objectives of the securities laws.”).  
24 This Action is no exception and Lead Plaintiffs submit that the proposed Class satisfies each of the  
25 requirements of Rules 23(a) and 23(b)(3). Defendants do not oppose certification of a class for  
26 settlement purposes.

### 27 1. Numerosity

28 Rule 23(a)(1) requires that the class be so numerous that joinder of all class members is  
impracticable. “[I]mpracticability’ does not mean ‘impossibility,’ but only the difficulty or  
inconvenience of joining all members of the class.” *Katz v. China Century Dragon Media, Inc.*, 287  
F.R.D. 575, 582-83 (C.D. Cal. 2012). Indeed, classes consisting of 25 members have been held to be

1 large enough to justify certification. *See Perez-Funez v. Dist. Dir., Immigration & Naturalization*  
 2 *Serv.*, 611 F. Supp. 990, 995 (C.D. Cal. 1984); *see In re STEC Inc.*, 2012 U.S. Dist. LEXIS 186180,  
 3 at \*11 (C.D. Cal. Mar. 7, 2012) (“There is no fixed number of class members that compels or  
 4 precludes class certification. . . .”). Defendants have admitted that the Class contains more than one  
 5 hundred members in Defendants’ Amended Response to Request for Admissions No. 1. *See Exhibit*  
 6 *1* attached to the Declaration of Ramzi Abadou In Support of Motion for Preliminary Approval of  
 7 Settlement, dated April 25, 2017 (hereinafter, “Abadou Decl., Ex. \_\_”).

8 “[T]he exact size of the class need not be known so long as general knowledge and common  
 9 sense indicate that the class is large.” *In re STEC, Inc.*, 2012 U.S. Dist. LEXIS at \*11; *see Vinh*  
 10 *Nguyen v. Radient Pharm. Corp.*, 287 F.R.D. 563, 569 (C.D. Cal. 2012) (“[W]here the exact size of  
 11 the proposed class is unknown, but general knowledge and common sense indicate it is large, the  
 12 numerosity requirement is satisfied.”). Rocket Fuel, which trades on the NASDAQ, had between  
 13 32 million and 42 million shares of stock outstanding during the Class Period. “The Court certainly  
 14 may infer that, when a corporation has millions of shares trading on a national exchange, more than  
 15 40 individuals purchased stock over the course of more than a year. It is likely that thousands of  
 16 people made such purchases.” *See Cooper*, 254 F.R.D. at 634. A class of this size is sufficiently  
 17 numerous to make joinder impracticable. *Id.*; *see UTStarcom*, 2010 U.S. Dist. LEXIS 48122, at \*14-  
 18 15; *Yamner v. Boich*, 1994 U.S. Dist. LEXIS 20849, at \*7-8 (N.D. Cal. Sept. 15, 1994). Defendants  
 19 admitted as much in Defendants’ Amended Response to Request for Admissions No. 2. *See Abadou*  
 20 *Decl., Ex. 1.*

## 21 **2. Commonality**

22 Rule 23(a)(2) is satisfied where class members share at least one common question of fact or  
 23 law. *Wehner v. Syntex Corp.*, 117 F.R.D. 641, 644 (N.D. Cal. 1987). “The commonality  
 24 requirement is generally construed liberally; the existence of only a few common legal and factual  
 25 issues may satisfy the requirement.” *Negrete v. Allianz Life Ins. Co. of N. Am.*, 238 F.R.D. 482, 488  
 26 (C.D. Cal. 2006). Further, “a few factual variations among the class grievances will not defeat

commonality so long as class members' claims arise from 'shared legal issues' or 'a common core of salient facts.'" *Cooper*, 254 F.R.D. at 634 (citing *Staton v. Boeing Co.*, 327 F.3d 938, 953 (9th Cir. 2003)). Here, the common questions of fact and law include: (i) whether Defendants violated the Exchange Act; (ii) whether Defendants' statements omitted material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; (iii) whether Defendants knew or recklessly disregarded that their statements were false and misleading; (iv) whether the price of Rocket Fuel's securities was artificially inflated; and (v) the extent of damage sustained by Class Members and the appropriate measure of damages. *See Cooper*, 254 F.R.D. at 635 (finding common questions of law and fact as to "whether Defendants falsely represented material facts," "whether Defendants knew that their statements were false and misleading," and "whether the price of [defendant company's] publicly traded securities was artificially inflated").

Defendants' alleged misconduct affected all members of the proposed Class in the same manner, *i.e.*, Defendants' alleged false and misleading statements and omissions artificially inflated the price of Rocket Fuel's securities during the Class Period. *See, e.g., In re VeriSign, Inc. Sec. Litig.*, 2005 U.S. Dist LEXIS 10438, at \*32 (N.D. Cal. Jan. 13, 2005) ("the issues common to the class – namely, the nature and extent of Defendants' alleged misrepresentations and the like – are predominant."); *In re Emulex Corp., Sec. Litig.*, 210 F.R.D. 717, 721 (C.D. Cal. 2002).

Defendants further admitted the presence of at least some common questions of law and common questions of fact amongst the Class members. *See* Abadou Decl., Ex. 1, at Defendants' Amended Responses to Request for Admissions Nos. 3, 4, 6, 8, and 9. Securities actions containing common questions, such as the ones listed above, have repeatedly been held out as prime candidates for class certification, and Defendants' responses further confirm that class certification for the purposes of settlement is appropriate.

### 3. Typicality

The typicality requirement of Rule 23(a)(3) is satisfied when the claims or defenses of the

1 proposed class representative are typical of the claims or defenses of other class members. *See*  
 2 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997); *Rivera v. Bio Engineered Supplements*  
 3 *& Nutrition, Inc.*, 2008 U.S. Dist. LEXIS 95083, at \*18 (C.D. Cal. Nov. 13, 2008). “[D]ifferences  
 4 in the amount of damages, the size or manner of [stock] purchaser, the nature of the purchaser, and  
 5 even the specific document influencing the purchase will not render a claim atypical in most  
 6 securities cases.” *In re Surebeam Corp. Sec. Litig.*, 2003 U.S. Dist. LEXIS 25022, at \*18 (S.D. Cal.  
 7 Dec. 31, 2003).

8 In other words, “a strong similarity of legal theories will satisfy the typicality requirement  
 9 despite substantial factual differences” between the claims of the named representative and other  
 10 class members. *Rivera*, 2008 U.S. Dist. LEXIS 95083, at \*19. Here, Lead Plaintiffs’ claims arise  
 11 from the same events or course of conduct that give rise to claims of other Class Members and are  
 12 based on the same legal theory. Lead Plaintiffs, like other Class Members, purchased or otherwise  
 13 acquired Rocket Fuel securities during the Class Period at artificially inflated prices and suffered  
 14 damages when Defendants’ alleged misstatements and omissions were disclosed to investors.

15 Defendants’ alleged misrepresentations caused the price of the Company’s securities to  
 16 decline during after-hours trading on August 5, 2014, when the Company issued guidance that was  
 17 far below analysts’ own estimates for the third quarter and full year of 2014, attributing same to  
 18 customer concerns regarding poor inventory quality due to ad fraud. All Class Members were  
 19 victims of this alleged common course of conduct throughout the Class Period, and, as Lead  
 20 Plaintiffs alleged, sustained damages as a result. Thus, the proof that Lead Plaintiffs would present to  
 21 establish their claims would prove the claims of the rest of the Class. Additionally, Lead Plaintiffs  
 22 are not subject to any unique defenses that could render one or more of them an atypical member of  
 23 the Class. Therefore, the Court should find typicality satisfied. *See Hodges v. Akeena Solar, Inc.*,  
 24 274 F.R.D. 259, 266-67 (N.D. Cal. 2011); *Cooper*, 254 F.R.D. at 635-36.

#### 25 4. Adequacy

26 The representative parties must satisfy Rule 23(a)’s adequacy requirement by showing that

they will fairly and adequately protect the interests of the Class. The Ninth Circuit sets forth a two-prong test for Rule 23(a)(4)'s adequacy requirement: “(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?” *Hootkins v. Chertoff*, 2009 U.S. Dist. LEXIS 3243, at \*20 (C.D. Cal. Jan. 6, 2009) (citing *Hanlon*, 150 F.3d at 1020). As described above, Lead Plaintiffs has claims that are typical of and coextensive with those of the Class.

Lead Plaintiffs, like all Class Members, purchased or otherwise acquired Rocket Fuel securities at artificially inflated prices as a result of Defendants' alleged misleading statements and/or omissions. *See* Abadou Decl., Ex. 2, 3. Further, Lead Plaintiffs have retained counsel highly experienced in securities class action litigation and who have successfully prosecuted many securities and other complex class actions throughout the United States. *See* Abadou Decl., Ex. 4, 5. As detailed in Section II above, Lead Plaintiffs and their counsel have vigorously litigated this Action. Thus, Lead Plaintiffs are adequate representatives of the Class, and their counsel is qualified, experienced and capable of prosecuting this Action, in satisfaction of Rule 23(a)(4).

##### **5. Common Questions of Law Predominate and a Class Action Is the Superior Method of Adjudication**

This case also satisfies Rule 23(b)(3), which requires that the proposed class representative establish that common questions of law or fact predominate over individual questions, and that a class action is superior to other available methods of adjudication. *See Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 133 S. Ct. 1184, 1191 (2013); *Erica P. John Fund, Inc. v. Halliburton*, 563 U.S. 804, 131 S. Ct. 2179, 2184 (2011). When certifying a class for settlement purposes, the standards for satisfying “superiority” under Rule 23(b)(3) may be relaxed as the Court need not consider the difficulties of managing the class in any future litigation or at trial. *See, e.g., Ybarrondo v. NCO Fin. Sys., Inc.*, 2009 U.S. Dist. LEXIS 100502, at \*17 n.3 (S.D. Cal. Oct. 28, 2009); *Murillo*, 266 F.R.D. at 477. Courts have certified class actions for settlement purposes even where certification was, or likely would have been, denied for litigation purposes. *See, e.g., In re Initial Pub. Offering Sec.*

1 *Litig.*, 260 F.R.D. 81, 116 & n.308 (S.D.N.Y. 2009) (citing *In re Initial Pub. Offering Sec. Litig.*, 226  
 2 F.R.D. 186, 194-95 (S.D.N.Y. 2005) (reasoning that the “predominance” and “manageability”  
 3 concerns under Rule 23(b)(3) were intertwined and “because the litigation was no longer going to  
 4 trial, manageability was no longer an issue, and the ‘predominance defect [ ] no longer fatal’”)).

5 “[C]ommon issues need only predominate, not outnumber individual issues.” *Butler v.*  
 6 *Sears, Roebuck and Co.*, 727 F.3d 796, 801 (7th Cir. 2013). Further, the superiority of class actions  
 7 in large securities cases is well recognized. *See Amchem Prods.*, 521 U.S. at 625 (common  
 8 questions predominated in securities class action certified for settlement). As discussed above, there  
 9 are common questions of law and fact that warrant class certification here. These questions  
 10 predominate as Defendants’ alleged conduct affected all Class Members in the same manner. “The  
 11 common questions of whether misrepresentations were made and whether Defendants had the  
 12 requisite scienter predominate over any individual questions of reliance and damages.” *Cooper*, 254  
 13 F.R.D. at 632. Issues relating to Defendants’ liability are common to all Class Members. *Id.*<sup>12</sup>

14 Falsity, materiality, scienter, and loss causation are also issues that “affect investors alike,”  
 15 and whose proof “can be made on a class-wide basis” because they “affect[] investors in common.”  
 16 *Schleicher v. Wendt*, 618 F.3d 679, 682, 685, 687 (7th Cir. 2010).<sup>13</sup> Here, Defendants’ alleged  
 17 misstatements during the Class Period “affect[ed] [all] investors alike” and proof of falsity,  
 18 materiality, scienter, and causation will “be made on a class-wide basis.” *Schleicher*, 618 F.3d at  
 19 685, 687; *Cooper*, 254 F.R.D. at 641. As a result, common questions of law and fact predominate.  
 20 In light of the foregoing, all of the requirements of Rule 23(a) and (b) are satisfied, and there are no  
 21 issues that would prevent the Court from certifying this Class for settlement purposes, appointing  
 22

23 <sup>12</sup> *See also In re LDK Solar Sec. Litig.*, 255 F.R.D. 519, 530 (N.D. Cal. 2009); *UTStarcom*,  
 24 2010 U.S. Dist. LEXIS 48122, at \*29-31 (same); *Emulex*, 210 F.R.D. at 721 (“The predominant  
 questions of law or fact at issue in this case are the alleged misrepresentation [sic] Defendants made  
 during the Class Period and are common to the class.”).

25 <sup>13</sup> *See also Cooper*, 254 F.R.D. at 640-41; *Amgen*, 133 S. Ct. at 1191 (“[T]he materiality of  
 26 [defendants’] alleged misrepresentations and omissions is a question common to all members of the  
 class. . .”).

1 Lead Plaintiffs as class representative, and appointing Lead Counsel as counsel for the Class. *See*,  
 2 *e.g.*, *Wahl v. Am. Sec. Ins. Co.*, 2011 U.S. Dist. LEXIS 59559, at \*5-6 (N.D. Cal. June 2, 2011)  
 3 (class certified for settlement purposes).

#### 4 **D. The Proposed Notice to the Class is Adequate**

5 Rule 23(c)(2)(B) requires that notice of a settlement be “the best notice that is practicable  
 6 under the circumstances, including individual notice to all members who can be identified through  
 7 reasonable effort.” *See also* Rule 23(e)(1) (“The court must direct notice in a reasonable manner to  
 8 all class members who would be bound by the propos[ed settlement].”). Notice “must ‘generally  
 9 describe[] the terms of the settlement in sufficient detail to alert those with adverse viewpoints to  
 10 investigate and to come forward and be heard.’” *Lane v. Facebook, Inc.*, 696 F.3d 811, 826 (9th Cir.  
 11 2012).<sup>14</sup>

12 The parties negotiated the form of Notice to be disseminated to all persons and entities  
 13 falling within the Class definition, and whose names and addresses have been or can be identified  
 14 from or through Rocket Fuel’s shareholder lists. In addition, the Claims Administrator will mail  
 15 copies of the Notice to entities which commonly hold securities in “street name” as nominees for the  
 16 benefit of their clients who are the beneficial purchasers of the securities. The parties further  
 17 propose to supplement the mailed Notice with the Summary Notice of Pendency and Proposed  
 18 Settlement of Class Action, Motion for Attorneys’ Fees and Litigation Expenses, and Settlement  
 19 Fairness Hearing (“Summary Notice”)—an additional description of the Action and proposed  
 20 Settlement, to be published in *Investor’s Business Daily* and transmitted over a national newswire  
 21 service (such as *PR Newswire*).<sup>15</sup> Lead Counsel will also make copies of the Notice, Summary  
 22

23 <sup>14</sup> *See also Sandoval v. Tharaldson Emp. Mgmt., Inc.*, 2010 U.S. Dist. LEXIS 69799, at \*29  
 24 (C.D. Cal. June 15, 2010) (“The notice must explain in easily understood language the nature of the  
 25 action, definition of the class, class claims, issues and defenses, ability to appear through individual  
 26 counsel, procedure to request exclusion, and binding nature of a class judgment.”); *Immune*  
 27 *Response*, 497 F. Supp. 2d at 1170 (same).

28 <sup>15</sup> The proposed Notice and Summary Notice are attached to the Stipulation as Exhibits A-1 and  
 A-3, respectively.

1 Notice, and Proof of Claim available for download via the website maintained by the Claims  
 2 Administrator (“Website”). The Website address is set forth in the Notice and Summary Notice. In  
 3 addition, the Website will provide the Consolidated Complaint and other important pleadings, as  
 4 well as important information regarding the Action and proposed Settlement.

5 Rule 23(h)(1) requires that “[n]otice of the motion [for attorneys’ fees] must be served on all  
 6 parties and, for motions by class counsel, directed to class members in a reasonable manner.” The  
 7 proposed Notice satisfies the requirements of Rule 23(h)(1), as it notifies Class Members that Lead  
 8 Counsel will apply to the Court for attorneys’ fees not to exceed 25% of the Settlement Amount, and  
 9 reimbursement of out-of-pocket expenses not to exceed \$232,000.00, plus interest earned on both  
 10 amounts at the same rate earned on the Settlement Fund, to be paid from the Settlement Fund. The  
 11 proposed Notice includes the information required by the PSLRA, as well as additional  
 12 information.<sup>16</sup> The proposed Notice describes the proposed Settlement and sets forth, among other  
 13 things: (1) the nature, history, and status of the litigation; (2) the definition of the proposed Class and  
 14 who is excluded from the Class; (3) the reasons the parties have proposed the Settlement; (4) the  
 15 Settlement amount; (5) the estimated average recovery per damaged share; (6) the Class’ claims and  
 16 issues; (7) the parties’ disagreement over damages and liability; (8) the maximum amount of  
 17 attorneys’ fees and expenses that Lead Counsel intends to seek in connection with final settlement  
 18 approval; (9) the \$10,000.00 maximum amount of Lead Plaintiffs’ request for reimbursement of  
 19 costs and expenses (including lost wages) in connection with representation of the Class; (10) the

20 \_\_\_\_\_  
 21 <sup>16</sup> Specifically with respect to cases filed under the PSLRA, notices of settlements must state:  
 22 (1) “[t]he amount of the settlement proposed to be distributed to the parties to the action, determined  
 23 in the aggregate and on an average per share basis;” (2) “[i]f the parties do not agree on the average  
 24 amount of damages per share that would be recoverable if the plaintiff prevailed on each claim  
 25 alleged under this chapter [], a statement from each settling party concerning the issue or issues on  
 26 which the parties disagree;” (3) “a statement indicating which parties or counsel intend to make []an  
 application [for attorneys’ fees or costs], the amount of fees and costs that will be sought (including  
 the amount of such fees and costs determined on an average per share basis), and a brief explanation  
 supporting the fees and costs sought;” (4) “[t]he name, telephone number, and address of one or  
 more representatives of counsel for the plaintiff class who will be reasonably available to answer  
 questions from class members;” and (5) “[a] brief statement explaining the reasons why the parties  
 are proposing the settlement.” The Court may require other information. 15 U.S.C. §78u-4(a)(7).

1 plan for allocating the Settlement proceeds to the Class; and (11) the date, time, and place of the  
2 final settlement hearing.

3 The proposed Notice discusses the rights Class Members have concerning the Settlement,  
4 including to: (1) request exclusion and the manner for submitting such a request; (2) object to the  
5 Settlement, or any aspect thereof, and the manner for filing and serving an objection; and (3)  
6 participate in the Settlement and instructions on how to complete and submit a Proof of Claim to the  
7 Claims Administrator. The Notice also provides contact information for Lead Counsel, as well as  
8 the postal address for the Court. *See* Exhibit A-1 to the Stipulation. A summary notice will also be  
9 published. *See* Exhibit A-3 to the Stipulation.

10 The notice program proposed in connection with the Settlement and the form and content of  
11 the Notice, Summary Notice, and Proof of Claim therefore satisfy the requirements of Rule 23 and  
12 the PSLRA. Indeed, courts routinely find that comparable notice procedures meet the requirements  
13 of due process, Rule 23, and the PSLRA. *See, e.g., In re Portal*, 2007 U.S. Dist. LEXIS 51794, at  
14 \*18-19 (dissemination of notice to all reasonably identifiable class members with summary notice  
15 published in *Investor's Business Daily* approved as best notice practicable) (citing Manual for  
16 Complex Litigation (Fourth) § 21.311 (2004) (“Publication in magazines, newspapers, or trade  
17 journals may be necessary if individual class members are not identifiable after reasonable  
18 effort.”)). Accordingly, in granting preliminary approval of the Settlement, Lead Plaintiffs similarly  
19 request that the Court approve the proposed form and method of giving notice to the Class.

#### 20 **E. The Plan of Allocation Should Be Preliminarily Approved**

21 The Plan of Allocation<sup>17</sup> also warrants preliminary approval as it establishes specific  
22 formulae to compute each participating Class Member’s “Recognized Loss” as described in the  
23 Notice. It was created with the assistance of a consulting damages expert and reflects the  
24 assumption that the price of Rocket Fuel common stock was artificially inflated throughout the Class  
25

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26 <sup>17</sup> *See* Exhibit A-1 to the Stipulation at pp. 16-18.

1 Period and then corrected as a reaction to the disclosures at the end of the Class Period. Claims will  
 2 be computed using the method described in the Notice, which is incorporated herein by reference.  
 3 The Claims Administrator will determine each Authorized Claimant's *pro rata* share of the Net  
 4 Settlement Fund based upon each Authorized Claimant's Recognized Loss.

5 The Plan of Allocation complies with the requirements of case law governing the approval of  
 6 such allocation. It has a "reasonable" and "rational basis," makes intra-class allocations based upon  
 7 the "relative strengths and weaknesses of class members' individual claims and the timing of  
 8 purchases and sales of the securities at issue," and was formulated by Lead Plaintiffs and Lead  
 9 Counsel, with the assistance of experts. *In re Zynga Sec. Litig.*, 2015 U.S. Dist. LEXIS 145728, at  
 10 \*43-44 (N.D. Cal. Oct. 27, 2015) ("Courts recognize that an allocation formula need only have a  
 11 reasonable, rational basis, particularly if recommended by experienced and competent counsel.").

12 Depending on: (i) the number of eligible shares purchased by investors who elect to  
 13 participate in the Settlement; and (ii) when those shares were purchased and sold, the average  
 14 distribution is estimated to be \$0.15 per damaged share purchased in the Settlement Class Period,  
 15 before deduction of Court-approved fees and expenses described therein.<sup>18</sup> Under the proposed  
 16 Settlement, the Claims Administrator will determine each Claimant's *pro rata* share of the cash  
 17 settlement in accordance with each Authorized Claimant's claim, based on each's Claim Form.<sup>19</sup>

18 Subject to Court approval, the Notice provides that if any funds remain in the Net Settlement  
 19 Fund by reason of uncashed distribution checks or otherwise, after the Claims Administrator has  
 20 made reasonable and diligent efforts to have Class Members, entitled to participate in the  
 21 distribution of the Net Settlement Fund, cash their distributions, and after a reasonable time  
 22 following the initial distribution, such funds will be used in the following fashion: (a) to pay any  
 23 amounts mistakenly omitted from the initial disbursement; (b) to pay any additional settlement  
 24

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25 <sup>18</sup> See Exhibit A-1 to the Stipulation at pp. 1, 8.

26 <sup>19</sup> See Exhibit A-1 to the Stipulation at pp. 8, 19.

administration fees, costs, and expenses, including those of Lead Counsel as may be approved by the Court; and (c) to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least \$10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible. These redistributions shall be repeated, if economically feasible, until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance will then be donated—again, subject to the Court’s approval—to the Legal Aid Society of San Mateo.<sup>20</sup> *See Boring v. Bed Bath & Beyond of Cal. Ltd. Liab. Co.*, 2013 U.S. Dist. LEXIS 165909, at \*22-23 (N.D. Cal. Nov. 21, 2013) (“An award to a legal services organization is often an appropriate use of *cy pres* funds.”); *Garner v. State Farm Mut. Auto. Ins. Co.*, 2010 U.S. Dist. LEXIS 49477, at \*14, \*49 (N.D. Cal. Apr. 22, 2010).

#### **F. The Intended Request for Attorneys’ Fees and Expenses**

Lead Counsel intends to request an attorney fee award not to exceed 25% of the Settlement Amount (\$787,500.00), plus out-of-pocket expenses up to \$232,000.00 (plus interest on both amounts), respectfully suggesting that both amounts are reasonable. *See* 15 U.S.C. §78u-4(a)(4) & (6).<sup>21</sup> In complex securities litigation, courts in this Circuit have noted that the requested twenty-five percent figure “. . . is the ‘benchmark’ that district courts should award in common fund cases.” *In re Pac. Enters.*, 47 F.3d at 379 (noting the 25% benchmark, affirming an award of 33% of the recovery).<sup>22</sup>

<sup>20</sup> *See* Exhibit A-1 to the Stipulation at p. 21.

<sup>21</sup> The requested attorney fee award, as will be discussed in Lead Counsels’ forthcoming brief to be submitted the Court in connection with the final approval hearing, represents a lodestar deflator.

<sup>22</sup> *See also Heritage Bond*, 2005 U.S. Dist. LEXIS 13555, at \*19, *Id.* at \*61-63 (same); *Destefano v. Zynga, Inc.*, 2016 U.S. Dist. LEXIS 17196, \*70 (N.D. Cal. Feb. 11, 2016) (awarding the requested 25% attorney fee, noting it is the “presumptively reasonable benchmark amount in this Circuit.”).

### G. The Proposed Claims Administrator

In connection with this motion, Lead Plaintiffs also request that the Court authorize the retention of A.B. Data, Ltd., (“A.B. Data”) as Claims Administrator for the Settlement. A.B. Data has extensive experience and is a nationally recognized notice and claims administration firm. *See* Abadou Decl., Ex. 6. A.B. Data has estimated that it will cost approximately \$186,000.00 to fully administer the settlement of this case. *Id.* The amount is reasonable, representing slightly less than 6% of the total Settlement.

### V. PROPOSED SCHEDULE OF EVENTS AND FINAL APPROVAL PROCEEDINGS

In connection with preliminary approval of the Settlement, the Court must also set dates for certain events. Therefore, the parties suggest a schedule based on the following intervals:

Event:	Proposed Time for Compliance:
Deadline for mailing Notice and Proof of Claim and Release <sup>23</sup> to all Class Members who can be identified with reasonable effort, and for posting same on a public access website (the “Notice Date”).	Not later than ten (10) business days after the Court’s signing of the Preliminary Approval Order ( <i>See</i> Preliminary Approval Order, ¶7).
Deadline for the Claims Administrator to publish the Summary Notice <sup>24</sup> in the national edition of <i>Investor’s Business Daily</i> and once over a national newswire service.	Not later than fourteen (14) calendar days after the Notice Date ( <i>See</i> Preliminary Approval Order, ¶8).
Deadline for Lead Plaintiffs to serve on Defendants’ counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.	At least seven (7) calendar days prior to the Settlement Hearing ( <i>See</i> Preliminary Approval Order, ¶9).
Deadline for nominees that purchased stock for the beneficial ownership of Class Members to either: (i) send Notice and Proof of Claim forms to beneficial owners; or (ii) send a list of names and addresses of beneficial owners to the Claims Administrator.	Within ten (10) days after receipt of the Notice and Proof of Claim forms ( <i>See</i> Preliminary Approval Order, ¶10).
Deadline for Class Members to submit Proof of Claim and Release forms.	Postmarked or submitted electronically no later than one hundred and twenty (120) days after

<sup>23</sup> See Exhibits A-1, A-2 to the Stipulation.

<sup>24</sup> See Exhibit A-3 to the Stipulation.

Event:	Proposed Time for Compliance:
	the Notice Date ( <i>See</i> Preliminary Approval Order, ¶12).
Deadline for Class Members to submit a Request for Exclusion, if desired.	Postmarked no later than ninety (90) days after the Notice Date ( <i>See</i> Preliminary Approval Order, ¶14).
Deadline for Lead Counsel to provide Defendants' Counsel copies of all Requests for Exclusion or revocations of same.	Not less than fourteen (14) days prior to the Settlement Hearing ( <i>See</i> Preliminary Approval Order, ¶15).
Deadline for objectors to either deliver written objections by hand or postmarked/sent by First Class mail.	Postmarked no later than ninety (90) days after the Notice Date ( <i>See</i> Preliminary Approval Order, ¶16).
Deadline to submit opening briefs and supporting documents in favor of the Settlement, Plan of Allocation, and any application by Lead Counsel for attorneys' fees and expenses.	Not later than seventy-five (75) calendar days after the Notice Date ( <i>See</i> Preliminary Approval Order, ¶18).
Deadline to submit replies to any objections to the Settlement, Plan of Allocation, or award of attorneys' fees and expenses.	Not later than one hundred and five (105) calendar days after the Notice Date ( <i>See</i> Preliminary Approval Order, ¶18).
Settlement Hearing.	At least one hundred and twenty (120) days after the Court's signing of the Preliminary Approval Order ( <i>See</i> Preliminary Approval Order, ¶4).

## VI. CONCLUSION

Based on the foregoing, Lead Plaintiffs respectfully submit that the proposed Settlement is a fair and reasonable resolution and warrants this Court's preliminary approval. Lead Plaintiffs request that the Court enter the [Proposed] Order Preliminarily Approving Settlement and Providing for Notice submitted herewith, which will: (i) preliminarily approve the proposed Settlement; (ii) preliminarily certify the proposed Class for settlement purposes; (iii) approve the form and manner of Notice; and (iv) schedule a hearing to consider final approval of the Settlement and related matters.

Dated: April 25, 2017

Respectfully submitted,

**KAHN SWICK & FOTI, LLP**

By: /s/ Ramzi Abadou

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Dated: April 25, 2017

**KAPLAN FOX & KILSHEIMER, LLP**

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*Lead Counsel for Lead Plaintiffs Oklahoma  
Firefighters Pension and Retirement System,  
Browder Capital, LLC, and Patrick Browder*

**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

I attest that concurrence in the filing of this document has been obtained from the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 25th day of April, 2017, at San Francisco, California.

/s/Ramzi Abadou  
RAMZI ABADOU

**CERTIFICATE OF SERVICE**

I hereby certify that on April 25, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

/s/Ramzi Abadou  
RAMZI ABADOU

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*Lead Counsel for Lead Plaintiffs*

[Additional Counsel Appear on Motion's Signature Page]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

In re ROCKET FUEL, INC. SECURITIES  
LITIGATION

) Docket No. 4:14-cv-03998-PJH

)

) CONSOLIDATED CLASS ACTION

)

) **DECLARATION OF RAMZI ABADOU IN  
SUPPORT OF LEAD PLAINTIFFS'  
NOTICE OF MOTION AND UNOPPOSED  
MOTION FOR PRELIMINARY  
APPROVAL OF SETTLEMENT**

)

)

) **Judge:** Hon. Phyllis J. Hamilton

) **Courtroom:** 3rd Floor, No. 3

) Date: May 31, 2017

) Time: 9:00 a.m.

\_\_\_\_\_  
This Document Relates To:  
ALL ACTIONS

1 I, Ramzi Abadou, hereby declare as follows:

2 1. I am a partner at the law firm of Kahn Swick & Foti, LLP. I respectfully submit this  
3 Declaration in Support of the Lead Plaintiffs' Notice of Motion and Unopposed Motion for  
4 Preliminary Approval of Settlement. If called as a witness, I could and would competently testify  
5 thereto to all facts within my personal knowledge.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of Defendants' Amended  
7 Responses to Requests Numbers 1 Through 17 of Lead Plaintiffs' First Set of Requests for  
8 Admissions to Defendants;

9 3. Attached hereto as **Exhibit 2** are true and correct copies of the certifications  
10 executed by Lead Plaintiff Patrick Browder, both individually and in his capacity as a  
11 representative of Browder Capital, LLC;

12 4. Attached hereto as **Exhibit 3** is a true and correct copy of the certification executed  
13 by Lead Plaintiff Oklahoma Firefighters Pension and Retirement System;

14 5. Attached hereto as **Exhibit 4** is a true and correct copy of the firm résumé for Kahn  
15 Swick and Foti, LLC;

16 6. Attached hereto as **Exhibit 5** is a true and correct copy of the firm résumé for  
17 Kaplan Fox and Kilsheimer, LLP;

18 7. Attached hereto as **Exhibit 6** is a true and correct copy of the résumé for the  
19 proposed Claims Administrator, A.B. Data, Ltd. A.B. Data, Ltd. has estimated that it will cost  
20 \$185,655.55 to fully administer the settlement of this case.

21 Executed this 25th Day of April, 2017 in San Francisco, California.

22

23

s/ Ramzi Abadou  
Ramzi Abadou

24

25

26

27

28

# **Exhibit 1**

1 NINA F. LOCKER, State Bar No. 123838  
 Email: nlocker@wsgr.com  
 2 RODNEY G. STRICKLAND, JR., State Bar No. 161934  
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 3 JONI OSTLER, State Bar No. 230009  
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 7 Telephone: (650) 493-9300  
 Facsimile: (650) 565-5100  
 8

*Attorneys for Defendants Rocket Fuel Inc.,  
 George H. John, J. Peter Bardwick,,  
 and Richard Frankel*

10  
 11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**  
 13 **OAKLAND DIVISION**

14 In re ROCKET FUEL, INC. SECURITIES  
 LITIGATION

CASE NO.: 4:14-CV-03998-PJH

**CONSOLIDATED CLASS ACTION**

**DEFENDANTS' AMENDED  
 RESPONSES TO REQUESTS  
 NUMBERS 1 THROUGH 17 OF  
 LEAD PLAINTIFFS' FIRST SET OF  
 REQUESTS FOR ADMISSIONS TO  
 DEFENDANTS**

19  
 20 This Document Relates to:  
 ALL ACTIONS

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Rocket Fuel Inc. (“Rocket Fuel”), George H. John, Richard Frankel, and J. Peter Bardwick (collectively with Rocket Fuel, the “Defendants”) hereby provide supplemental responses to Requests Numbers 1 through 17 of Lead Plaintiffs’ First Set of Requests for Admissions. The below objections and responses replace Defendants’ responses to Nos. 1-17 of Plaintiffs’ First Set of Requests for Admissions, served by defendants on April 21, 2016.

# **I. GENERAL OBJECTIONS**

Defendants make the following General Objections to the Requests, whether or not fully set forth in the specific objections to each Request.

1. Defendants object to the Requests and to the “Instructions” to the extent they purport to impose any obligations beyond those imposed by the Federal Rules of Civil Procedure, local rules, or any other applicable rules.

2. Defendants object to the Requests to the extent they seek information protected by the attorney-client privilege, the work product doctrine, the joint defense or community of interest privilege, or any other applicable privilege. Defendants will not provide any such information in their responses.

3. Defendants object to the Requests to the extent they seek information that is not relevant to the claims or defenses of any party.

4. Defendants object to the Requests to the extent that they are vague and ambiguous and call for speculation outside the personal knowledge of Defendants or their attorneys.

5. The subject matter of the Requests is under continuing investigation. The Requests demand that Defendants admit or deny matters that they can neither admit nor deny based on the facts now available to them. Defendants reserve the right under Federal Rule of Civil Procedure 26(e) to supplement their responses.

6. Defendants object to Plaintiffs’ definition of “Class,” which presumes that there are persons who “were damaged by the conduct asserted in the Complaint.” Defendants deny that any person was damaged by the conduct asserted in the Complaint. For the purpose of these Amended Responses, Defendants construe “Class” to mean “all persons and entities who purchased or

1 otherwise acquired the publicly traded securities of Rocket Fuel Inc. between September 20, 2013  
2 and August 5, 2014, inclusive, and who are not excluded by virtue of their status as or relationship  
3 to an officer or director of Rocket Fuel.” Defendants do not, however, admit that this is an  
4 appropriate definition of a class to be certified in this action, and do not admit that any class  
5 should be certified at all.

6 **II. SPECIFIC OBJECTIONS AND RESPONSES**

7 In addition to the General Objections set forth above, which are expressly incorporated by  
8 reference in each response below, Defendants further make the following objections and  
9 responses.

10 **REQUEST FOR ADMISSION NO. 1:**

11 Admit that the Class contains more than one hundred (100) members.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

13 Admitted.

14 **REQUEST FOR ADMISSION NO. 2:**

15 Admit that the Class is so numerous that joinder of all members of the Class would be  
16 impracticable.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

18 Admitted.

19 **REQUEST FOR ADMISSION NO. 3:**

20 Admit that there are questions of law that are common to all Class members.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

22 Admitted.

23 **REQUEST FOR ADMISSION NO. 4:**

24 Admit that there are questions of fact that are common to all Class members.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

26 Admitted.

1 **REQUEST FOR ADMISSION NO. 5:**

2 Admit that whether Defendants violated the federal securities laws is a question of law  
3 and/or fact common to all Class members.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

5 Denied.

6 **REQUEST FOR ADMISSION NO. 6:**

7 Admit that the nature and existence of the material misrepresentations and omissions  
8 alleged in the Complaint is a question of law and/or fact common to all Class members.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

10 Admitted.

11 **REQUEST FOR ADMISSION NO. 7:**

12 Admit that the Complaint alleges a misrepresentation on Rocket Fuel's Website that forms  
13 a common course of conduct that affected all members of the Class.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

15 Denied.

16 **REQUEST FOR ADMISSION NO. 8:**

17 Admit that whether Defendants publicly omitted and/or misrepresented material facts is a  
18 question of law and/or fact common to all Class members.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

20 Admitted.

21 **REQUEST FOR ADMISSION NO. 9:**

22 Admit that whether the price of Rocket Fuel's publicly traded common stock was  
23 artificially inflated during the Class Period as a result of Defendants' allegedly wrongful conduct  
24 is a question of law and/or fact common to all Class members.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

26 Admitted.

**REQUEST FOR ADMISSION NO. 10:**

Admit that whether Defendants' misrepresentation on the Blog as alleged in ¶127 of the Complaint caused Class members to suffer economic losses is a question of law and/or fact common to all Class members.

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

Denied.

**REQUEST FOR ADMISSION NO. 11:**

Admit that the extent to which members of the Class sustained damages is a question of law and/or fact common to all Class members.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

Denied.

**REQUEST FOR ADMISSION NO. 12:**

Admit that the proper measure of damages sustained by Class members is a question of law and/or fact common to all Class members.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

Defendants admit that the proper measure of damages for violation of Sections 10(b) and 20(a) of the Exchange Act of 1934 is governed by federal law that is the same for all Class members. Defendants deny that the actual measure of damages allegedly sustained by each Class member here is a question common to all Class members.

**REQUEST FOR ADMISSION NO. 13:**

Admit that whether the Individual Defendants are liable as "control persons" under Section 20(a) of the Securities and Exchange Act of 1934 is a question of law and/or fact common to all putative Class members.

**RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

Denied.

**REQUEST FOR ADMISSION NO. 14:**

Admit that questions common to members of the Class - including whether the statement alleged in ¶127 of the Complaint was materially false and misleading and whether Defendants

1 acted with scienter - predominate over questions affecting only individual members of the putative  
2 Class.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

4 Denied.

5 **REQUEST FOR ADMISSION NO. 15:**

6 Admit that the claims of putative Class members involve the same legal theories and set of  
7 operative facts as the claims alleged by Lead Plaintiffs.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

9 Denied.

10 **REQUEST FOR ADMISSION NO. 16:**

11 Admit that Lead Plaintiffs' claims are typical of the putative Class's claims.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

13 Denied.

14 **REQUEST FOR ADMISSION NO. 17:**

15 Admit that a class action is superior to other available methods for efficiently and fairly  
16 adjudicating putative Class members' claims.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

18 Denied.

19  
20 Dated: May 27, 2016

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

21  
22  
23 By: s/ Joni Ostler  
Joni Ostler  
jostler@wsgr.com

24  
25 *Attorneys for Defendants*  
26 *Rocket Fuel Inc., George H. John, J. Peter*  
27 *Bardwick, and Richard Frankel*  
28

**DECLARATION OF SERVICE BY E-MAIL**

I, Joni Ostler, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

On May 27, 2016, pursuant to stipulation of the parties, I served the foregoing **DEFENDANTS' AMENDED RESPONSES TO REQUESTS NUMBERS 1 THROUGH 17 OF LEAD PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS TO DEFENDANTS** on counsel for Plaintiffs listed below, by transmitting a true and correct copy thereof from my business email address to the recipients' email addresses listed in the Service List below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on May 27, 2016.

s/ Joni Ostler  
Joni Ostler

**SERVICE LIST:**

Laurence King  
KAPLAN FOX & KILSHEIMER LLP  
[lking@kaplanfox.com](mailto:lking@kaplanfox.com)

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Alexander Burns  
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Ramzi Abadou  
KAHN SWICK & FOTI, LLP  
[Ramzi.abadou@ksfcounsel.com](mailto:Ramzi.abadou@ksfcounsel.com)

# **Exhibit 2**

**CERTIFICATION PURSUANT TO SECURITIES LAWS**

Browder Capital (name) ("Movant") declares, as to the claims asserted under the federal securities law, that:

1. Movant has fully reviewed the facts of the complaint(s) filed in this action alleging violations of the securities laws, Movant adopts the allegations of the complaint(s), and Movant retains the firm of Kahn Swick and Foti, LLC, to pursue such action on a contingent fee basis.
2. Movant did not purchase securities of **Rocket Fuel, Inc.** at the direction of counsel or in order to participate in a private action under the federal securities laws.
3. Movant is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. During the Class Period, Movant has executed transactions in the securities of **Rocket Fuel, Inc.** as follows. See attached Schedule.
5. In the last three years, Movant has not sought to serve as a representative party on behalf of a class in an action filed under the federal securities laws, except as indicated herein.
6. Movant will not accept payment for serving as a lead plaintiff beyond his/her/its pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

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

Dated: 10/27, 2014

  
\_\_\_\_\_  
Movant Signature  
Patrick Browder, President  
\_\_\_\_\_  
Printed Name

**Class Period Transactions of Browder Capital in Securities of Rocket Fuel, Inc.****Purchases of Common Stock**

<b>Date</b>	<b>Quantity</b>	<b>Avg. Price</b>
1/31/2014	1600	\$58.57
2/3/2014	1050	\$58.36
2/4/2014	150	\$54.03
2/5/2014	2000	\$52.18
3/7/2014	1100	\$52.02
3/11/2014	200	\$49.99
3/12/2014	200	\$49.50
3/13/2014	1000	\$47.31
3/18/2014	500	\$50.19
3/19/2014	200	\$49.51
3/20/2014	300	\$48.26
3/21/2014	100	\$46.82
3/24/2014	500	\$46.80
4/8/2014	422	\$41.03
4/9/2014	78	\$41.50
4/10/2014	150	\$40.07
4/15/2014	1494	\$35.09
4/16/2014	1500	\$37.06
4/21/2014	444	\$35.33
4/23/2014	1756	\$37.31
4/24/2014	150	\$35.94
4/25/2014	225	\$31.11
5/5/2014	25	\$31.97
5/30/2014	50	\$24.50
6/5/2014	1100	\$22.97
6/20/2014	200	\$26.71
7/2/2014	152	\$28.31
7/7/2014	550	\$27.03
7/8/2014	200	\$24.90
7/25/2014	400	\$24.19
7/28/2014	200	\$23.89
7/30/2014	200	\$25.86
7/31/2014	900	\$26.32
8/1/2014	1600	\$25.25
8/5/2014	1968	\$26.23

**Sales of Common Stock**

<b>Date</b>	<b>Quantity</b>	<b>Avg. Price</b>
1/31/2014	-600	\$59.30
2/3/2014	-1000	\$59.23
2/5/2014	-3200	\$51.31
4/15/2014	-1494	\$36.51

4/22/2014	-1700	\$37.93
6/10/2014	-700	\$23.36
6/11/2014	-302	\$24.16
7/28/2014	-400	\$25.49
7/30/2014	-200	\$26.95

#### Purchases of Stock Options

Date	Type	Quantity	Avg. Price
3/26/2014	\$55.00 April 19, 2014	38	\$0.55
3/28/2014	\$55.00 April 19, 2014	40	\$0.30
3/31/2014	\$55.00 April 19, 2014	10	\$0.15
4/17/2014	\$40.00 May 17, 2014	10	\$1.75
5/16/2014	\$25 August 16, 2014	40	\$2.58

#### Sales of Stock Options

Date	Type	Quantity	Avg. Price
3/24/2014	\$55.00 April 19, 2014	38	\$0.55

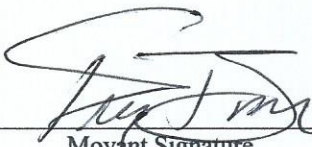
**CERTIFICATION PURSUANT TO SECURITIES LAWS**

Patrick Browder (name) ("Movant") declares, as to the claims asserted under the federal securities law, that:

1. Movant has fully reviewed the facts of the complaint(s) filed in this action alleging violations of the securities laws, Movant adopts the allegations of the complaint(s), and Movant retains the firm of Kahn Swick and Foti, LLC, to pursue such action on a contingent fee basis.
2. Movant did not purchase securities of **Rocket Fuel, Inc.** at the direction of counsel or in order to participate in a private action under the federal securities laws.
3. Movant is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. During the Class Period, Movant has executed transactions in the securities of **Rocket Fuel, Inc.** as follows. See attached Schedule.
5. In the last three years, Movant has not sought to serve as a representative party on behalf of a class in an action filed under the federal securities laws, except as indicated herein.
6. Movant will not accept payment for serving as a lead plaintiff beyond his/her/its pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

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

Dated: 10/27, 2014

  
Movant Signature  
Patrick Browder  
Printed Name

**Class Period Transactions of Patrick Browder in Securities of Rocket Fuel, Inc.****Purchases of Common Stock**

<b>Date</b>	<b>Quantity</b>	<b>Price</b>	
3/12/2014	3000	\$	49.23
3/13/2014	3000	\$	46.64
3/20/2014	1800	\$	48.25
3/20/2014	1100	\$	48.14
3/20/2014	100	\$	48.12
3/24/2014	2700	\$	45.29
3/24/2014	300	\$	45.29
4/3/2014	2326	\$	38.70
4/3/2014	799	\$	38.78
4/3/2014	500	\$	38.76
4/3/2014	375	\$	38.78
4/11/2014	4000	\$	38.80
4/14/2014	3754	\$	35.77
4/14/2014	100	\$	35.67
4/14/2014	100	\$	35.76
4/14/2014	46	\$	35.64
5/6/2014	3000	\$	31.00
7/7/2014	5000	\$	25.99
7/7/2014	4400	\$	26.70
7/7/2014	600	\$	26.69
7/17/2014	10000	\$	22.60
7/17/2014	8953	\$	22.20
7/17/2014	600	\$	22.17
7/17/2014	247	\$	22.18
7/17/2014	200	\$	22.19

**Sales of Common Stock**

<b>Date</b>	<b>Quantity</b>	<b>Price</b>	
7/22/2014	-100	\$	23.22
7/22/2014	-100	\$	23.21
7/22/2014	-100	\$	23.22
7/22/2014	-100	\$	23.23
7/22/2014	-200	\$	23.20
7/22/2014	-200	\$	23.21
7/22/2014	-200	\$	23.23
7/22/2014	-200	\$	23.34
7/22/2014	-350	\$	23.29
7/22/2014	-650	\$	23.25
7/22/2014	-700	\$	23.26
7/22/2014	-2300	\$	23.20
7/22/2014	-4800	\$	23.21
7/24/2014	-100	\$	24.02
7/24/2014	-100	\$	24.03

7/24/2014	-100 \$	24.02
7/24/2014	-100 \$	24.19
7/24/2014	-200 \$	23.91
7/24/2014	-200 \$	23.98
7/24/2014	-300 \$	23.96
7/24/2014	-300 \$	24.01
7/24/2014	-400 \$	23.94
7/24/2014	-600 \$	23.95
7/24/2014	-600 \$	24.18
7/24/2014	-1100 \$	24.11
7/24/2014	-2100 \$	23.90
7/24/2014	-3800 \$	24.00
7/30/2014	-240 \$	26.84
7/30/2014	-4760 \$	26.84
7/30/2014	-5000 \$	26.84

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# **Exhibit 3**

**CERTIFICATION PURSUANT TO  
THE FEDERAL SECURITIES LAWS**

I, Robert E. Jones, Jr., on behalf of Oklahoma Firefighters Pension and Retirement System ("Oklahoma Firefighters"), hereby declare that:

1. I am authorized to make a certification on behalf of Oklahoma Firefighters.
2. I have reviewed the complaint filed in this action alleging violations of the securities laws and Oklahoma Firefighters is willing to serve as a lead plaintiff in this case and all other related cases that may be consolidated with it. I have also reviewed the motion for lead plaintiff and supporting papers filed herewith.
3. Oklahoma Firefighters did not purchase the securities that are the subject of this action at the direction of plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
4. Oklahoma Firefighters is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial if necessary. Oklahoma Firefighters fully understands the duties and responsibilities of the Lead Plaintiff under the Private Securities Litigation Reform Act of 1995, specifically concerning its selection and retention of counsel and overseeing and directing the prosecution of the action on behalf of the class.
5. Oklahoma Firefighters' transactions in Rocket Fuel, Inc.'s common stock during the proposed class period are set forth in Schedule A, which is attached hereto.
6. Oklahoma Firefighters sought to serve and serves or served as a representative party on behalf of a class in the following actions under the federal securities laws filed during the three-year period preceding the date of this Certification:

*In re Miller Energy Resources, Inc. Securities Litigation*, Case No. 11-cv-386 (E.D. Tenn.)  
*Oklahoma Firefighters Pension & Retirement System, et al., v. Student Loan Corp., et al.*, Case No. 12-cv-895 (S.D.N.Y.)

*In re Mako Surgical Corporation Securities Litigation*, Case No. 12-cv-60875 (S.D. Fla.)

*Reinschmidt v. Zillow, Inc., et al.*, Case No. 12-cv-2084 (W.D. Wash.)

*Fialkov v. Microsoft Corp., et al.*, Case No. 13-cv-2039 (W.D. Wash.)

*In re Tower Group International Ltd. Securities Litigation*, Case No. 13-cv-5852 (S.D.N.Y.)

*In re Edwards Lifesciences Corp. Securities Litigation*, Case No. 13-cv-1463 (C.D. Cal.)

*In re Velti PLC Securities Litigation*, Case No. 13-cv-3889 (N.D. Cal.)

*Santore v. Ixia, et al.*, Case No. 13-cv-8440 (C.D. Cal.)

*In re K12, Inc. Securities Litigation*, Case No. 14-cv-108 (E.D. Va.)

*In re Herbalife, Ltd. Securities Litigation*, Case No. 14-cv-2850 (C.D. Cal.)

7. Oklahoma Firefighters sought to serve as a lead plaintiff in the following class actions filed under the federal securities laws during the last three years but either withdrew its motion or was not appointed as of the date of this certification:

*Wallace v. Intralinks Holdings, Inc., et al.*, Case No. 11-cv-8861 (S.D.N.Y.)  
*Hoppaugh v. K12 Inc., et al.*, Case No. 12-cv-103 (E.D. Va.)  
*In re Verifone Securities Litigation*, Case No. 13-cv-1038 (N.D. Cal.)  
*Mazzaferro v. Aruba Networks, Inc., et al.*, Case No. 13-cv-2342 (N.D. Cal.)  
*Singh v. Orthofix International N.V., et al.*, Case No. 13-cv-5696 (S.D.N.Y.)  
*Hatamian, et al. v. Advanced Micro Devices, Inc., et al.*, Case No. 14-cv-226 (N.D. Cal.)  
*In re Ply Gem Holdings, Inc. Securities Litigation*, Case No. 14-cv-3577 (S.D.N.Y.)

8. Oklahoma Firefighters will not accept any payment for serving as a representative party on behalf of a class beyond its pro-rata share of any recovery, except as ordered or approved by the court, including any award to a representative plaintiff of reasonable costs and expense directly related to the representation of the class.

9. I declare under penalty of perjury that the foregoing is true and correct, executed on this 31st day of October, 2014.

  
\_\_\_\_\_  
Robert E. Jones, Jr.

*Executive Director of the  
Oklahoma Firefighters Pension and  
Retirement System*

**Schedule A**  
**Oklahoma Firefighters' Transactions in Rocket Fuel, Inc.'s Common Stock**

Security Name	CUSIP	Transaction	Trade Date	Shares	Share Price
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	9/20/2013	3,800	\$55.9820
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	9/20/2013	200	\$55.6800
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	12/13/2013	100	\$45.8363
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	12/13/2013	200	\$46.0550
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	12/16/2013	600	\$48.1670
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	12/17/2013	100	\$48.9654
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	12/18/2013	86	\$51.3250
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	1/16/2014	1,096	\$68.7789
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	1/16/2014	900	\$68.6461
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	1/27/2014	764	\$58.7921
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	1/31/2014	5,300	\$61.0000
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/13/2014	-700	\$45.6451
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/13/2014	-500	\$45.0650
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/14/2014	-1,217	\$47.1595
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	3/17/2014	71	\$48.6459
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/19/2014	-2,394	\$49.8826
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/20/2014	-810	\$48.2498
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/21/2014	-400	\$46.3138
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/21/2014	-400	\$45.6400
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/21/2014	-342	\$46.3650
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/28/2014	-100	\$45.2828

Security Name	CUSIP	Transaction	Trade Date	Shares	Share Price
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/28/2014	-400	\$45.7500
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	3/31/2014	-500	\$43.8929
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/1/2014	-500	\$43.0156
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/1/2014	-400	\$43.1000
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/1/2014	-300	\$42.9950
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/2/2014	-459	\$41.8444
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/3/2014	-100	\$38.8262
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/3/2014	-200	\$39.1350
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/3/2014	-500	\$38.9824
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-800	\$38.7829
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-300	\$38.7829
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-500	\$39.6706
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-693	\$39.4726
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-200	\$38.6050
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/4/2014	-400	\$38.6050
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	SELL	4/7/2014	-102	\$40.7821
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/9/2014	600	\$21.1471
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/9/2014	1,472	\$21.5905
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/12/2014	748	\$21.3638
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/12/2014	300	\$21.5700
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/12/2014	58	\$21.7875
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/13/2014	512	\$21.7484
ROCKET FUEL INC	'773111109	BUY	5/13/2014	500	\$21.9050

Security Name	CUSIP	Transaction	Trade Date	Shares	Share Price
COMMON STOCK USD.001					
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/20/2014	100	\$23.7963
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/20/2014	100	\$23.7963
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	100	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	100	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	200	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	600	\$24.3992
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	700	\$24.3992
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/21/2014	1,100	\$24.3992
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	200	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	200	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	300	\$24.4894
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	100	\$24.2988
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	200	\$24.2988
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/22/2014	200	\$24.2988
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	100	\$24.5875
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	100	\$24.5874
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	100	\$24.5871
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	200	\$24.4596
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	200	\$24.4596
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/23/2014	300	\$24.4597
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/27/2014	300	\$24.7330
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/27/2014	200	\$24.7329

Security Name	CUSIP	Transaction	Trade Date	Shares	Share Price
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/27/2014	500	\$24.7330
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	200	\$24.6524
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	100	\$24.6100
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	100	\$24.6100
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	100	\$24.6100
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	100	\$24.6523
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/28/2014	100	\$24.6524
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/29/2014	200	\$25.1017
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/29/2014	100	\$25.1018
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/29/2014	100	\$25.1018
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/30/2014	200	\$24.7626
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/30/2014	200	\$24.7620
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	5/30/2014	400	\$24.7621
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	6/2/2014	123	\$24.4038
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	6/2/2014	185	\$24.4040
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	6/2/2014	18	\$24.4038
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	7/11/2014	700	\$24.0068
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	7/14/2014	889	\$25.2561
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	7/29/2014	200	\$25.3275
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	7/31/2014	300	\$26.4387
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	8/1/2014	300	\$26.1300
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	8/1/2014	400	\$25.2304
ROCKET FUEL INC	'773111109	BUY	8/1/2014	400	\$25.3594

Security Name	CUSIP	Transaction	Trade Date	Shares	Share Price
COMMON STOCK USD.001					
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	8/4/2014	1,100	\$25.3493
ROCKET FUEL INC COMMON STOCK USD.001	'773111109	BUY	8/5/2014	266	\$26.1405

# **Exhibit 4**



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## Table of Contents

<b>The Firm .....</b>	<b>2</b>
<b>Securities Litigation.....</b>	<b>2</b>
Current Cases .....	2
Recent Victories.....	3
Settled Cases .....	4
<b>Corporate Governance and Derivative Litigation .....</b>	<b>6</b>
Current Cases .....	6
Settled Cases .....	6
<b>Consumer Protection Litigation .....</b>	<b>9</b>
Settled Cases .....	9
<b>Shareholder M&amp;A Class Action Litigation .....</b>	<b>10</b>
Current Cases .....	10
Settled Cases .....	11
<b>Antitrust Litigation .....</b>	<b>12</b>
Current Cases .....	12
<b>Attorneys.....</b>	<b>13</b>
Partners.....	13
Lewis S. Kahn.....	13
Michael A. Swick .....	14
Charles C. Foti, Jr. ....	14
Kim E. Miller .....	16
Ramzi Abadou .....	18
Melinda A. Nicholson .....	19
Michael J. Palestina .....	21
Of Counsel .....	22
Andrew J. Gibson .....	22
Neil Rothstein.....	23
Associates .....	23
Alexander L. Burns.....	23
Bruce W. Dona .....	24
J. Ryan Lopatka .....	24
Michael R. Robinson .....	25
Joseph Scott St. John .....	25
Christopher Tillotson.....	26
Matthew P. Woodard .....	26

## The Firm

Kahn Swick & Foti, LLC ("KSF") (www.ksfcounsel.com) is a boutique law firm with offices in New York City, San Francisco and Louisiana. KSF focuses predominantly on class actions, in the areas of securities and mergers & acquisitions, and on shareholder derivative and other complex litigation. Since its inception in 2000, KSF has recovered hundreds of millions of dollars for its clients.

KSF's Lawyers have extensive experience litigating complex cases in the following practice areas: (i) securities litigation; (ii) corporate governance and derivative litigation; (iii) consumer protection litigation; (iv) shareholder merger and acquisition class action litigation; and (v) antitrust litigation. A sampling of the firm's current cases and recent recoveries is set forth below.

*"[Kahn Swick & Foti] earned my unyielding admiration and respect in this case for the efficient and exceptionally reasonable way in which they found a prompt, fair, and equitable solution to the complex problems their clients faced..."*

Hon. Mark W. Bennett,  
United States District Judge

In Re: Elgaouni v.  
Meta Financial Group, Inc.

## Securities Litigation

### CURRENT CASES

**Abramson v. NewLink Genetics Corp., et al.**, 1:16-cv-03545-WHP  
Southern District of New York  
Lead Counsel

**Erica P. John Fund, Inc. v. Halliburton Co., et al.**, No. 3:02-cv-1152  
Northern District of Texas  
Class Counsel and Special Counsel for Lead Plaintiff

**Dougherty v. Esperion Therapeutics, Inc., et al.**, No. 16-10089  
Eastern District of Michigan  
Co-Lead Counsel

**Dr. Joseph F. Kasper, et. al. v. AAC Holdings, Inc., et. al.**, 3:15-cv-00923 (Consolidated)  
Middle District of Tennessee, Nashville Division  
Co-Lead Counsel

**In re Eletrobras Securities Litigation**, 15-cv-5754-JGK  
Southern District of New York  
Co-Lead Counsel

**Hogan v. Pilgrim's Pride Corp. et al.**, 1:16-CV-2611-RBJ  
District of Colorado  
Lead Counsel

**In re Orexigen Therapeutics, Inc., Securities Litigation**, 15cv540 L (KSC)  
Southern District of California  
Lead Counsel

**Pearlstein v. Blackberry Ltd., et al.**, 1:13-CV-07060-TPG  
Southern District of New York  
Lead Counsel

**In re Petrobras Securities Litigation**, 14-cv-9662  
Southern District of New York  
Member, Plaintiffs' Steering Committee for Individual Actions.

**In re Rocket Fuel, Inc. Securities Litigation**, 4:14-cv-03998-PJH  
Northern District of California  
Co-Lead Counsel

## RECENT VICTORIES

**Erica P. John Fund, Inc. v. Halliburton Co., et al.**, No. 3:02-cv-1152 (N.D. Tex. March 31, 2017). District Court preliminarily approves \$100 million settlement for the Class previously certified on July 25, 2015 and sets final Settlement Fairness Hearing on July 31, 2017. KSF serves as Class Counsel and Special Counsel for Plaintiff.

**In re Eletrobras Securities Litigation**, 15-cv-5754-JGK (S.D.N.Y.). On Monday, March 27, 2017, the Hon. John G. Koeltl of the United States District Court for the Southern District of New York entered an Opinion and Order denying certain defendants' motion to dismiss. This matter involves one of the largest kickback corruption schemes in Brazilian history. The complaint alleges that defendants made materially false and misleading statements to investors concerning the award of contracts for multi-billion dollar construction projects controlled by Eletrobras and its subsidiaries. In his opinion, Judge Koeltl determined that lead plaintiffs had standing to assert claims on behalf of investors who had purchased either American Depositary Shares, bonds or both during the Class Period. The Court also held that lead plaintiffs had stated facts with sufficient particularity to successfully allege that certain defendants had violated Section 10(b), Rule 10b-5, and Section 20(a) of the Securities Exchange Act of 1934, including sustaining a claim for scheme liability against the Company.

**Erica P. John Fund, Inc. v. Halliburton Co., et al.**, 131 S. Ct. 2179 (2011). Federal securities class action against oilfield services company and a high-level officer, in which KSF was part of the team that obtained a unanimous decision by the U.S. Supreme Court vacating and remanding a decision of the Fifth Circuit regarding class certification.

***In re CytRx Corp. Securities Litigation***, 2:14-CV-01956-GHK (PJWx) (C.D. Cal.). KSF is sole lead counsel in this matter. On July 13, 2015, the Honorable George H. King, Chief U.S. District Judge for the United States District Court for the Central District of California, denied in part defendants' motion to dismiss and permitted the majority of plaintiff's claims to proceed. The Court's ruling is reported at *In re CytRx Corp. Securities Litigation*, 2015 U.S. Dist. LEXIS 91447 (C.D. Cal. July 13, 2015). On January 20, 2016, the Court granted preliminary approval for Lead Plaintiff's \$8,500,000 proposed settlement of this matter.

***In re Orexigen Therapeutics, Inc., Securities Litigation***, 15cv540 L (KSC), (S.D. Cal.). On June 22, 2015, the United States District Court for the Southern District of California appointed KSF as sole lead counsel, stating, "[t]he Court has reviewed the firm's resume [ ] and is satisfied that the lead plaintiff has made a reasonable choice of counsel. The Kahn Swick & Foti firm has extensive experience in the prosecution of securities class actions and it appears that it will adequately represent the interests of all class members."

***Dr. Joseph F. Kasper, et. al. v. AAC Holdings, Inc., et. al.***, 3:15-cv-00923 (Consolidated) (M.D. Tenn.). On December 30, 2015, the Hon. Magistrate Judge John S. Bryant of the United States District Court for the Middle District of Tennessee entered an Order appointing KSF as co-lead counsel for the class. This matter alleges that defendants made materially false statements and omissions regarding an investigation by the California Department of Justice into the 2010 death of a patient at one of AAC's subsidiaries.

***In re Rocket Fuel, Inc. Securities Litigation***, 4:14-cv-03998-PJH (N.D. Cal.). On December 23, 2015, the Honorable Phyllis J. Hamilton, U.S. Chief District Judge for the United States District Court for the Northern District of California partially denied defendants' motion to dismiss. The decision, reported at *In re Rocket Fuel, Inc. Securities Litigation*, 2015 U.S. Dist. LEXIS 171552 (N.D. Cal. Dec. 23, 2015), was recently discussed by the D&O Diary in a post entitled "*Blog Post Statements Held Actionable Under the Federal Securities Laws.*"

## SETTLED CASES

***In re Virgin Mobile USA IPO Litigation***, 2:07-cv-05619-SDW-MCA (D.N.J.), *Co-Lead Counsel*, federal securities IPO-related class action against a company providing wireless communication services, certain officers and directors, certain controlling shareholder entities, and Virgin's underwriters, resulting in a cash settlement of **\$19.5 million** for investors.

***In re Tesco PLC Securities Litigation***, 14 Civ. 8495 (RMB) (S.D.N.Y.), *Lead Counsel*, federal securities class action against one of the world's largest grocery and general merchandise retailers based in the U.K., resulting in an all-cash settlement of **\$12 million** for investors in ADRs and F shares in the United States.

***In re BigBand Networks, Inc Securities Litigation***, 3:07-CV-05101-SBA (C.D. Cal.), *Co-Lead Counsel*, federal securities class action brought against a computer hardware corporation, certain officers and directors of the Company, and the Company's Underwriters, resulting in a cash settlement of **\$11 million** for investors.

***In re U.S. Auto Parts Networks, Inc. Securities Litigation***, 2:07-cv-02030-GW-JC (C.D. Cal.), *Lead Counsel*, federal securities IPO-related class action against an online automotive supply company, certain members of its board of directors, and its underwriters, resulting in a cash settlement of **\$10 million** for investors.

***In re CytRx Corp. Securities Litigation***, 2:14-CV-01956-GHK (PJWx) (C.D. Cal.), *Lead Counsel*, federal securities class action brought against biotechnology corporation, certain officers and directors of the Company, and the Company's Underwriters, resulting in a settlement of **\$8.5 million** for investors.

***In re ShoreTel, Inc. Securities Litigation***, 3:08-cv-00271-CRB (N.D. Cal.), *Lead Counsel*, federal securities IPO-related class action brought against an Internet protocol telecommunications company, certain of its officers and directors, and its underwriters, resulting in a cash settlement of **\$3 million** for investors.

***In re Xethanol Corporation Securities Litigation***, 1:06-cv-10234-HB (S.D.N.Y.), *Lead Counsel*, federal securities fraud class action against an ethanol production company and certain of its officers and directors, resulting in a cash settlement of **\$2.8 million** for investors.

***Mongeli v. Terayon Comm. Systems Inc. et al.***, 4:06-cv-03936-CW (N.D. Cal.), *Co-Lead Counsel*, federal securities fraud class action brought against a communications systems corporation, the Company's outside auditor, and certain officers and directors, resulting in a cash settlement of **\$2.73 million** for investors.

***In re Opteum, Inc., Securities Litigation***, 2:07-cv-14278-DLG (S.D. Fla.), *Co-Lead Counsel*, federal securities fraud class action brought against a Real Estate Investment Trust and certain of its officers and directors, resulting in a cash settlement of **\$2.35 million** for investors.

*In re: Meta Financial Group Inc., Securities Litigation*, 10-4108-MWB, (N.D. Iowa), *Lead Counsel*, federal securities fraud class action against a bank and certain officers and directors, resulting in a cash settlement of **\$2.1 million** for investors.

## Corporate Governance and Derivative Litigation

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### CURRENT CASES

***Orrego v. Lefkofsky (Groupon, Inc. Derivative Litigation)***, No. 12 CH 12420  
*Circuit Court of Cook County, Illinois, Chancery Division*  
*Co-Lead Counsel*

### SETTLED CASES

***In re Bank of America Corp. Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation***, 09 Civ.580 (DC) (S.D.N.Y.). KSF served as court appointed Co-Lead Counsel in the Southern District of New York, and sued current and former executive officers and directors of the company, on behalf of shareholders. The substance of this action focused on Bank of America's January 1, 2009, acquisition of Merrill Lynch & Co., Inc. in a stock-for-stock transaction. This action alleged, among other things, that certain material information was omitted from the proxy statement filed with the Securities and Exchange Commission and mailed to stockholders on November 3, 2008. This proxy was critical in allowing defendants to obtain shareholder consent for the issuance of shares necessary to consummate the Merger. KSF was successful in resolving this action after defeating motions to dismiss by multiple defendants. In addition to major corporate governance reforms, KSF was also able to recover over **\$62.5 million** for the company.

***In re Barnes & Noble Stockholder Derivative Litigation***, C.A. No. 4813-VCS (Del. Ch. Ct.). As Co-Lead Counsel in this shareholder derivative action filed in the Court of Chancery of the State of Delaware on behalf of Barnes & Noble, Inc. against certain of its officers and directors, including Chairman Leonard Riggio, related to the company's 2009 acquisition of Mr. Riggio's private company Barnes & Noble College Booksellers, Inc., alleging that the purchase price, and the process by which it was agreed to, was not entirely fair to Barnes & Noble, Inc. and harmed shareholders, KSF helped obtain a settlement resulting in the recovery of **\$29 million** for Barnes & Noble, Inc. in the form of reductions to the principal and interest payable to Mr. Riggio.

***In re FAB Universal Corporation Shareholder Derivative Litigation, Lead Case***, No. 14-cv-687 (S.D.N.Y.). As sole Lead Counsel in this consolidated action, KSF brought breach of fiduciary claims derivatively on behalf of FAB Universal Corporation against certain of its current and former directors and officers. Claims brought included breaches of duties of loyalty, due care, good faith, independence, candor and full disclosure to shareholders; misappropriation of material, non-public information of the Company by certain individual defendants; and violations of Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 promulgated thereunder. The action focused on defendants' publication of false and misleading statements concerning the Company's kiosk business in China, and the failure to disclose the issuance of \$16.4 million worth of bonds to Chinese investors in April 2013. KSF obtained a settlement involving numerous corporate governance reforms, including the creation a new Disclosure Committee to put effective procedures and protocols in place and designed to ensure that all of the Company's public statements are vetted for accuracy, integrity and completeness. KSF was also able to cause the Company to modify the Charter of the Audit Committee to provide that at least one non-executive member of the Audit Committee has general expertise in accounting or financial management. Modifications were also caused to be made to the Company's Corporate Governance Committee and to the Company's Code of Conduct.

***In re Fifth Street Finance Corp. Stockholder Litigation***, Consolidated C.A. No. 12157-VCG (Del. Ch.). As Co-Lead Counsel in this shareholder derivative action filed in the Delaware Court of Chancery on behalf of Fifth Street Finance Corporation ("FSC") against certain current and former directors of FSC, its investment advisor, Fifth Street Asset Management Inc. ("FSAM"), and current and former directors and officers of FSAM, KSF alleged that certain FSC and FSAM officers and directors caused FSC to pursue reckless asset growth strategies, to employ aggressive accounting and financial reporting practices, and to pay excessive fees under FSC's investment advisory agreement with FSAM, in order to inflate the perceived value of FSAM in the lead up to FSAM's initial public filing. KSF was instrumental in obtaining a settlement consisting of certain changes to FSC's investment advisory agreement and governance enhancements. The changes to the investment advisory agreement include a waiver by FSAM of fees equal to \$10 million and an acknowledgment that plaintiffs were a substantial and remedial factor in the reduction of base management fees from 2% to 1.75%. The governance enhancements include additional Board governance provisions, enhanced policies, practices and procedures regarding FSC's valuation of its investments, increased disclosure of relevant issues, and increased consultation with outside advisors and independent third parties.

***Lowry v. Basile (Violin Memory, Inc. Derivative Litigation)***, No. 4:13-cv-05768 (N.D. Cal.). As counsel for the plaintiff in this shareholder derivative action, KSF brought breach of fiduciary claims derivatively on behalf of Violin Memory, Inc. against certain of its current and former directors and officers for breaches of duties and waste of corporate assets. The action focused on defendants' publication of false and misleading statements concerning the Company's operating results and financial condition and alleged waste of corporate assets by granting outsized compensation to the CEO that was not in line with the performance of the Company. KSF obtained a settlement involving numerous corporate governance reforms, including the formalization of a Disclosure Committee to put effective procedures and protocols in place and designed to ensure that all of the Company's public statements are vetted for accuracy, integrity and completeness. KSF was also able to cause the Company to modify the Charter of the Compensation Committee to provide that the committee will create annual and long-term performance goals for the CEO, whose compensation will be based on whether those performance goals are achieved. Modifications were also caused to be made to the Company's Audit Committee and to the Company's Corporate Governance Guidelines.

***In re Moody's Corporation Shareholder Derivative Litigation***, No. 1:08-CV-9323 (S.D.N.Y.). As Lead Counsel for the demand-excused shareholder derivative actions filed on behalf of Moody's Corporation against current and former executive officers and directors of the company, asserting various claims, including for breach of fiduciary duty, in connection with, inter alia, Moody's credit ratings on various mortgage-backed securities, KSF helped obtain a settlement in which the settling defendants agreed that Moody's had implemented or will adopt, enhance and/or maintain certain governance, internal control, risk management and compliance provisions, designed to identify, monitor and address legal, regulatory and internal compliance issues throughout the business and operations of Moody's Investors Service, Inc., the credit rating agency operating subsidiary of the company.

***In re Morgan Stanley & Co., Inc. Auction Rate Securities Derivative Litigation***, No. 1:08-CV-07587-AKH (S.D.N.Y.). As Lead Counsel for shareholders in this federal derivative action against a prominent broker-dealer to redress harms to the company from its sales and marketing of auction rate securities, KSF obtained substantial corporate governance reforms that promised to avoid a recurrence of similar harms in the future.

*"You had a choice. You could withdraw from the case or you could push it to such an extent that at some point a settlement would be forthcoming. You chose the latter..."*

Hon. Alvin K. Hellerstein,  
United States District Judge

***In re Star Scientific, Inc. Virginia Circuit Court Derivative Litigation***, Lead Case No. CL13-2997-6 (*Circuit Court of the City of Richmond, Virginia*). KSF acted as court appointed Lead Counsel in the consolidated state court shareholder derivative action filed on behalf of Star Scientific, Inc. against certain current and former directors and officers. This action focused on defendants' false statements and misrepresentations concerning the Company's product Anatabloc. Specifically, the action stated that defendants had caused or allowed the Company concealed: (i) private placements and related-party transactions; (ii) government investigations of the Company; and (iii) a December 2013 warning letter from the U.S. Food and Drug Administration. In resolving this matter, KSF obtained sweeping corporate governance changes, including but not limited to, the creation of a new board-level committee to review and oversee the Company's legal, regulatory, compliance, and government affairs functions. KSF also caused the Company to modify the charter of the Audit Committee to strengthen disclosure oversight and risk management. Modifications were also caused to be made to the Company's Compensation Committee. The Company was caused to adopt a set of Corporate Governance Guidelines. A new Governance and Nominating Committee was created and the position of Compliance Officer tasked with oversight and administration of the Company's corporate governance policies was added. Changes were also made to the Company's Corporate Code of Business Conduct and Ethics.

***Weil v. Baker***, No. 08-CA-00787-SS (***In re ArthroCare Corp. Securities Litigation***), No. 08-cv-574-SS) (W.D. Tex.). As Co-Lead Counsel in the consolidated federal derivative action on behalf of ArthroCare Corporation against certain of its officers and directors arising from alleged improprieties in the company's marketing of spine wands, KSF helped obtain a cash settlement of **\$8 million**, along with important corporate governance changes.

***In re ProQuest Co. Shareholder Deriv. Litig.***, No. 2:06-cv-11845-AC-MKM (E.D. Mich.). As Co-Lead Counsel in a federal derivative action filed on behalf of ProQuest (now Voyager Learning Company) against certain of its officers and directors, KSF helped obtain a settlement including important corporate governance changes.

## Consumer Protection Litigation

### SETTLED CASES

***In re: General Motors Corp. Speedometer Products Liability Litigation***, MDL No. 1896, *Co-Lead Counsel*. Appointed co-lead counsel for national class of 4.2 million purchasers of certain GM trucks with defective speedometers. The case was resolved successfully by GM

agreeing to fix defective speedometers for free and to reimburse class members for all past repair costs.

***Rose Goudeau, et. al. v. The Administrators of the Tulane Educational Fund, et. al.***, No. 2004-04758, Sec. 13, Div. J (Civil District Court for the Parish of Orleans), *Class Co-Counsel*. Nationwide class action certified on behalf of near relatives of individuals who donated their bodies to the Tulane Willed Body Program. The complaint alleged that the Tulane Willed Body Program sold the donated bodies and/or body parts to third parties. A settlement of **\$8,300,000** was obtained for the class members.

***Sterling Savings Bank v. Poleline Self-Storage LLC***, No. CV-09-10872 (Idaho Dist. Ct.), *Class Counsel*. In this putative class action, a borrower alleged that the Bank improperly used the 365/360 method of interest calculation on several commercial loans. A settlement of **\$3.5 million** was recovered for bank customers.

## Shareholder M&A Class Action Litigation

### CURRENT CASES

***Helen Moore v. Macquarie Infrastructure and Real Assets, et al. (Cleco Corporation Merger)***, Case No. 251,417, c/q 251,456 and 251,515, Div. "C"  
*Ninth Judicial District Court for the Parish of Rapides*  
*Louisiana Interim Co- Lead Counsel*

***In re MCG Capital Corp. Stockholders Litigation, Consol.***, Case No. 10992-VCN  
*Delaware Court of Chancery*  
*Co-Lead Counsel*

***Miller v. Hawaiian Electric Industries, Inc. (Hawaii Electric Industries, Inc. Merger)***, Civil No. 14-1-2531-12 KTN  
*First Circuit Court, State of Hawaii*  
*Co-Lead Counsel*

***An Nguyen vs. Michael G. Barrett***, C.A. No. 11511-VCG  
*Delaware Court of Chancery*

***In re Omnivision Technologies, Inc. Shareholder Litigation***, Lead Case No. 1-15-cv-280161  
*Superior Court of California, County of Santa Clara*  
*Co-Lead Counsel*

***In re Paramount Gold and Silver Corp. Stockholders Litigation***, Consol. Case No. 10499-VCN  
*Delaware Court of Chancery*  
*Member of Executive Committee*

***Pielago v. Chris W. Caras Jr., et al.***, Case No. BC570144, c/w Case No. BC576929  
Superior Court of the State of California Los Angeles County  
Co-Lead Counsel

***In re Saba Software, Inc. Stockholder Litigation***, Consol. Case No. 10697-VCN  
Delaware Court of Chancery  
Member of Executive Committee

***In re Sigma-Aldrich Corporation Shareholder Litigation***, Case No. 1422-CC09684  
Circuit Court for the 22th Judicial Circuit, Missouri  
Co-Lead Counsel

***Wojno v. FirstMerit Corp., et al.***, Case No. 5:16-cv-00461  
Northern District of Ohio

## SETTLED CASES

***In re Adams Golf Shareholder Litigation***, C.A. No. 7354-VCL (Delaware Court of Chancery 2012). *Chair of Plaintiffs' Executive Committee*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of sporting goods companies. Settlement consisted of additional material disclosures to proxy statements.

***In re BTU International, Inc. Stockholders Litigation***, Consol. C.A. No. 10310-CB (Delaware Court of Chancery 2014). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of electronics and solar goods companies. Settlement consisted of additional material disclosures to proxy statements. First known settlement to pass the exacting Trulia standards articulated by the Court of Chancery.

***In re EnergySolutions, Inc. Shareholder Litigation***, C.A. 8203-VCG (Delaware Court of Chancery 2014). *Plaintiff's Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of nuclear energy related companies worth \$1.1 billion (\$375 million in proposed shareholder consideration). Settlement consisted of \$0.40 price bump which increased the consideration to shareholders by more than 10% or approximately \$38 million. Settlement also included over 20 pages of additional disclosures to proxy statement relating to process and pricing claims.

***Hill v. Cohen, et al. (Summit Financial Services Group, Inc.)***, 2013 CA 017640 (15th Judicial Circuit Court, Florida). *Co-lead counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of a financial services company. Contingent and delayed aspects of the proposed merger consideration, worth several million dollars, were accelerated and paid to shareholders ahead of schedule and settlement involved several pages of additional disclosures were made to the proxy statement.

***In re InSite Vision Inc. Consolidated Shareholder Litigation***, Lead Case No. RG-15774540 (c/w Case No. RG-15777471). *Counsel for Plaintiffs*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of medical companies. Litigation was followed by a public bidding war that resulted in a \$30 million increase in merger compensation.

***In re Medtox Scientific, Inc. Shareholders Litigation***, Court File No. 62-CV-12-5118 (Minnesota District Court 2013). *Plaintiffs' Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of medical technology companies. Settlement consisted of additional material disclosures to proxy statement.

***Heron v. International Rectifier Corporation, et al.***, Case No. BC556078 (Superior Court of the State of California, County of Los Angeles). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of electronics companies. Settlement consisted of additional material disclosures to proxy statements.

***Sachs Investment Group v Sun Healthcare Group, Inc., et al.*** 30-2012-580354-CU-SL-CXC (Superior Court of the State of California 2013). *Plaintiffs' Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of healthcare companies. Settlement consisted of additional material disclosures to proxy statement.

***In re Susser Holdings Corp. Stockholders Litigation***, C.A. 9613-VCG Delaware Court of Chancery 2014). *Co-Lead Counsel*. Class action for breach of fiduciary duties to shareholders relating to a proposed merger of convenience store and gas station companies. Settlement consisted of additional material disclosures to proxy statements regarding hidden value of individual distribution rights in limited partnership.

## Antitrust Litigation

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### CURRENT CASES

***In re National Football League Sunday Ticket Antitrust Litigation***, No. 2:15-mj-02668-BRO-JEM  
*Central District of California*

## Attorneys

### PARTNERS

#### Lewis S. Kahn

Lewis Kahn is a founding partner of KSF and serves as the firm's managing partner. A substantial portion of Mr. Kahn's practice is devoted to representing shareholders in connection with damages suffered as a result of securities fraud and breaches of fiduciary duties.

Mr. Kahn has represented lead and representative plaintiffs in numerous national cases, including *In re Bank of America Corp. Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation*, 09 Civ.580 (DC) (S.D.N.Y.) (**\$62.5 million** cash payment to Bank of America o/b/o Board); *In re Barnes & Noble Stockholder Derivative Litigation*, C.A. No. 4813-VCS (Del. Ch. Ct.) (recovery of **\$29 million** for Barnes & Noble, Inc. in the form of reductions to the principal and interest payable to CEO); and *In re EnergySolutions, Inc. Shareholder Litigation*, C.A. 8203-VCG (Del. Ch. 2014) (\$0.40 price bump which increased the consideration to shareholders by more than 10% or approximately **\$38 million**).

Additionally, Mr. Kahn oversees the firm's securities class action practice, which has been responsible for settlements including *In re Virgin Mobile USA IPO Litigation*, 2:07-cv-05619-SDW-MCA (**\$19.5 million settlement**), *In re Tesco PLC Securities Litigation*, 14 Civ. 8495 (**\$12 million settlement**), *In re BigBand Networks, Inc Securities Litigation*, 3:07-CV-05101-SBA (**\$11 million settlement**), and *In re U.S. Auto Parts Networks, Inc. Securities Litigation*, 2:07-cv-02030-GW-JC (**\$10 million settlement**). Moreover, Mr. Kahn is co-counsel with David Boies in the long-running securities class action against Halliburton, where the firm has twice beaten back [Halliburton's attempt in the United States Supreme Court to eviscerate shareholder rights](#). Mr. Kahn oversees one of the most successful U.S. appellate practices in the securities field.

In addition to securities lawsuits, Mr. Kahn has significant experience with consumer fraud and mass tort class actions. Mr. Kahn has been appointed to various leadership positions in federal class action litigation. Mr. Kahn also manages the firm's portfolio monitoring program for public and private institutional investors.

Mr. Kahn holds a Bachelor's degree from New York University and received a Juris Doctor from Tulane Law School in 1994. He has been a member of the Louisiana State Bar Association

since 1995, and is admitted to practice law before the United States Supreme Court, United States Court of Appeals for the 2nd Circuit, and the United States District Courts for the Eastern, Middle and Western Districts of Louisiana.

#### **Michael A. Swick**

Michael A. Swick is a co-founding partner of KSF and heads the firm's case starting department, overseeing case evaluation and initiation in the firm's securities, shareholder derivative and mergers & acquisitions practice groups. Prior to founding KSF, Mr. Swick had a distinguished career working at several of the nation's premiere class action litigation firms.

Relying on analytical skills honed at Tulane Law School and Columbia University's Graduate program of Arts & Sciences, throughout his career, Mr. Swick has played an important role in investigating large securities frauds and in developing and initiating litigations against the nation's largest corporations. Over his career, Mr. Swick has also participated in the litigation of cases that have resulted in hundreds of millions of dollars in recoveries for aggrieved shareholders and institutional investors.

Mr. Swick also works closely with the firm's institutional investor clients and participates in the management and development of KSF's portfolio monitoring systems.

In addition to his unique educational background, following law school, Mr. Swick also worked on the New York Mercantile Exchange, where he was involved first-hand, in the open-outcry trading of crude oil and natural gas futures and options contracts.

Mr. Swick received a Juris Doctor from Tulane Law School in 1994, and a Masters of Political Philosophy from Columbia University Graduate School of Arts & Sciences in 1989 as well as a joint B.A. in Philosophy and Political Science from State University of New York at Albany in 1988. Mr. Swick was admitted to the State Bar of New York in 1997 and is admitted to practice before the United States District Court for the Southern District of New York, and the United States Supreme Court.

#### **Charles C. Foti, Jr.**

Charles C. Foti, Jr. served as the Attorney General for the state of Louisiana from 2004-2008, after serving for 30 years as one of the most innovative law enforcement officials in the United States as Orleans Parish Criminal Sheriff. Throughout his career, General Foti has remained committed to public service.

As Attorney General for the state of Louisiana, General Foti's achievements include:

- Recovering over \$24 million for Louisiana consumers in consumer fraud matters, \$8 million in anti-trust litigation, \$9.1 million for state employees through Office of Group Benefits, over \$2 million for auto complaints, over \$33 million in Medicaid Fraud.
- Investigating and apprehending numerous contractor fraud criminals in the wake of one of the worst natural disasters in United States history, Hurricane Katrina.
- Doubling the number of arrests for crime against children through the Louisiana Internet Crimes Against Children Task Force.

Prior to serving as Louisiana Attorney General, over the course of a distinguished career spanning decades, General Foti took countless cases to trial. General Foti served as the head of the criminal division of the city of New Orleans Attorney's Office. He served as the police attorney for the city of New Orleans and prosecuted federal cases including prisoner overcrowding cases. He also served as an assistant District Attorney for Orleans Parish. Even early in his career, he tried cases as in house counsel for the nationally-known insurance carrier, Allstate.

In his tenure as Orleans Parish Criminal Sheriff, General Foti oversaw the enormous expansion of the parish jail, growing from 800 prisoners in 1973 to more than 7,000 currently. As the prison expanded, so did the need for education and rehabilitation skills for prisoners. As Sheriff, General Foti started the first reading and GED programs, work release programs, drug treatment programs and the nation's first boot camp at the local level, all to prepare prisoners for a future without crime. Administratively, General Foti managed a multi-million dollar budget and a complex organization of more than 1,400 employees.

General Foti has for many years been an advocate for the elderly. As Sheriff, he and a small army of volunteers provided Thanksgiving meals for senior citizens in the New Orleans area. He started a back-to-work program for senior citizens that helps people over the age of 55 get back into the workforce.

General Foti received his Juris Doctor degree from Loyola University Law School in 1965, after serving his country in the United States Army from 1955 through 1958.

**Kim E. Miller**

Kim E. Miller is a KSF partner who specializes in securities litigation and other complex class action litigation. Ms. Miller also supervises the New York City office of KSF. Prior to joining the firm in 2006, Ms. Miller was a partner at one of the nation's leading plaintiff class action firms. Ms. Miller also spent two years as a securities litigator on the defense side.

*“One of the best lawyers to appear in front of me in a long time...”*

*Hon. Charles R. Breyer,  
United States District Judge  
In Re:ShoreTel, Inc. Sec. Litig.*

Over the course of her career, Ms. Miller has represented many thousands of harmed investors in class actions filed throughout the country. In a recent Order and final judgment in which KSF served as Lead Counsel, *Elgaouni v. Meta Financial Group, Inc.*, 10-4108-MWB (N.D. Iowa) (June 29, 2012) (Bennett, J.), the Federal District Court noted:

"Indeed, I find that this action has been a model of how complex class actions should be conducted. Counsel for the Lead Plaintiff, Kim Miller, and her firm, Kahn Swick & Foti, L.L.C., and [Defense Counsel] showed the utmost professionalism and civility, required very limited court intervention while diligently pursuing their objectives, and sought and obtained a fair and reasonable settlement before incurring substantial costs for discovery and trial preparation, all to the benefit of the Lead Plaintiff, Class Members, and the Defendants....I applaud their skill, expertise, zealousness, judgment, civility, and professionalism in putting the best interests of their respective clients first and not only foremost, but exclusively ahead of their law firms' financial interests. Ms. Miller and [Defense Counsel] and their respective law firms earned my unyielding admiration and respect in this case for the efficient and exceptionally reasonable way in which they found a prompt, fair, and equitable solution to the complex problems their clients faced in this litigation, and they accomplished all of this with virtually no judicial intervention. In sum, my only deeply held regret in this case is that bioscience has not sufficiently advanced to allow the cloning of Ms. Miller and [Defense Counsel] for lead counsel roles in all complex civil class action litigation in the Northern District of Iowa."

At another recent settlement hearing in which KSF served as Lead Counsel, *In re ShoreTel, Inc. Sec. Litig.*, 3:08-cv-00271-CRB (N.D. Cal.), the Federal District Court (Breyer, J.) noted,

with respect to Ms. Miller, "You're one of the best lawyers to appear in front of me in a long time...."

In addition to litigating many securities fraud and IPO-related securities cases, Ms. Miller has worked extensively on cases involving allegations of improper directed brokerage arrangements and excessive charges in mutual fund cases brought pursuant to the 1934 Securities Exchange Act and/or the Investment Company Act of 1940. She was also involved in the mutual funds late trading/market timing litigation. Ms. Miller's class action trial experience includes participating as a trial team member in a four-month jury trial involving fraud-based claims the resulted in a jury verdict in favor of Plaintiffs and the Class.

In the course of her career, Ms. Miller has been involved in a variety of cases in which large settlements were reached, including:

- **Settlement value of \$127.5 million.** *Spahn v. Edward D. Jones & Co., L.P.*, 04-cv-00086-HEA (E.D. Mo.)
- **\$110 Million Recovery.** *In re StarLink Corn Prods. Liab. Litig.*, MDL No. 1403 (N.D. Ill.)
- **\$100 Million Recovery.** *In re American Express Financial Advisors, Inc. Sec. Litig.*, 1:04-cv-01773-DAB (S.D.N.Y.)

Ms. Miller is KSF's lead litigator in its securities class action practice. While at KSF, Ms. Miller has supervised all aspects of the following successful litigations, among many others: *In re Virgin Mobile USA IPO Litig.*, 2:07-cv-05619-SDW-MCA (D.N.J.) (**\$19.5 million settlement**); *In re BigBand Networks, Inc. Sec. Litig.*, 3:07-CV-05101-SBA (N.D. Cal.) (**\$11 million settlement**); and *In re U.S. Auto Parts Networks, Inc. Sec. Litig.*, 2:07-cv-02030-GW-JC (C.D. Cal.) (**\$10 million settlement**).

Ms. Miller is also currently the lead litigator for the firm in its role as Special Counsel for Plaintiffs in *Erica P. John Fund, Inc. v. Halliburton Company, et al.*, 3:02-CV-1152-M (N.D. Tex.).

After graduating with honors from Stanford University in 1992 with a double major in English and Psychology, Ms. Miller earned her Juris Doctor degree from Cornell Law School, *cum laude*, in 1995. While at Cornell, Ms. Miller was the Co-Chair of the Women's Law Symposium, Bench Brief Editor of the Moot Court Board, and a member of the Board of Editors of the Cornell Journal of Law & Public Policy. She was also a judicial intern for The Honorable David V. Kenyon in the Central District of California. Her *pro bono* work includes representing families

of 9/11 victims at *In re September 11 Victim Compensation Fund* hearings. Ms. Miller has also served as a fundraiser for the New York Legal Aid Society. She is admitted to practice in the States of California and New York and before the United States District Courts for the Southern and Eastern Districts of New York and the Northern, Southern, and Central Districts of California. She is also admitted to the United States Courts of Appeal for the Second, Fifth, Ninth and Eleventh Circuits.

#### **Ramzi Abadou**

Mr. Abadou is a KSF partner who oversees KSF's San Francisco office. He specializes in securities litigation and has been responsible for securing securities recoveries exceeding \$1 billion for defrauded investors. Before joining KSF, Mr. Abadou was the managing partner of an east coast-based plaintiff class action firm's San Francisco office and a partner at a prominent plaintiff class action firm in San Diego.

He is responsible for numerous precedent-setting decisions at all stages of securities litigation, including *In re HP Secs. Litig.*, 2013 U.S. Dist. LEXIS 168292 (N.D. Cal. 2013); *In re MGM Mirage Sec. Litig.*, 2013 U.S. Dist. LEXIS 139356 (D. Nev. 2013); *Dobina v. Weatherford Int'l*, 909 F. Supp. 2d 228 (S.D.N.Y. 2012); *Minneapolis Firefighters' Relief Ass'n v. Medtronic, Inc.*, 278 F.R.D. 454 (D. Minn. 2011); *In re SemGroup Energy Partners, L.P.*, 729 F. Supp. 2d 1276 (N.D. Okla. 2010); *Borochoff v. Glaxosmithkline PLC*, 246 F.R.D. 201 (S.D.N.Y. 2007); and *In re Cardinal Health, Inc. Sec. Litig.*, 226 F.R.D. 298 (S.D. Ohio 2005).

*"[Noting] the quality of work and results achieved for the settlement class."*

*Hon. Chief Judge George H. King,  
United States District Judge  
In re CytRx Corp. Sec. Litig.*

In 2010, Mr. Abadou was named one of the Daily Journal's Top 20 Lawyers in California under 40 and, since 2012, has been selected for inclusion in either Super Lawyers or Benchmark Litigation as a leading securities litigation practitioner. He has lectured on securities litigation at Stanford University Law School, the University of San Diego School of Law and Boston College Law School and is a faculty member for the Practicing Law Institute's Advanced Securities Litigation Workshops.

Over the years, federal courts have also commended Mr. Abadou for his handling of securities matters. In *Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al.* Case No. 0:08-cv-06324-PAM-AJB (D. Minn.) (November 8, 2012), the Hon. Chief Magistrate Judge Arthur Boylan stated:

"I've been a judge, as you know, either in state or federal court, for over 26 years, and you get a feel for [] the quality of representation before you. But more than that, the quality of the people, personally and professionally. And [] the gentlemen who are here in the courtroom, [] Ramzi [Abadou], exhibited such professionalism and such hard work and such good faith in pursuing this."

Similarly, in *Tripp, et al. v. IndyMac Bancorp, Inc., et al.*, Case No. 2L07-CV-1635-GW (VBK) (January 28, 2013), the Hon. George H. Wu stated in reference to Mr. Abadou that:

"Counsel actively, thoroughly and impressively litigated a complex subject matter (both factually and legally), all the while confronting formidable defense counsel. Obviously, the plaintiff class did not face a simple path if it continued with this litigation into further discovery, summary judgment motions and, eventually, trials and, potentially appeals. Counsel has obtained a not insubstantial settlement figure as the result of their hard, and capable, work."

Mr. Abadou attended Pitzer College where he earned a B.A. in Pan-African Studies in 1994 and later obtained an M.A. in political science from Columbia University in 1997. He received his J.D. from Boston College Law School in 2002.

Mr. Abadou is a member of the San Francisco Bar Association, the Federal Bar Association for the Northern District of California and is a pro bono panelist with Federal Bar Association Justice & Diversity Project. He is admitted to the California Bar and is licensed to practice in all California state courts, as well as all of the United States District Courts in California and the United States Court of Appeals for the Ninth Circuit. Additionally, Mr. Abadou is a Lecturer at U.C. Berkeley Law School.

#### **Melinda A. Nicholson**

Melinda A. Nicholson, a partner in KSF's Louisiana office, focuses on shareholder derivative and class action litigation, representing institutional and individual shareholders in corporate governance litigation and securities fraud actions, and antitrust litigation, representing individuals and businesses that have been harmed by anticompetitive behavior of those violating federal and/or state antitrust laws. Prior to joining the firm in 2010, Ms. Nicholson worked for defense firms in New York, handling complex commercial litigations and regulatory investigations involving a variety of legal issues, including fiduciary obligations, securities violations, contractual breaches, antitrust and insurance coverage.

Ms. Nicholson is actively involved in cases pending before various federal and state courts across the United States, including:

- *Dougherty v. Esperion Therapeutics, Inc., et al.*, No. 16-10089 (Eastern District of Michigan), Co-Lead Counsel; and
- *Orrego v. Lefkowsky (Groupon, Inc. Derivative Litigation)*, 12 CH 12420 (Ill. Cir. Ct., Cook Cnty., Ch. Div.), Co-Lead Counsel.

Since joining KSF, Ms. Nicholson has also been involved in a number of cases which ultimately resulted in successful settlements, including:

- *In re Bank of America Corporation Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09-MD-2058 (S.D.N.Y.) (Court-approved settlement including **\$62.5 million cash recovery** and substantial corporate governance changes);
- *In re Barnes & Noble Stockholder Derivative Litigation*, C.A. No. 4813-VCS (Del. Ch. Ct.) (settlement resulted in **\$29 million recovery** for the company);
- *In re FAB Universal Corporation Shareholder Derivative Lit.*, Lead Case No. 14-cv-687 (D.N.Y.) (settlement involving broad corporate governance reforms);
- *In re Fifth Street Finance Corp. Stockholder Litigation*, Consolidated C.A. No. 12157-VCG (Del. Ch.) (settlement resulted in governance enhancements and advisory fee reductions worth an estimated **\$30 million**).
- *Lowry v. Basile (Violin Memory, Inc. Derivative Litigation)*, No. 4:13-cv-05768 (N.D. Cal.) (broad corporate governance reform settlement);
- *In re Moody's Corporation Shareholder Derivative Litigation*, 1:08-CV-9323 (S.D.N.Y.) (settlement involving comprehensive corporate governance reforms); and
- *In re Star Scientific, Inc. Virginia Circuit Court Derivative Litigation*, Lead Case No. CL13-2997-6 (Circuit Court of the City of Richmond, Virginia) (settlement involving sweeping corporate governance reforms).

Ms. Nicholson completed a joint B.A./J.D. program at Tulane University, receiving a B.A. in Political Science, with a concentration in American Politics and Policies and a minor in Economics, from Tulane in 2003 and a J.D. from Tulane in 2005. While at Tulane Law School,

Ms. Nicholson served as a Notes and Comments Managing Editor for the *Tulane Law Review*, which published her comment, *The Constitutional Right to Self-Representation: Proceeding Pro Se and the Requisite Scope of Inquiry When Waiving Right to Counsel*, 79 TUL. L. REV. 755 (2005). She has received numerous awards, including the Dean's Medal for attaining the highest grade point average during the third year, the George Dewey Nelson Memorial Award for attaining the highest grade point average in common law subjects throughout the three years of law study, and Order of the Coif. She graduated from the law school summa cum laude and ranked second in her class.

Ms. Nicholson is admitted to practice in Louisiana and New York, and before the United States District Courts for the Eastern District of Louisiana, Western District of Louisiana, Southern District of New York, Eastern District of New York, District of Colorado, and Eastern District of Michigan.

#### **Michael J. Palestina**

Mr. Palestina practices securities and other complex class action litigation. He focuses his practice on securities litigation involving mergers and acquisitions. In his capacity as a KSF partner, Mr. Palestina currently serves as lead, co-lead, or executive committee counsel in several ongoing M&A cases and has previously served in the same capacity in several successfully resolved M&A cases.

For example, Mr. Palestina took part in the successful resolution of *In re EnergySolutions, Inc. Shareholder Litigation*, Consol. C.A. 8203-YCG (Del. Ch. 2013), a securities class action involving claims for breach of fiduciary duties to shareholders relating to a proposed merger of nuclear energy related companies worth \$1.1 billion (\$375 million in proposed shareholder consideration), where there was a \$0.40 price increase, which increased the consideration to shareholders by more than 10%, or approximately \$38 million, and over 20 pages of additional disclosures to the proxy statement relating to process and pricing claims. Mr. Palestina similarly had an active role in the successful resolution of *Hill v. Cohen, et al. (Summit Financial Services Group, Inc.)*, 2013 CA 017640 (15th Jud. Cir. Ct., Fla.), another securities class action, where certain contingent and delayed aspects of the proposed merger consideration, worth several million dollars, were accelerated and paid to shareholders ahead of schedule and several pages of additional disclosures were made to the proxy statement.

Prior to joining KSF, Mr. Palestina clerked for the honorable Catherine D. Kimball, former Chief Justice of the Louisiana Supreme Court, and practiced law at a well-respected New Orleans litigation firm. While there, Mr. Palestina gained valuable trial experience, focused on complex

commercial litigation, and represented a number of judges and his fellow lawyers regarding ethical issues before the State's judicial and attorney disciplinary systems.

Mr. Palestina graduated from Tulane University in 2005 with a Bachelor of Arts in Political Science. He earned his J.D. in 2008 from Loyola University of New Orleans College of Law, where he graduated magna cum laude, was a William L. Crowe, Sr. Scholar, and was inducted into the Order of Barristers. While in law school, Mr. Palestina was a member of the Loyola Law Review and Loyola Moot Court, was the first place oralist in the Loyola Intramural Moot Court Competition, and represented Loyola at the Stetson International Environmental Moot Court Competition (where he was the fourth place oralist overall) and on the National Team at the New York Bar Association's National Moot Court Competition (where his team advanced to the finals). Mr. Palestina also served as a research assistant to the Leon Sarpy Professor of Law Professor Kathryn Venturatos Lorio, whom he assisted in a revision of her Westlaw treatise on Louisiana Succession and Donations, and as a Judicial Intern to Magistrate Joseph C. Wilkinson, Jr. of the United States Federal District Court for the Eastern District of Louisiana. Mr. Palestina's Law Review article, *Of Registry: Louisiana's Revised Public Records Doctrine*, was published in the Loyola Law Review.

Mr. Palestina is licensed to practice in Louisiana state and federal courts.

## OF COUNSEL

### **Andrew J. Gibson**

Mr. Gibson is of counsel to KSF. Andrew focuses his practice on merger and acquisition litigation, shareholder derivative actions, and other complex class action litigation. Mr. Gibson is also responsible for the formation and management of the firm's Business Loss Claim division, wherein he represents hundreds of businesses and non-profit organizations in claims under the Deepwater Horizon Economic and Property Damage Settlement. He also has broad experience representing clients in commercial and casualty litigation in Louisiana state and federal courts and has obtained a consistently successful record for his clients.

Mr. Gibson received his J.D. from Loyola University New Orleans College of Law in 2004. While in school, he served as a Teaching Assistant and Staff member for the Moot Court program, was twice elected to the Executive Board of the Student Bar Association, and clerked at a nationally recognized law firm. During the summer of 2003, he studied Latin American civil law systems and international arbitration at the University of Costa Rica School of Law in San Jose, Costa Rica. He earned a Bachelor of Science degree in Business with a concentration in Pre-

Law from the E.J. Ourso College of Business at Louisiana State University in 1997 and went on to work as a manager in the marketing department of a regional telecommunications company.

Mr. Gibson is a proud veteran of the United States Marine Corps where he served in the infantry as a Non-Commissioned Officer.

Mr. Gibson is very active in the local business community and has served on the Board of Directors and as Chairman of the Governmental Affairs Committee for the Saint Tammany West Chamber of Commerce, as a member of the St. Tammany Parish Home Rule Charter Committee (2014-15) and as a member of the St. Tammany Parish Inspector General Task Force (2013-2014).

### **Neil Rothstein**

Neil Rothstein has spent more than twenty years prosecuting class action litigation on behalf of shareholders and consumers. He is a graduate of Case Western Reserve University (B.A. 1986) and the Temple University School of Law (J.D. 1989).

Mr. Rothstein has extensive experience in all plaintiff-side phases of securities, antitrust, consumer, and shareholder derivative litigation. He has always believed that the clients' needs come first. In that light, he focuses on helping to lead Kahn Swick & Foti, LLC in client development and communications, client education and client participation in litigation in which they have been financially and otherwise injured.

## **ASSOCIATES**

### **Alexander L. Burns**

Alexander L. Burns is an associate in KSF's Louisiana office. Mr. Burns graduated with honors from the University of Southern Mississippi in 2000 with a B.S.B.A. in accounting. In 2001, he earned his Master's In Professional Accountancy. He has been a licensed CPA since 2003. From 2001 to 2004 Mr. Burns was employed by Ernst & Young, L.L.P., auditing the financial statements of both privately held and publicly traded entities spanning a variety of industries including casino gaming, health care, insurance, and energy. Following the Enron scandal of the early 2000s, and anticipating the need for attorneys with a strong understanding of accounting issues, Mr. Burns left E&Y to attend law school in 2004.

Mr. Burns received his J.D. and B.C.L. from Louisiana State University's Paul M. Hebert Law Center in 2007. While at LSU, he was awarded the CALI Award for Academic Excellence in

Contracts, served as Treasurer of the Trial Advocacy Board, and has competed on various interschool mock trial teams. Mr. Burns has since practiced civil litigation, representing his clients' interests in contentious matters in both state and federal courts. All the while, Burns has remained active as an attorney coach and mentor to law students in LSU's Trial Advocacy Program.

Mr. Burns is a licensed Certified Public Accountant, and is admitted to practice in Louisiana, the related Federal District Courts, and the United States Fifth Circuit Court of Appeals.

#### **Bruce W. Dona**

Bruce Dona, an associate in KSF's New York office, focuses on federal securities class action, shareholder M&A litigation, antitrust, and shareholder derivative litigation. He is actively involved in cases pending before various federal and state courts across the United States.

Mr. Dona received his J.D. from George Washington University Law School in 2009. During the summer of 2007, he studied international trade law and comparative mergers and acquisitions in Rio de Janeiro, Brazil. He received his B.A. in 2004 with a double major in International Affairs and Foreign Languages (Spanish and French) from Lewis and Clark College. He is fluent in Spanish, French and Portuguese.

Mr. Dona is admitted to practice in New York and is a member of the New York State Bar Association.

#### **J. Ryan Lopatka**

J. Ryan Lopatka, an associate in KSF's Louisiana office, focuses on federal securities class action litigation. He is involved in cases pending before federal courts across the United States.

Mr. Lopatka received his J.D. from Tulane University Law School in 2010. During the summer of 2009, he studied international capital markets and securities law at Cambridge University and Queen Mary School of Law in London, England. He received his B.A. with honors in history from Loyola University New Orleans in 2004.

Mr. Lopatka is admitted to practice in Louisiana and Illinois and is a member of the Louisiana and Illinois State Bar Associations and Chicago Bar Association.

Publications:

- Author, "The Problem of Circumventing the Labor Management Reporting and Disclosure Act by Using the Ancillary Business Model," Hot Topics in the Legal Profession - 2010, Quid Pro Law Books (2010).
- Contributing Researcher, NLRA Rights in the Nonunion Workplace, BNA Books (2010).

#### **Michael R. Robinson**

Michael R. Robinson, an associate in KSF's Louisiana office, focuses on federal securities class actions as well as shareholder derivative litigation. He is actively involved in cases pending before various federal and state courts across the United States.

Mr. Robinson received his B.A. in Political Science from the University of California at Irvine in 1995, and J.D. With Distinction from The University of Iowa College of Law in 2002. During his time in law school, Mr. Robinson served as Managing Editor on the school's Journal of Transnational Law & Contemporary Problems, and in the summer of 2000, he studied international corporate law at the University of Heidelberg in Germany. After law school, Mr. Robinson served as a Law Clerk to the Honorable Charles R. Wolle, a federal judge on the United States District Court for the Southern District of Iowa.

Following his judicial clerkship, Mr. Robinson practiced corporate governance litigation in one of Delaware's largest defense firms, and securities arbitration at a prominent New Orleans firm. In 2014, Mr. Robinson earned an LLM degree in Tax from Boston University's School of Law.

Mr. Robinson is admitted to practice in Louisiana, Delaware, and Illinois, and is a member of the Louisiana and Delaware State Bar Associations as well as the Federal and New Orleans Bar Associations.

#### **Joseph Scott St. John**

Scott St. John is an associate in KSF's Louisiana office, where his practice focuses on complex litigation. He has extensive experience with technology-related matters in the pharmaceutical, medical device, industrial process, consumer electronics, and web services spaces.

Mr. St. John has represented both plaintiffs and defendants in a variety of state and federal courts, and before the U.S. International Trade Commission. He has also managed administrative proceedings in the People's Republic of China.

Before relocating to New Orleans, Mr. St. John practiced in the Washington, DC, offices of Covington & Burling LLP and Kirkland & Ellis LLP. He served as a law clerk to the Hon. Arthur J. Gajarsa, United States Court of Appeals for the Federal Circuit.

Mr. St. John received his J.D., with honors, from George Washington University Law School in 2008. He received his B.S. with Merit in Systems Engineering from the U.S. Naval Academy in 2003.

Mr. St. John is admitted to practice in Mississippi (2008), the District of Columbia (2009, inactive), and Louisiana (2015), as well as before the U.S. Court of Appeals for the Federal Circuit. He was voted a SuperLawyers Rising Star for 2015.

#### **Christopher Tillotson**

Christopher Tillotson, an associate in KSF's Louisiana office, focuses on shareholder M&A litigation and federal securities class action litigation. He is involved in cases pending before courts across the United States.

Mr. Tillotson received his J.D./M.B.A. in 2014 from Washington University in St. Louis, where he focused his studies on the interplay between securities regulations, advanced finance, accounting, and business acquisitions. During his time in law school, Mr. Tillotson served as an associate editor on the Washington University Journal of Law and Policy and earned an Honor Scholar Award for his academic performance. He received his B.A. in Finance from Tulane University in 2009.

Prior to joining KSF, Mr. Tillotson gained valuable experience serving as outside general counsel for several companies headquartered in New York. He also served as an in-house compliance analyst and legal intern for one of the nation's leading healthcare companies.

Mr. Tillotson is licensed to practice in Louisiana and New York.

#### **Matthew P. Woodard**

Matthew Woodard, an associate in KSF's Louisiana office, focuses on federal securities class action litigation. He is involved in cases pending before federal courts across the United States.

Mr. Woodard received his J.D. from Tulane University School of Law in 2012, where he served as the Senior Managing Editor for the Tulane Journal of Law & Sexuality: Volume 21. He received his B.A. in English, cum laude with honors, from The University of the South: Sewanee in 2009.

Mr. Woodard is admitted to practice in Louisiana and is a member of the Louisiana State Bar Association.

# **Exhibit 5**



## **KAPLAN FOX & KILSHEIMER LLP**

# **FIRM PROFILE**

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*SAN FRANCISCO, CA*

*CHICAGO, IL*

*MORRISTOWN, NJ*

## History of Kaplan Fox & Kilsheimer LLP

Leo Kaplan and James Kilsheimer founded “Kaplan & Kilsheimer” in 1954, making the firm one of the most established litigation practices in the country. James Kilsheimer was a celebrated federal prosecutor in the late 1940s and early 1950s in New York who not only successfully tried some of the highest profile cases in the country, but also handled the U.S. Attorney’s Office’s criminal appeals to the Second Circuit.

Now known as “Kaplan Fox & Kilsheimer LLP,” the early commitment to high-stakes litigation continues to define the firm to the present day. In 2009, Portfolio Media’s *Law360* ranked Kaplan Fox’s securities litigation practice as one of the top 5 in the country (plaintiff side), and again in July 2014, the Legal 500 ranked Kaplan Fox as one of the top eight plaintiff’s firms for securities litigation. In March 2013, the *National Law Journal* included Kaplan Fox on its list of the top 10 “hot” litigation boutiques, a list that includes both plaintiff and defense firms. In 2014, 2015 and 2016, more than half of the firm’s partners – including attorneys on both coasts – were rated “Super Lawyers.”

The firm has three primary litigation practice areas (antitrust, securities, and consumer protection), and the firm is a leader in all three. To date, we have recovered more than **\$5 billion** for our clients and classes. In addition, the firm has expanded its consumer protection practice to include data privacy litigation, and few other firms can match Kaplan Fox’s recent leadership in this rapidly emerging field. The following describes Kaplan Fox’s major practice areas, its most significant recoveries and its attorneys.

## Securities Litigation

Over the past 35 years, Kaplan Fox has been a leader in prosecuting corporate and securities fraud —ranging from cases concerning accounting fraud to those involving complicated and complex financial instruments. Since the passage of the Private Securities Litigation Reform Act in 1995, Kaplan Fox has emerged as one of the foremost securities litigation firms representing institutional investors of all sizes, including many of the world's largest public pension funds.

Kaplan Fox's selection by Portfolio Media's Law360 as one of the five top securities litigation firms (plaintiff side) for 2009 was based, in part, on the representation of public pension funds in high profile and complex securities class actions, including *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*; *In re Bank of America Corp. Sec., ERISA & Derivative Litigation*; *In re Fannie Mae Securities Litigation*; and *In re Ambac Financial Group, Inc. Securities Litigation*. Some of the firm's most significant securities recoveries are listed below:

**In re Bank of America Corp. Securities, Derivative, and ERISA Litigation**, MDL No. 2058 (S.D.N.Y.) (\$2.425 billion recovered)

**In re Merrill Lynch & Co., Inc. Securities Litigation**, Master File No. 07-CV-9633 (JSR) (S.D.N.Y.) (\$475 million recovered)

**In re 3Com Securities Litigation**, No. C-97-21083-EAI (N.D. Ca) (\$259 million recovered)

**In re Fannie Mae 2008 Securities Litigation**, No. 08-cv-7831 (PAC) (S.D.N.Y.) (\$170 million recovered)

**In re MicroStrategy Securities Litigation**, No. CV-00-473-A (E.D. Va.) (\$155 million recovered)

**AOL Time Warner Cases I & II (Opt-out)** Nos. 4322 & 4325 (Cal. State Court, LA County) (\$140 million recovered)

**In re Informix Securities Litigation**, C-97-129-CRB (N.D. Cal.)  
(\$136.5 million recovered)

**In re Xcel Energy, Inc. Securities Litigation**, Master File No. 02-CV-2677-DSD (D. Minn.) (\$80 million recovered)

**In re Elan Corporation Securities Litigation**, No. 02-CV-0865-RMB (S.D.N.Y.) (\$75 million recovered)

**In re Sequenom, Inc. Securities Litigation** No. 09-cv-921 (S.D. Cal.) (\$70 million recovered)

**Barry Van Roden, et al. v. Genzyme Corp., et al.**, No. 03-CV-4014-LLS (S.D.N.Y.) (\$64 million recovered)

## Antitrust Litigation

Kaplan Fox has been at the forefront of significant private antitrust actions, and we have been appointed by courts as lead counsel or members of an executive committee for plaintiffs in some of the largest antitrust cases throughout the United States. This commitment to leadership in the antitrust field goes back to at least 1967, when firm co-founder Leo Kaplan was appointed by the Southern District of New York to oversee the distribution of all ASCAP royalties under the 1950 antitrust consent decree in **United States v. American Society of Composers, Authors and Publishers**, 41-CV-1395 (SDNY), a role he held for 28 years until his death in 1995. To this day, ASCAP awards the “Leo Kaplan Award” to an outstanding young composer in honor of Leo’s 28 years of service to ASCAP.

Members of the firm have also argued before federal Courts of Appeals some of the most significant decisions in the antitrust field in recent years. For example, Robert Kaplan argued the appeal in **In re Flat Glass Antitrust Litigation**, 385 F. 3d 350 (3d Cir. 2004), and Greg Arenson argued the appeal in **In re High Fructose Corn Syrup Antitrust Litigation**, 295 F. 3d 651 (7th Cir. 2002). In a relatively recent survey of defense counsel, in-house attorneys, and individuals involved in the civil justice reform movement, both were named among the 75 best plaintiffs’ lawyers in the country based on their expertise and influence.

Over the years, Kaplan Fox has recovered over **\$2 billion** for our clients in antitrust cases. Some of the larger antitrust recoveries include:

**In re Air Cargo Shipping Services Antitrust Litigation**, MDL 1775 (E.D.N.Y.) (settled during trial preparation, for total settlement of more than \$1.25 billion)

**In re Neurontin Antitrust Litigation**, MDL No. 1479, Master File No. 02-1390 (D.N.J.) (\$190 million recovered)

**In re High Fructose Corn Syrup Antitrust Litigation**, MDL No. 1087, Master File No. 95-1477 (C.D. Ill.) (\$531 million recovered)

**In re Brand Name Prescription Drugs Antitrust Litigation**, MDL 997 (N.D. Ill.) (\$720 plus million recovered)

**In re Infant Formula Antitrust Litigation**, MDL 878 (N.D.Fla.) (\$126 million recovered)

**In re Flat Glass Antitrust Litigation**, MDL 1200 (W.D. Pa.) (\$122 plus million recovered)

**In re Hydrogen Peroxide Antitrust Litigation**, MDL 1682 (E.D. Pa.) (\$97 million recovered)

**In re Plastics Additives Antitrust Litigation**, 03-CV-1898 (E.D. Pa.) (\$46.8 million recovered)

**In re Medical X-Ray Film Antitrust Litigation**, CV 93-5904 (E.D.N.Y.) (\$39.6 million recovered)

**In re NBR Antitrust Litigation**, MDL 1684 (E.D. Pa.) (\$34.3 million recovered)

## Consumer Protection and Data Privacy Litigation

The consumer protection practice is headquartered in Kaplan Fox's San Francisco office, which opened in 2000, and is led by Laurence King, an experienced trial lawyer and former prosecutor. Mr. King also recently served as a Vice-Chair, and then Co-Chair, of the American Association for Justice's Class Action Litigation Group.

Mr. King and our other effective and experienced consumer protection litigators regularly champion the interests of consumers under a variety of state and federal consumer protection laws. Most frequently, these cases are brought as class actions, though under certain circumstances an individual action may be appropriate.

Kaplan Fox's consumer protection attorneys have represented victims of a broad array of misconduct in the manufacturing, testing, marketing, and sale of a variety of products and services and have regularly been appointed as lead or co-lead counsel or as a member of a committee of plaintiffs' counsel in consumer protection actions by courts throughout the nation. Among our significant achievements are highly recognized cases including **In re Baycol Products Litigation**, MDL 1431-MJD/JGL (D. Minn.) (victims have recovered \$350 million recovered to date); **In re Providian Financial Corp. Credit Card Terms Litigation**, MDL No. 1301-WY (E.D. Pa.) (\$105 million recovered); **In re Thomas and Friends Wooden Railway Toys Litig.**, No. 07-cv-3514 (N.D. Ill.) (\$30 million settlement obtained for purchasers of recalled "Thomas Train" toys painted with lead paint); **In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation**, No. 4:09-md-2086 (W.D. Mo.) (settlements obtained where consumers will receive substantially in excess of actual damages and significant injunctive relief); **Berry v. Mega Brands Inc.**, No. 08-CV-1750 (D.N.J.) (class-wide

settlement obtained where consumers will receive full refunds for defective products) and **David Wolf, et al. v. Red Bull GmbH, et al.**, No. 1:13-cv-08008 (S.D.N.Y.) (\$13 million settlement fund obtained for purchasers of Red Bull energy drink).

Data privacy is a fairly new area of law and broadly encompasses two scenarios. In a data breach case, a defendant has lawful custody of data, but fails to safeguard it or use it in an appropriate manner. In a tracking case, the defendant intercepts or otherwise gathers digital data to which it is not entitled in the first place.

Kaplan Fox is an emerging leader in both types of data privacy litigation. For example, Laurence King filed and successfully prosecuted one of very first online data breach cases, **Syran v. LexisNexis Group**, No. 05-cv-0909 (S.D. Cal.), and was court-appointed liaison counsel in a recently successfully concluded data breach case against LinkedIn. See **In re: LinkedIn User Privacy Litigation**, 12-cv-3088-EJD (N.D. Cal.) (Davila, J.). The firm is also leading a data privacy case against Universal Property & Casualty Insurance Company related to the public exposure of sensitive customer data. See **Rodriguez v. Universal Property & Cas. Ins. Co.**, 16-cv-60442-JK (S.D. Fla.) (motion to dismiss denied Aug. 19, 2016). The firm is also an industry leader in the even newer field of email and internet tracking litigation. Current cases include **In re: Facebook Internet Tracking Litigation**, 5:12-md-02314-EJD (N.D. Cal.) (Davila, J.), and a Kaplan Fox attorney, David Straite, was one of two attorneys to argue on behalf of the plaintiffs at oral arguments on Facebook's Motion to Dismiss (decision is pending); see also **In re: Google Inc. Cookie Placement Consumer Privacy Litig.**, 12-MD-2358-SLR CD. Del.) (Kaplan Fox appointed to plaintiffs' steering committee). In addition, Kaplan Fox was appointed Co-Lead Class Counsel in a digital privacy class

action against Yahoo!, Inc., related to Yahoo's alleged practice of scanning emails for content, which was recently settled, pending court approval. See **In re: Yahoo Mail Litigation**, 5:13-cv-04980-LHK (N.D. Cal.)

## **ATTORNEY BIOGRAPHIES**

### **PARTNERS**

**ROBERT N. KAPLAN** is widely recognized as a leading antitrust and securities litigator and has led the prosecution of numerous antitrust and securities fraud actions, recovering billions of dollars for the victims of corporate wrongdoing. He was listed by defense and corporate counsel as one of the top 75 plaintiffs' attorneys in the United States for all disciplines. Mr. Kaplan was listed as one of the top five attorneys for securities litigation. He was also recognized by Legal 500 as one of the top securities litigators in the United States for 2011, 2012, 2013, 2014, and 2015, and was listed as one of the leading antitrust attorneys in the country for 2015. Mr. Kaplan was recognized as Super Lawyer in the New York Metro Area. He was lead counsel for CalPERS in *AOL Time Warner Cases I & II* (Ca. Sup. Ct., L.A. Cty.), and was a lead in *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, *In re Escala Securities Litigation* and *In re Bank of America Corp. Securities Litigation*, in which a settlement in the amount of \$2.425 billion and corporate governance changes was approved by the Court.

In the antitrust arena, he has been a lead counsel in many significant actions. He is a lead counsel in *In re Air Cargo Antitrust Litigation* (more than \$1.25 billion in settlements) and was recently appointed by Courts as lead counsel in the *DIPF Antitrust Litigation*, *In re Cast Iron Soil Pipe and Fittings Antitrust Litigation*, and *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*.

He also represents clients in private antitrust actions, including Affiliated Foods, Inc., Associated Grocers of New England, Inc., the McLane Company, Inc., Giant Eagle, Inc., North Central Distributors, LLC, Cash-Wa Distributing Co. of Kearney, Inc., URM Stores, Inc., Western Family Foods, Inc., and Associated Food Stores, Inc., among others, in individual cases against Tri-Union Seafoods, LLC, d/b/a Chicken of the Sea, King Oscar, Inc., Bumble Bee Foods, LLC f/k/a Bumble Bee Seafoods, LLC, and StarKist Co., in *In re Packaged Seafood Products Antitrust Litigation*, MDL No. 2670 (S.D. Cal.).

He previously served as lead counsel or member of the Executive Committee in numerous plaintiff treble damage actions including *In re Neurontin Antitrust Litigation*, MDL No. 1479, Master File No. 02-1390 (D.N.J.) (\$190 million recovered); *In re High Fructose Corn Syrup Antitrust Litigation*, MDL No. 1087, Master File No. 95-1477 (C.D. Ill.) (\$531 million recovered); *In re Brand Name Prescription Drugs Antitrust Litigation*, MDL 997 (N.D. Ill.) (\$720 plus million recovered); *In re Infant Formula Antitrust Litigation*, MDL 878 (N.D. Fla.)(\$126 million recovered); *In re Flat Glass Antitrust Litigation*, MDL 1200 (W.O. Pa.) (\$122 plus million recovered) (Mr. Kaplan successfully argued an appeal before the U.S. Court of Appeals for the Third Circuit, which issued a ground-breaking and often-cited summary judgment opinion. *In re Flat Glass Antitrust Litigation*, 191 F.R.D. 472, 476 n. 7 (W.D.Pa.1999)); *In re Hydrogen Peroxide Antitrust Litigation*, MDL 1682 (E.D. Pa.)(\$97 million recovered); *In re Plastics Additives Antitrust Litigation*, 03-CV-1898 (E.D.Pa.) (\$46.8 million recovered); *In re Medical X-Ray Film Antitrust Litigation*, CV 93-5904 (E.D.N.Y.) (\$39.6 million recovered); and *In re NBR Antitrust Litigation*, MDL 1684 (E.D. Pa.) (\$34.3 million recovered).

Mr. Kaplan is also representing financial institutions across the country in data breach cases against Home Depot and is a member of the Plaintiffs' Steering Committee.

Mr. Kaplan was a trial attorney with the Antitrust Division of the U.S. Department of Justice. There, he litigated civil and criminal actions. He also served as law clerk to the Hon. Sylvester J. Ryan, then chief judge of the U.S. District Court for the Southern District of New York and served as an acting judge of the City Court for the City of Rye, N.Y.

In addition to his litigation practice, he has also been active in bar and legal committees. For more than fifteen years, he has been a member of what is now known as the Eastern District of New York's Courts Committee on Civil Litigation.

Mr. Kaplan has also been actively involved in the Federal Bar Council, an organization of judges and attorneys in the Second circuit and is a member of the Program and Winter Planning Committees. For the Program Committee, in 2013, he organized a class action program. Recently, in April of 2015, he organized a program on Antitrust Cartels which was moderated by Hon. Lewis Kaplan and included as panelists

the Assistant Chief of the New York office of the Antitrust Division. In 2013, at the Federal Bar Council's winter meeting, he organized a program on class actions, which was moderated by Hon. Raymond Lohier of the Second Circuit. He is currently planning a program with Chief Judge Robert Katzmann of the Second Circuit to take place on January 20, 2016 concerning Statutory Construction.

Recently Mr. Kaplan was invited by the United States Judicial Center and participated in a multi-day seminar for federal judges about complex litigation.

In addition, Mr. Kaplan has served as a member of the Trade Regulation and Federal Courts Committees of the Association of the Bar of the City of New York.

Mr. Kaplan's published articles include: "Complaint and Discovery In Securities Cases," Trial, April 1987; "Franchise Statutes and Rules," Westchester Bar Topics, Winter 1983; "Roots Under Attack: Alexander v. Haley and Courlander v. Haley," Communications and the Law, July 1979; and "Israeli Antitrust Policy and Practice," Record of the Association of the Bar, May 1971.

Mr. Kaplan sits on the boards of several organizations, including the Columbia Law School Board of Visitors, Board of Directors of the Carver Center in Port Chester, N.Y., and Member of the Dana Farber Visiting Committee, Thoracic Oncology in Boston, MA.

**Education:**

- B.A., Williams College (1961)
- J.D., Columbia University Law School (1964)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (1964)
- U.S. Supreme Court
- U.S. Courts of Appeals for the Second, Third, Seventh, Ninth, Tenth and Eleventh Circuits
- U.S. District Courts for the Southern, Eastern, and Northern Districts of New York, the Central District of Illinois, and the District of Arizona

**Professional Affiliations:**

- Committee to Support the Antitrust Laws (past President)
- National Association of Securities and Commercial Law Attorneys (past President)
- Advisory Group of the U.S. District Court for the Eastern District of New York
- American Bar Association
- Association of Trial Lawyers of America (Chairman, Commercial Litigation Section, 1985-86)
- Association of the Bar of the City of New York (served on the Trade Regulation Committee; Committee on Federal Courts)

Mr. Kaplan can be reached by email at: [RKaplan@kaplanfox.com](mailto:RKaplan@kaplanfox.com)

**FREDERIC S. FOX** first associated with Kaplan Fox in 1984, and became a partner in the firm in 1991. For over 30 years, he has concentrated his work in the area of class action litigation. Mr. Fox has played important roles in many major class action cases. He was one of the lead trial lawyers in two securities class actions, one of which was the first case tried to verdict under the Private Securities Litigation Reform Act of 1995.

Mr. Fox has played a lead role in many major securities class action cases, including as a senior member of the litigation and trial team in *In re Bank of America Corp. Securities, ERISA, & Derivative Litigation*, No. 09-MDL-2058 (S.D.N.Y.) (“*In re Bank of America*”). The case arose out of Bank of America’s acquisition of Merrill Lynch. *In re Bank of America* settled for \$2.425 billion plus significant corporate governance reforms, and stands as one of the largest securities class action settlements in history. In *In re Bank of America* Mr. Fox served as lead counsel on behalf of major public pension funds.

Mr. Fox currently represents many institutional investors including governmental entities in both class actions and individual litigation. Mr. Fox is currently leading the team of attorneys prosecuting an individual opt-out action on behalf of a public pension fund arising out of the fraud at Petrobras in Brazil. Other significant cases in which Mr. Fox served as lead counsel include: *In re Merrill Lynch & Co., Inc. Securities*,

*Derivative, & ERISA Litigation*, No. 07-cv-9633 (S.D.N.Y.)(in which he was the primary attorney responsible for negotiating the \$475 million settlement); *In re Fannie Mae 2008 Securities Litigation*, No. 08-cv-7831 (S.D.N.Y.) (“*In re Fannie Mae 2008*”) (\$170 million settlement); *In re SunPower Securities Litigation*, Case No. 09-cv-5473 (N.D. Cal.); *In re Merrill Lynch Research Reports Securities Litigation* (S.D.N.Y.) (arising from analyst reports issued by Henry Blodget); *In re Salomon Analyst Williams Litigation* (S.D.N.Y.) and *In re Salomon Focal Litigation* (S.D.N.Y.) (both actions stemming from analyst reports issued by Jack Grubman). Mr. Fox has also handled derivative cases seeking corporate governance reform and other shareholder litigation on behalf of public pension funds asserting state law and foreign causes of action. Mr. Fox is a frequent speaker and panelist in both the U.S and abroad on a variety of topics including securities litigation and corporate governance.

In the consumer protection area, he served on the Plaintiffs’ Steering Committee in the *Baycol Products Litigation* where there have been more than \$350 million in settlements. Additionally, he is serving as one of the Co-lead Counsel in *In re RC2 Corp. Toy Lead Paint Products Liability Litigation* pending in the Northern District of Illinois.

Mr. Fox is listed in the current editions of New York Super Lawyers and is recognized in Benchmark Litigation 2010 as a New York “Litigation Star.”

Mr. Fox is the author of “Current Issues and Strategies in Discovery in Securities Litigation,” ATLA, 1989 Reference Material; “Securities Litigation: Updates and Strategies,” ATLA, 1990 Reference Material; and “Contributory Trademark Infringement: The Legal Standard after *Inwood Laboratories, Inc. v. Ives Laboratories*,” *University of Bridgeport Law Review*, Vol. 4, No. 2.

During law school, Mr. Fox was the notes and comments editor of the *University of Bridgeport Law Review*.

**Education:**

- B.A., Queens College (1981)
- J.D., Bridgeport School of Law (1984)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (1985)

- Bar of the District of Columbia (2013)
- U.S. Supreme Court
- U.S. Courts of Appeals for the First, Second, Fourth, Sixth and Eleventh Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York, the District of Colorado and the District of Columbia

**Professional Affiliations:**

- American Bar Association
- Association of the Bar of the City of New York
- Association of Trial Lawyers of America (Chairman, Commercial Law Section, 1991-92)

Mr. Fox can be reached by email at: [FFox@kaplanfox.com](mailto:FFox@kaplanfox.com)

**RICHARD J. KILSHEIMER** first associated with Kaplan Fox in 1976 and became a partner in the firm in 1983. His practice is concentrated in the area of antitrust litigation. During his career, Mr. Kilsheimer has played significant roles in a number of the largest successful antitrust class actions in the country. He has served as co-lead counsel for class plaintiffs in several antitrust cases, including *In re Neurontin Antitrust Litigation*, MDL No. 1479, Master File No. 02-1390 (D.N.J.) a delayed-generic entry case against Pfizer and Warner-Lambert which was resolved by a \$190 million settlement for the plaintiff class after 12 years of litigation, and *In re Nifedipene Antitrust Litigation*, MDL No. 1515, Civil Action No. 1:03-MS-223 (RJL) (D.D.C), another drug case, which was settled for a total of \$35 million. He also practices in the areas of securities fraud and commercial litigation.

In December 2007, Mr. Kilsheimer was a speaker on the subject “Elevated Standards of Proof and Pleading: Implications of *Twombly* and *Daubert*” at the American Antitrust Institute Symposium on the Future of Private Antitrust Enforcement held in Washington, D.C. Mr. Kilsheimer has also served on the Antitrust and Trade Regulation Committee of the Association of the Bar of the City of New York (2004-2007; 2016–).

Prior to joining the firm, Mr. Kilsheimer served as law clerk to the Hon. Lloyd F. MacMahon (1975-76), formerly Chief Judge of the U.S. District Court for the Southern District of New York.

Mr. Kilsheimer has been included on the list of New York “Super Lawyers” each year since 2009. He is co-author of “Secondary Liability Developments,” ABA Litigation Section, Subcommittee on Secondary Liability, 1991-1994.

Mr. Kilsheimer serves as a member of the Board of Trustees of St. Joseph’s Medical Center, which serves the community in downtown Yonkers, New York, and was appointed to the Waterfront Advisory Committee of Tarrytown, New York.

**Education:**

- A.B., University of Notre Dame (1972)
- J.D., *cum laude*, St. John's University (1975)

**Bar Affiliations and Court Admissions:**

- State of New York (1976)
- U.S. Court of Appeals for the Second (1983), Third (2002), Sixth (2002) and D.C. (2005) Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York (1976) and the Northern District of Indiana (1987)

**Professional Affiliations:**

- Association of the Bar of the City of New York (Member: Antitrust and Trade Regulation Committee (2004-2007; 2016–))
- Federal Bar Council
- Committee to Support the Antitrust Laws

Mr. Kilsheimer can be reached by email at: [RKilsheimer@kaplanfox.com](mailto:RKilsheimer@kaplanfox.com)

**GREGORY K. ARENSON** is principally a plaintiffs’ antitrust lawyer. He has been ranked as a Super Lawyer for several years. Among other matters, he has argued the appeals in *In re High Fructose Corn Syrup Antitrust Litig.*, 295 F.3d 651 (7th Cir. 2002), and *In re Hydrogen Peroxide Antitrust Litig.*, 552 F.3d 305 (3d Cir. 2009).

Mr. Arenson has been a partner in Kaplan Fox & Kilsheimer LLP since 1993. Prior to joining Kaplan Fox, he was a partner with Proskauer Rose LLP. Earlier in his

career, he was a partner with Schwartz Klink & Schreiber and an associate with Rudnick & Wolfe (now DLA Piper).

Mr. Arenson is active in the New York State Bar Association. He has been a member of the House of Delegates since 2013 and has been Vice Chair of the Section Delegates Caucus. He was Chair of the Commercial and Federal Litigation Section from June 2013 through May 2014. He has been Co-Chair of the New York State Bar Association Task Force on the State of Our Courthouses, whose report was adopted by the House of Delegates on June 20, 2009; a member of the New York State Bar Association Special Committee on Standards for Pleadings in Federal Litigation, whose report was adopted by the House of Delegates on June 19, 2010; and a member of the New York State Bar Association Special Committee on Discovery and Case Management in Federal Litigation, whose report was adopted by the House of Delegates on June 23, 2012.

Mr. Arenson has written frequently on discovery issues. His published articles include: "Rule 68 Offers of Judgment and Mootness, Especially for Collective or Class Actions, 20 NY LITIGATOR 25 (2015); "Report on Proposed Amendments to Federal Rule of Civil Procedure 45," 17 NY LITIGATOR 21 (2012); "Rule 8 (a)(2) After *Twombly*: Has There Been a Plausible Change?" 14 NY LITIGATOR 23 (2009); "Report on Proposed Federal Rule of Evidence 502," 12 NY LITIGATOR 49 (2007); "Report: Treating the Federal Government Like Any Other Person: Toward a Consistent Application of Rule 45," 12 NY LITIGATOR 35 (2007); "Report of the Commercial and Federal Litigation Section on the Lawsuit Abuse Reduction Act of 2005," 11 NY LITIGATOR 26 (2006); "Report Seeking To Require Party Witnesses Located Out-Of-State Outside 100 Miles To Appear At Trial Is Not A Compelling Request," 11 NY LITIGATOR 41 (2006); "Eliminating a Trap for the Unwary: A Proposed Revision of Federal Rule of Civil Procedure 50," 9 NY LITIGATOR 67 (2004); "Committee Report on Rule 30(b)(6)," 9 NY LITIGATOR 72 (2004); "Who Should Bear the Burden of Producing Electronic Information?" 7 FEDERAL DISCOVERY NEWS, No. 5, at 3 (April 2001); "Work Product vs. Expert Disclosure – No One Wins," 6 FEDERAL DISCOVERY NEWS, No. 9, at 3 (August 2000); "Practice Tip: Reviewing Deposition Transcripts," 6 FEDERAL DISCOVERY NEWS, No. 5, at 13 (April 2000); "The Civil Procedure Rules: No More Fishing Expeditions," 5

FEDERAL DISCOVERY NEWS, No. 9, at 3 (August 1999); “The Good, the Bad and the Unnecessary: Comments on the Proposed Changes to the Federal Civil Discovery Rules,” 4 NY LITIGATOR 30 (1998); and “The Search for Reliable Expertise: Comments on Proposed Amendments to the Federal Rules of Evidence,” 4 NY LITIGATOR 24 (1998). He was co-editor of FEDERAL RULES OF CIVIL PROCEDURE, 1993 AMENDMENTS, A PRACTICAL GUIDE, published by the New York State Bar Association; and a co-author of “Report on the Application of Statutes of Limitation in Federal Litigation,” 53 ALBANY LAW REVIEW 3 (1988).

Mr. Arenson serves as a mediator in the U.S. District Court for the Southern District of New York. In addition, he is an active alumnus of the Massachusetts Institute of Technology, having served as a member of the Corporation, a member of the Corporation Development Committee, vice president of the Association of Alumni/ae, member of the Alumni Association Selection Committee, and member of the Annual Fund Board (of which he was a past chair).

**Education:**

- S.B., Massachusetts Institute of Technology (1971)
- J.D., University of Chicago (1975)

**Bar Affiliations and Court Admissions:**

- Bar of the State of Illinois (1975)
- Bar of the State of New York (1978)
- U.S. Supreme Court
- U.S. Courts of Appeals for the Second, Third and Seventh Circuits
- U.S. District Courts for the Northern and Central Districts of Illinois, and the Southern and Eastern Districts of New York
- U.S. Tax Court

Mr. Arenson can be reached by email at: [GArenson@kaplanfox.com](mailto:GArenson@kaplanfox.com)

**LAURENCE D. KING** first associated with Kaplan Fox in 1994, and became a partner in the firm in 1998. Mr. King initially joined the firm in New York, but in 2000 relocated to San Francisco to open the firm’s first West Coast office. He is now partner-in-charge of the firm’s San Francisco and Los Angeles offices.

Mr. King practices primarily in the areas of consumer protection litigation and securities litigation, the latter with an emphasis on institutional investor representation. In both of these practice areas, he has played a substantial role in cases that have resulted in some of the largest recoveries ever obtained by Kaplan Fox, including *In re Bank of America Corp. Securities, Derivative, and ERISA Litigation* (S.D.N.Y.), *In re Baycol Products Litigation* (E.D. Pa.), *In re 3Com Securities Litigation* (N.D. Cal.), *In re Informix Securities Litigation* (N.D. Cal.), *AOL Time Warner Cases I & II* (Ca. Super. Ct., L.A. Cty.) and *Providian Credit Card Cases* (Ca. Super. Ct., S.F. Cty.).

An experienced trial lawyer, prior to joining Kaplan Fox Mr. King served as an assistant district attorney under the legendary Robert Morgenthau in the Manhattan (New York County, New York) District Attorney's office, where he tried numerous felony prosecutions to a jury verdict. At Kaplan Fox, he was a member of the trial team for two class actions tried to verdict, *In re Biogen Securities Litigation* (D. Mass.) and *In re Health Management Securities Litigation* (E.D.N.Y.). Mr. King has also participated in trial preparation for numerous other cases in which favorable settlements were achieved for our clients on or near the eve of trial.

Mr. King was selected for inclusion in Northern California *SuperLawyers* for 2012 and 2013, and from 2011-13, he served as a Vice-Chair, and then as Co-Chair, of the American Association for Justice's Class Action Litigation Group.

**Education:**

- B.S., Wharton School of the University of Pennsylvania (1985)
- J.D., Fordham University School of Law (1988)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (1989)
- Bar of the State of California (2000)
- U.S. Court of Appeals for the Second, Third, Fifth, Ninth and Tenth Circuits
- U.S. District Courts for the District of New Jersey, the Eastern District of Pennsylvania, the Southern and Eastern Districts of New York, and the Northern, Central and Southern Districts of California

**Professional Affiliations:**

- Bar Association of San Francisco

- American Bar Association
- American Association for Justice
- San Francisco Trial Lawyers' Association
- American Business Trial Lawyers

Mr. King can be reached by email at: [LKing@kaplanfox.com](mailto:LKing@kaplanfox.com)

**JOEL B. STRAUSS** first associated with Kaplan Fox in 1992, and became a partner of the firm in 1999. He practices in the area of securities and consumer fraud class action litigation, with a special emphasis on accounting and auditing issues.

Prior to joining Kaplan Fox, Mr. Strauss served as a senior auditor with one of the former "Big Eight" accounting firms. Combining his accounting background and legal skills, he has played a critical role in successfully prosecuting numerous securities class actions across the country on behalf of shareholders. Mr. Strauss was one of the lead trial lawyers for the plaintiffs in the first case to go to trial and verdict under the Private Securities Litigation Reform Act of 1995.

More recently Mr. Strauss has been involved in representing the firm's institutional clients in the following securities class actions, among others: *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation* (S.D.N.Y.) (\$475 million settlement); *In re Prestige Brands Holdings Inc. Securities Litigation* (S.D.N.Y.) (\$11 million settlement); *In re Gentiva Securities Litigation* (E.D.N.Y.) (\$6.5 million settlement); and *In re Sunpower Securities Litigation* (N.D. Cal.) (\$19.7 million). He has also served as lead counsel for lead plaintiffs in *In re OCA, Inc. Securities Litigation* (E.D. La.) (\$6.5 million settlement) and *In re Proquest Company Securities Litigation* (E.D. Mich.) (\$20 million settlement). Mr. Strauss also played an active role for plaintiff investors in *In re Countrywide Financial Corporation Securities Litigation* (C.D. Cal.) which settled for more than \$600 million.

In the consumer protection area, Mr. Strauss served as Chair of Plaintiffs' Non-Party Discovery Committee in the *Baycol Products Litigation*, where there were more than \$350 million in settlements.

Mr. Strauss is also active in the firm's growing data privacy practice.

Although currently practicing exclusively in the area of law, Mr. Strauss is a

licensed Certified Public Accountant in the State of New York.

Mr. Strauss has also been a guest lecturer on the topics of securities litigation, auditors' liability and class actions for seminars sponsored by the Practicing Law Institute and the Association of the Bar of the City of New York.

**Education:**

- B.A., Yeshiva University (1986)
- J.D., Benjamin N. Cardozo School of Law (1992)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New Jersey
- Bar of the State of New York
- U.S. Court of Appeals for the First, Second and Third Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York and the District of New Jersey

**Professional Affiliations:**

- American Bar Association (member, Litigation Section, Rule 23 Subcommittee)
- Association of the Bar of the City of New York
- New York State Bar Association
- American Institute of Certified Public Accountants

Mr. Strauss can be reached by email at: [JStrauss@kaplanfox.com](mailto:JStrauss@kaplanfox.com)

**HAE SUNG NAM** first associated with Kaplan Fox in 1999 and became a partner in the firm in 2005. She practices in the areas of securities and antitrust litigation, mainly focusing in the firm's securities practice.

Since joining the firm, Ms. Nam has been involved in all aspects of securities practice, including case analysis for the firm's institutional investor clients. She has been a key member of the litigation team representing a number of institutional clients in class action securities litigation, including cases against Bank of America Corporation, Fannie Mae and Ambac Financial Group, Inc. She also has a focus in prosecuting opt-out actions on behalf of the Firm's clients and has played a significant role in *AOL Time Warner Cases I & II* (Ca. Sup. Ct., L.A. Cty.) and *State Treasurer of the State of*

*Michigan v. Tyco International, Ltd., et al.*, and is currently representing an institutional investor in an opt-out case against Petrobras.

Ms. Nam has also been involved in the firm's antitrust practice, representing purchasers of flat glass products in a class action alleging a price-fixing conspiracy. Prior to joining the firm, Ms. Nam was an associate with Kronish Lieb Weiner & Hellman LLP, where she trained as transactional attorney in general corporate securities law and mergers and acquisitions.

Ms. Nam graduated, magna cum laude, with a dual degree in political science and public relations from Syracuse University's Maxwell School and S.I. Newhouse School of Public Communications. Ms. Nam obtained her law degree, with honors, from George Washington University Law School. During law school, Ms. Nam was a member of the George Washington University Law Review. She is the author of a case note, "Radio – Inconsistent Application Rule," 64 Geo. Wash. L. Rev. (1996). In addition, she also served as an intern for the U.S. Department of Justice, Antitrust Division.

**Education:**

- B.A., magna cum laude, Syracuse University (1994)
- J.D., with honors, George Washington University School of Law (1997)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (1998)
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Courts for the Southern and Eastern Districts of New York, and Eastern District of Wisconsin

Ms. Nam can be reached by email at: [HNam@kaplanfox.com](mailto:HNam@kaplanfox.com)

**DONALD R. HALL** has been associated with Kaplan Fox since 1998, and became a partner of the firm in 2005. He practices in the areas of securities, antitrust and consumer protection litigation. Mr. Hall is actively involved in maintaining and establishing the firm's relationship with institutional investors and oversees the Portfolio Monitoring and Case Evaluation Program for the firm's numerous institutional investors.

Mr. Hall was a member of the trial team prosecuting *In re Bank of America*, which settled for \$2.425 billion, the single largest securities class action recovery for violations of Section 14(a) of the Exchange Act and one of the top securities litigation settlements obtained in history. He currently represents a number of the firm's institutional investor clients in securities class actions, including in *In re Eletrobras Secs. Litig.*, Case No. 15-cv-5754 as co-lead counsel in a class action against a Brazilian company and in *Kasper v. AAC Holdings, Inc.*, No. 15-cv-00923, also as co-lead counsel. Mr. Hall successfully represented institutional clients in *In re Merrill Lynch*, which settled for \$475 million; *In re Fannie Mae 2008*, which settled for \$170 million; *In re Ambac Financial Group, Inc. Securities Litigation*, No. 08-cv-411 (S.D.N.Y.) ("*In re Ambac*"); *In re Majesco Securities Litigation*, No. 05-cv-3557 (D.N.J.); and *In re Escala Group, Inc. Secs. Litig.*, No. 05-cv-3518 (S.D.N.Y.) ("*In re Escala*"). Additionally, he was a member of the litigation team in *AOL Time Warner Cases I & II*, an opt-out action brought by institutional investors that settled just weeks before trial, resulting in a recovery of multiples of what would have been obtained had those investors remained members of the class action.

Mr. Hall has played a key role in many of the firm's securities and antitrust class actions resulting in substantial recoveries for the firm's clients, including *In re Merrill Lynch Research Reports Securities Litigation* (arising from analyst reports issued by Henry Blodget); *In re Salomon Analyst Williams Litigation* and *In re Salomon Focal Litigation* (both actions stemming from analyst reports issued by Jack Grubman); *In re Flat Glass Antitrust Litigation*; and *In re Compact Disc Antitrust Litigation*.

Mr. Hall graduated from the College of William and Mary in 1995 with a B.A. in Philosophy and obtained his law degree from Fordham University School of Law in 1998. During law school, Mr. Hall was a member of the Fordham Urban Law Journal and a member of the Fordham Moot Court Board. He also participated in the Criminal Defense Clinic, representing criminal defendants in federal and New York State courts on a pro-bono basis.

**Education:**

- B.A., College of William and Mary (1995)
- J.D., Fordham University School of Law (1998)

**Bar Affiliations and Court Admissions:**

- Bar of the State of Connecticut
- Bar of the State of New York
- U.S. Supreme Court
- U.S. Courts of Appeals for the First, Second and Eleventh Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York

**Professional Affiliations:**

- American Bar Association
- Association of Trial Lawyers of America
- New York State Bar Association

Mr. Hall can be reached by email at: [DHall@kaplanfox.com](mailto:DHall@kaplanfox.com)

**JEFFREY P. CAMPISI** joined Kaplan Fox in 2004 and became partner of the firm in 2012. He practices in the area of securities litigation. Mr. Campisi has been involved in all aspects of securities practice, including case analysis for the firm's numerous public pension fund and institutional investor clients. Mr. Campisi currently represents Arkansas Teacher Retirement System, co-lead plaintiff in *Kasper v. AAE Holdings, Inc. et al.*, 15-cv-923 (M.D. Tenn.).

Mr. Campisi recently represented institutional investors in the following securities class actions: *In re 2008 Fannie Mae Securities Litigation* (08cv7831) (S.D.N.Y.) and *In re 2008 Gentiva Securities Litigation*, No. 10-cv-5064 (E.D.N.Y.); *In re Merrill Lynch & Co., Inc. Securities, Derivative and ERISA Litigation* (07cv9633) (S.D.N.Y.) (\$475 million settlement) and *In re Sequenom, Inc. Securities Litigation* (S.D. Cal.) (09cv921) (more than \$60 million in cash and stock recovered).

Mr. Campisi served as law clerk for Herbert J. Hutton, United States District Court Judge for the Eastern District of Pennsylvania.

**Education:**

- B.A., cum laude, Georgetown University (1996)
  - J.D., summa cum laude, Villanova University School of Law (2000)
- Member of Law Review and Order of the Coif

**Bar affiliations and court admissions:**

- Bar of the State of New York

- U.S. Courts of Appeals for the Ninth and Tenth Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York, and Western District of Tennessee

**Professional affiliations:**

- Federal Bar Council
- American Association for Justice

Mr. Campisi can be reached by email at: [jcampisi@kaplanfox.com](mailto:jcampisi@kaplanfox.com)

**MELINDA CAMPBELL** has been associated with Kaplan Fox since September 2004 and became a partner of the firm in 2012. She represents investors and institutions in securities fraud class action litigation.

Mrs. Campbell's current noteworthy cases include: *In re Bank of America Corp. Securities Litigation*, MDL No. 2058 (S.D.N.Y.); *In re Ambac Financial Group, Inc. Securities Litigation*, No. 08-cv-411(NRB) (S.D.N.Y.); *In re Fannie Mae 2008 Securities Litigation*, No. 08-cv-7831(PAC) (S.D.N.Y.), and *In re Credit Suisse-AOL Securities Litigation*, No. 02-cv-12146(NG) (D. Mass.).

Mrs. Campbell obtained her J.D. from the University of Pennsylvania Law School. While attending law school, she successfully represented clients of the Civil Practice Clinic of the University of Pennsylvania Law School, and provided pro bono legal services through organizations including the Southern Poverty Law Center. Mrs. Campbell obtained her undergraduate degree from the University of Missouri (*cum laude*).

Mrs. Campbell is an active member in the Federal Courts Committee of the New York County Lawyers Association and served as a panelist in a continuing legal education course offered by the Committee concerning waiver of attorney-client privilege under Federal Rule of Evidence 501. Additionally, Mrs. Campbell is a member of the New York State Bar Association, the National Association of Women Lawyers, and the New York Women's Bar Association.

**Education:**

- B.A., University of Missouri (2000)
- J.D., University of Pennsylvania Law School (2004)

**Bar affiliations and court admissions:**

- Bar of the State of New York (2005)
- U.S. Courts of Appeals for the First, Second and Eleventh Circuits
- U.S. District Courts for the Southern and Eastern Districts of New York

**Professional affiliations:**

- American Bar Association
- New York State Bar Association
- New York County Lawyers Association
- New York Women's Bar Association
- National Association of Women Lawyers

Mrs. Campbell can be reached by email at: [MCampbell@kaplanfox.com](mailto:MCampbell@kaplanfox.com)

**ELANA KATCHER** became an associate with Kaplan Fox in July 2007, and has been a partner since January 2016. She primarily practices in the area of antitrust law and complex commercial litigation.

As an attorney at Kaplan Fox she has participated in the successful litigation and complex bellwether trial of a RICO action brought by a third-party payor against a major pharmaceutical company for the fraudulent marketing of a blockbuster drug for uses for which it was not approved and for which it was not effective. She continues to play a principal role in ongoing price-fixing litigation against 30 international air cargo carriers.

Prior to Kaplan Fox, she was an associate at Sullivan & Cromwell LLP and King & Spalding LLP, where she participated in the defense of major companies, including at trial and in arbitration.

**Education:**

- B.A. Oberlin College
- J.D., New York University

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York
- U.S. District Courts for the Southern and Eastern Districts of New York

**Professional Affiliations:**

- New York State Bar Association
- New York City Bar Association

Ms. Katcher can be reached by email at: [ekatcher@kaplanfox.com](mailto:ekatcher@kaplanfox.com)

**MATTHEW P. McCAHILL** was associated with Kaplan Fox from 2003 to 2005, re-joined the firm in May 2013 and became a partner in 2016. He practices in the areas of antitrust and securities litigation, as well as commercial litigation. From 2006 to early 2013, Mr. McCahill was an associate at Berger & Montague, P.C. in Philadelphia. While focusing on insurance and antitrust class action cases, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) and *Ormond et al. v. Anthem, Inc. et al.*, Case No. 1:05-cv-01908-TWP-TAB (N.D. Ind.) (related to the demutualization of Anthem Insurance, which settled for \$90 million in 2012), he also represented corporations and bankruptcy trustees in commercial litigation involving claims for breach of contract, breach of fiduciary duty and fraudulent conveyance.

Mr. McCahill's practice includes representation of plaintiffs opting out of class actions. He currently represents large retailers who opted out of the *Payment Card* class to pursue their own antitrust actions against Visa and MasterCard challenging the networks' merchant rules and their interchange (or "swipe") fees. Among the merchants he and the firm represent in that case are E-Z Mart Stores, Inc., Sunoco, LP (formerly known as Susser Holdings Corp., operator of the Stripes® convenience store chain), Jacksons Food Stores, Sheetz, Inc., Kum & Go, L.C., Einstein Noah Restaurant Group, Furniture Row, Inc. and NPC International, Inc. (the world's largest franchisee of Pizza Hut restaurants).

Mr. McCahill is part of the Kaplan Fox team representing large grocery chains and food distributors (including Giant Eagle, Inc., Associated Food Stores, Inc., Affiliated Foods, Inc., Western Family Foods, Inc. and the McLane Company, Inc., among others) in individual actions in *In re Packaged Seafood Products Antitrust Litigation*, MDL No. 2670 (S.D. Cal.), alleging price-fixing and other antitrust violations against Tri-Union Seafoods, LLC (d/b/a Chicken of the Sea), Bumble Bee Foods, LLC, and others. He and other Kaplan Fox lawyers are also representing the Ohio Public Employees Retirement System in an individual securities fraud action against Brazilian energy conglomerate Petrobras in *In re Petrobras Securities Litigation*, Civ. Action No. 14-cv-9662 (JSR) (S.D.N.Y.).

Mr. McCahill's current and past involvement in class action litigation at Kaplan Fox includes: *In re Cast Iron Soil Pipe Antitrust Litigation*, MDL No. 2508 (E.D. Tenn.), where he currently represents a proposed class of direct purchasers of cast iron soil pipes and fittings in an antitrust case against the Cast Iron Soil Pipe Institute, Charlotte Pipe & Foundry Co. and McWane, Inc. and its subsidiaries; *In re SandRidge Energy, Inc. Shareholder Derivative Litigation*, No. CIV-13-102-W (W.D. Okla.) (partial settlement of \$38 million); *In re Neurontin Antitrust Litigation*, MDL No. 1479 (D.N.J.) (delayed-generic entry action brought by direct purchasers of Pfizer's drug Neurontin, which settled for \$190 million following nearly 12 years of litigation).

In 2014, 2015 and 2016, Mr. McCahill was named a "New York Metro Super Lawyer – Rising Star" in antitrust litigation, and was selected as a "Pennsylvania Super Lawyer – Rising Star" (also in antitrust litigation) in 2012 and 2013. He is a member of the American, Pennsylvania State, New York State and New York City bar associations. Mr. McCahill's *pro bono* efforts focus primarily on representing Marine Corps veterans in benefits proceedings before the Veterans Administration.

#### **Education:**

- B.A., History, *summa cum laude*, Rutgers College (2000)
- J.D., Fordham Law School (2003)

#### **Bar Affiliations and Court Admissions:**

- Bars of the State of New York and the Commonwealth of Pennsylvania
- U.S. Court of Appeals for the Second Circuit
- U.S. District Courts for the Southern and Eastern Districts of New York and the Eastern District of Pennsylvania

#### **Professional Affiliations:**

- American Bar Association
- New York State Bar Association
- Pennsylvania Bar Association
- Association of the Bar of the City of New York

Mr. McCahill can be reached by email at: [mmccahill@kaplanfox.com](mailto:mmccahill@kaplanfox.com)

**DAVID A. STRAITE** joined the New York office of Kaplan Fox in 2013 and became a partner in 2017. He focuses on digital privacy litigation, helping to protect consumer privacy in class actions against Facebook, Google, Yahoo and others. In 2012, M.I.T. Technology Review magazine called Mr. Straite “something of a pioneer” in digital privacy litigation. Mr. Straite also protects investors in securities, corporate governance, and hedge fund litigation. Prior to joining the firm, Mr. Straite helped launch the US offices of London-based Stewarts Law LLP, where he was the global head of investor protection litigation, the partner in residence in New York, and a member of the US executive committee. Prior to Stewarts Law he worked in the Delaware office of Grant & Eisenhofer and the New York office of Skadden Arps.

Mr. Straite speaks frequently on topics related to both privacy and investor protection. Most recently he was a featured panelist on the "Data Privacy and Article III Standing" panel at the Federal Bar Council's 2017 Winter Meeting along with Dean Erwin Chemerinsky and the Hon. Lorna Schofield. Prior events included being a featured speaker at the St. John's University “Cyber Law” CLE weekend in February 2016, and a featured panelist the hedge fund panel at the February 6, 2013 meeting of the National Association of Public Pension Attorneys in Washington, D.C. (“Structuring Investments – Do I Get to Go to the Cayman Islands?”). David also debated the general counsel of Meetup, Inc. during 2013 Social Media Week (“David vs. Goliath: the Global Fight for Digital Privacy”) and gave a guest lecture on the Legal Talk Network’s “Digital Detectives” podcast. He has also given interviews to Channel 10 (Tel Aviv), BBC World News (London), SkyNews (London), CBS Ch. 2 (New York) and CBS news radio (Philadelphia). Mr. Straite is also an adjunct professor at Yeshiva University's Sy Syms School of Business, teaching Business Law and Ethics for the Fall semester (2015 and 2016).

Mr. Straite has co-authored *Google and the Digital Privacy Perfect Storm* in E-Commerce Law Reports (UK) (2013), authored *Netherlands: Amsterdam Court of Appeal Approves Groundbreaking Global Settlements Under the Dutch Act on the Collective Settlement of Mass Claims*, in The International Lawyer's annual “International Legal Developments in Review” (2009), and was a contributing author for Maher M. Dabbah & K.P.E. Lasok, QC, *Merger Control Worldwide* (2005).

Mr. Straite's recent litigation includes co-leading a class of investors in *In re: CSO Hedge Fund Litigation* New York federal court (settlement approved January 2016); pursuing digital privacy claims as co-class counsel in *In re: Facebook Internet Tracking Litigation* and *In re Yahoo Mail Litigation* in California (settlement approved August 2016) and *In re: Google Inc. Cookie Placement Consumer Privacy Litigation* in Delaware; pursuing corporate governance claims in Delaware Chancery Court in a number of matters; and helping to develop the first multi-claimant test of the UK's new prospectus liability statute in a case against the Royal Bank of Scotland in the English courts.

**Education:**

- B.A., Tulane University, Murphy Institute of Political Economy (1993)
- J.D., *magna cum laude*, Villanova University School of Law (1996), Managing Editor, Law Review and Order of the Coif

**Bar affiliations and court admissions:**

- Bar of the State of New York (2000)
- Bar of the State of Delaware (2009)
- Bar of the State of Pennsylvania (1996)
- Bar of the State of New Jersey (1996)
- Bar of the District of Columbia (2008)
- U.S. District Courts for the Southern and Eastern Districts of New York; Eastern District of Pennsylvania; and the District of Delaware
- U.S. Courts of Appeals for the Second, Third and Ninth Circuits

**Professional affiliations:**

- American Bar Association
  - Section of Litigation (Privacy and Data Security Committee)
  - Section of Business Law
- Delaware Bar Association
- New York American Inn of Court (Master of the Bench)
- Internet Society

Mr. Straite can be reached by email at: [dstraite@kaplanfox.com](mailto:dstraite@kaplanfox.com)

## **OF COUNSEL**

**GARY L. SPECKS** practices primarily in the area of complex antitrust litigation. He has represented plaintiffs and class representatives at all levels of litigation, including appeals to the U.S. Courts of Appeals and the U.S. Supreme Court. In addition, Mr. Specks has represented clients in complex federal securities litigation, fraud litigation, civil RICO litigation, and a variety of commercial litigation matters. Mr. Specks is resident in the firm's Chicago office.

During 1983, Mr. Specks served as special assistant attorney general on antitrust matters to Hon. Neil F. Hartigan, then Attorney General of the State of Illinois.

### **Education:**

- B.A., Northwestern University (1972)
- J.D., DePaul University College of Law (1975)

### **Bar Affiliations and Court Admissions:**

- Bar of the State of Illinois (1975)
- U.S. Courts of Appeals for the Third, Fifth, Seventh, Ninth and Tenth Circuits
- U.S. District Court for the Northern District of Illinois, including Trial Bar

### **Professional Affiliations:**

- American Bar Association
- Illinois Bar Association
- Chicago Bar Association

Mr. Specks can be reached by email at: [GSpecks@kaplanfox.com](mailto:GSpecks@kaplanfox.com)

**W. MARK MCNAIR** practices in the area of securities litigation with a special emphasis on institutional investor involvement. He associated with the firm in 2003, and is resident in Washington, D.C. Prior to entering private practice, he was an attorney at the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

### **Education:**

- B.A. with honors, University of Texas at Austin (1972)
- J.D. University of Texas at Austin (1975)
- L.L.M. (Securities) Georgetown University (1989)

Mr. McNair can be reached at [MMcnair@kaplanfox.com](mailto:MMcnair@kaplanfox.com)

**LINDA M. FONG** practices in the areas of general business and consumer protection class action litigation. She has been associated with Kaplan Fox since 2001, and is resident in the firm's San Francisco office. Ms. Fong served on the Board of the San Francisco Trial Lawyers Association from 2000 to 2011. She was selected for inclusion to the Northern California Super Lawyers list for 2011 through 2016.

**Education:**

- J.D., University of San Francisco School of Law (1985)
- B.S., with honors, University of California, Davis
- Elementary Teaching Credential, University of California, Berkeley

**Bar affiliations and court admissions:**

- Bar of the State of California (1986)
- U.S. District Courts for the Northern, Southern and Eastern Districts of California
- U.S. Court of Appeals for the Second and Ninth Circuits

**Professional affiliations:**

- San Francisco Trial Lawyers Association
- Asian American Bar Association
- American Association for Justice

**Awards:**

- Presidential Award of Merit, Consumer Attorneys of California

Ms. Fong can be reached by email at: [lfong@kaplanfox.com](mailto:lfong@kaplanfox.com)

**WILLIAM J. PINILIS** practices in the areas of commercial, consumer and securities class action litigation.

He has been associated with Kaplan Fox since 1999, and is resident in the firm's New Jersey office.

In addition to his work at the firm, Mr. Pinilis has served as an adjunct professor at Seton Hall School of Law since 1995, and is a lecturer for the New Jersey Institute for Continuing Legal Education. He has lectured on consumer fraud litigation and regularly teaches the mandatory continuing legal education course Civil Trial Preparation.

Mr. Pinilis is the author of "Work-Product Privilege Doctrine Clarified," *New Jersey Lawyer*, Aug. 2, 1999; "Consumer Fraud Act Permits Private Enforcement," *New Jersey Law Journal*, Aug. 23, 1993; "Lawyer-Politicians Should Be Sanctioned for Jeering Judges," *New Jersey Law Journal*, July 1, 1996; "No Complaint, No Memo – No Whistle-Blower Suit," *New Jersey Law Journal*, Sept. 16, 1996; and "The *Lampf* Decision: An appropriate Period of Limitations?" *New Jersey Trial Lawyer*, May 1992.

**Education:**

- B.A., Hobart College (1989)
- J.D., Benjamin Cardozo School of Law (1992)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New Jersey (1992)
- Bar of the State of New York (1993)
- U.S. District Courts for the District of New Jersey, and the Southern and Eastern Districts of New York

**Professional Affiliations:**

- Morris County Bar Association
- New Jersey Bar Association
- Graduate, Brennan Inn of Court

Mr. Pinilis can be reached by email at: [WPinilis@kaplanfox.com](mailto:WPinilis@kaplanfox.com)

**JUSTIN B. FARAR** joined Kaplan Fox in March 2008. He practices in the area of securities and antitrust litigation with a special emphasis on institutional investor involvement. He is located in the Los Angeles office. Prior to joining the firm, Mr. Farar was a litigation associate at O'Melveny & Myers, LLP and clerked for the Honorable Kim McLane Wardlaw on the Ninth Circuit Court of Appeals. Mr. Farar also currently serves as a Commissioner to the Los Angeles Convention and Exhibition Authority.

**Education:**

- J.D., order of the coif, University of Southern California Law School (2000)
- B.A., with honors, University of California, San Diego

**Bar Affiliations and Court Admissions:**

- Bar of the State of California (2000)

- U.S. Court of Appeals for the Ninth Circuit (2000)
- U.S. District Court for the Central of California (2000)

**Awards:**

- The American Society of Composers, Authors and Publishers' Nathan Burkan Award Winner, 2000 for article titled "Is the Fair Use Defense Outdated?"

Mr. Farar can be reached by email at: [JFarar@kaplanfox.com](mailto:JFarar@kaplanfox.com)

**GEORGE F. HRITZ** joined Kaplan Fox in 2014. He has extensive experience handling sophisticated litigation, arbitration and other disputes for well-known corporate clients and providing crisis management and business-oriented legal and strategic advice to a broad range of U.S. and international clients, including those with small or no U.S. legal departments, often acting as de facto U.S. general counsel. Mr. Hritz has tried, managed and otherwise resolved large-scale matters for major financial and high-tech institutions and others in numerous venues throughout the U.S. and overseas. He has had great success in resolving disputes creatively by effectively achieving consensus among all of the parties involved, often with considerable savings for his clients.

Mr. Hritz clerked for a federal district judge in New York and spent his associate years at Cravath, Swaine & Moore, one of the leading business litigation firms in the world. He was a partner at Hogan Lovells and predecessor firms for many years. Since 2011, Mr. Hritz has represented both defendants and plaintiffs in resolving international disputes and provided strategic advice and assisted clients on managing of other counsel, including monitoring law firm and consultant performance and billing.

**Education:**

- A.B., Princeton University
- J.D., Columbia University School of Law (Harlan Fiske Stone Scholar)

**Bar affiliations and court admissions:**

- New York (1974)
- U.S. Supreme Court; U.S. Courts of Appeals for the Second, Third, Fourth, Eleventh and D.C. Circuits; numerous U.S. District Courts

**Professional affiliations:**

- Federal Bar Council (2d Circuit)
- Advisory Group of the U.S. District Court for the Eastern District of New York

Mr. Hritz can be reached by email at: [ghritz@kaplanfox.com](mailto:ghritz@kaplanfox.com)

**MATTHEW GEORGE** is a complex litigation attorney at Kaplan Fox & Kilsheimer LLP with a practice focused on data privacy, consumer protection, and employment/labor cases. He has significant experience and expertise handling multidistrict litigation and other coordinated proceedings in state and federal courts involving multiple parties and complex discovery issues.

Matthew has been a strong advocate for consumer and patient privacy. He has served on court-appointed lead counsel teams in notable cutting-edge data breach and information privacy cases against Target, Adobe, Yahoo!, and Horizon Healthcare. In these and other cases he has worked with cybersecurity experts to gain technical knowledge in data collection, management and protection. He was recently appointed to the Plaintiffs' Steering Committee in *In re 21st Century Oncology Data Breach Litigation*, MDL No. 2737, pending in the Middle District of Florida.

Matthew has also recovered unpaid overtime wages for thousands of workers across the United States under state and federal law in over a dozen cases. His notable recoveries include generating a \$9.9 million settlement on behalf of retail employees and winning a two-week arbitration representing misclassified account representatives against a Fortune 500 company. Matthew has also recovered over \$10 million for employees in cases alleging violations of the WARN Act when the employees were not provided required notice before their terminations.

He has also represented customers challenging deceptive business practices and has worked to obtain significant recoveries in consumer fraud cases against companies including Chase, Mercedes-Benz and The Ritz-Carlton. He currently represents consumers in cases against HBO, Logitech, and Chipotle, among others. In addition to representing plaintiffs in class action cases, Matthew has also represented institutional clients including labor unions and conducted a risk management analysis for a multi-national health and wellness consumer product corporation.

Matthew has been selected by his peers as a “Rising Star” by Northern California Super Lawyers each year from 2011-2014 and was chosen as a “Super Lawyer” in 2016, the first year he was eligible for the distinction. He has been a regular speaker at industry conventions and seminars on topics ranging from arbitration, expert discovery, settlement strategies, and the rapidly changing field of privacy law.

**Education:**

- B.A., Political Science and Criminal Justice, *magna cum laude*, Chapman University (2002)
- J.D., The University of Michigan Law School (2005)

**Publications and Speaking Engagements:**

- Expert Depositions: Promoting Expertise and Limiting Exposure –Bridgeport Continuing Legal Education “Mastering the Deposition” Seminar (January 2017)
- “How Viable Is the Prospect of Private Enforcement of Privacy Rights In The Age of Big Data? An Overview of Trends and developments In Privacy Class Actions” – Competition, The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California, Volume 24, No. 1 (Spring 2015)
- Panel Discussion of Sony Pictures Data Breach Cases – CNBC’s “Squawk On the Street” (December 2014)
- New and Developing Practice Areas – CAOC 53<sup>rd</sup> Annual Convention (November 2014)
- Privacy Law Symposium – University of California, Hastings College of the La (April 2014)
- Update On the Target Data Breach Litigation – HarrisMartin Target Data Breach MDL Conference (March 2014)
- Consumer Privacy Law – 8<sup>th</sup> Annual CAOC Class Action Seminar (February 2014)
- Privacy Litigation and Management: Strategies For Protection and Litigation – Bridgeport Continuing Legal Education Seminar (December 2012)
- Class Action Settlement Strategies and Mechanics – 12<sup>th</sup> Annual Bridgeport Class Action Litigation & Management Conference (April 2012)

- Developments In the Arbitration of Wage and Hour Disputes – Bridgeport 2010 Wage and Hour Conference (October 2010)

**Bar Affiliations and Court Admissions:**

- Bar of the State of California
- U.S. District Courts for the Northern, Central, Southern and Eastern Districts of California, and the District of Colorado
- Ninth Circuit Court of Appeals

**Professional Affiliations:**

- Bay Area Lawyers for Individual Freedom
- Consumer Attorneys of California (Diversity Committee)
- American Bar Association (Labor and Employment Section)

Mr. George can be reached by email at: [mgeorge@kaplanfox.com](mailto:mgeorge@kaplanfox.com)

**ASSOCIATES**

**MARIO M. CHOI** is a resident of the San Francisco office of Kaplan Fox and practices in the area of complex civil litigation. Prior to joining the firm in February 2009, Mr. Choi was a litigation associate at Pryor Cashman LLP and a law clerk to the Hon. Richard B. Lowe, III, Justice of the New York Supreme Court, Commercial Division.

**Education:**

- B.A., Boston University (2000)
- M.A., Columbia University (2001)
- J.D., Northeastern University (2005)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (2006)
- Bar of the State of California (2006)
- U.S. Courts of Appeals for the Ninth Circuits
- U.S. District Courts for the Northern, Southern and Central Districts of California and the Southern District of New York

**Professional Affiliations:**

- American Bar Association
- Asian American Bar Association – Bay Area
- Bar Association of San Francisco

Mr. Choi can be reached by email at: [mchoi@kaplanfox.com](mailto:mchoi@kaplanfox.com)

**PAMELA MAYER** has been associated with Kaplan Fox since February 2009. She practices in the area of securities litigation.

Prior to joining Kaplan Fox, Ms. Mayer was a securities investigation and litigation attorney for a multinational investment bank. Utilizing her combined legal and business background, including her M.B.A., Ms. Mayer focuses on the research and analysis of securities claims on behalf of our firm's individual and institutional clients and is dedicated full-time to the firm's Portfolio Monitoring and Case Evaluation Program. Ms. Mayer also has substantial litigation experience in the area of intellectual property.

**Education:**

- B.S., The University of Rochester
- J.D., The George Washington University
- M.B.A., Finance, The University of Michigan

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York
- U.S. District Courts for the Southern and Eastern Districts of New York

**Professional Affiliations:**

- New York State Bar Association

Ms. Mayer can be reached by email at: [pmayer@kaplanfox.com](mailto:pmayer@kaplanfox.com)

**JASON A. URIS** has been associated with Kaplan Fox since May 2013. He practices in the areas of securities, antitrust, and consumer litigation. He is also actively involved in various pro bono matters, working with individuals and organizations in the New York metropolitan area.

**Education:**

- B.A., *cum laude*, Boston University (2011)
- J.D., Fordham University School of Law (2014)

**Bar Affiliations and Court Admissions:**

- Bar of the State of New York (2015)
- U.S. District Courts for the Southern and Eastern Districts of New York

**Professional Affiliations:**

- New York State Bar Association

Mr. Uris can be reached by email at: [juris@kaplanfox.com](mailto:juris@kaplanfox.com)

# **Exhibit 6**



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Rev. 1/10/17

## ABOUT A.B. DATA

Founded in 1981, A.B. Data has earned an international reputation for expertly managing the complexities of class action administration in securities class actions, Securities and Exchange Commission (SEC) enforcement actions, and ERISA, consumer, antitrust, employment, civil rights, insurance, environmental, wage and hour, and other class action cases. A.B. Data's work in all aspects of class action administration has been perfected by decades of experience. Dedicated professionals deliver A.B. Data's all-inclusive services, working in partnership with its clients to administer their class action cases effectively, efficiently, and affordably, regardless of size or scope.

A.B. Data has administered hundreds of class action cases involving billions of dollars in total settlements. A.B. Data was among the 5,000 fastest-growing companies on the 2010 *Inc.* and 2013 *Inc.* 500|5000, an exclusive ranking of the nation's entrepreneurial businesses. We were the only class action administration company to achieve this elite standing in 2010.

Whether notifying millions of class members in the United States or throughout the world, processing millions of claims, or printing and distributing millions of checks, A.B. Data matches its talent and technology to the specific needs of its clients, delivering unparalleled service on time and on budget without ever compromising quality.

A.B. Data offers unmatched resources and capacity, and is capable of expertly administering any class action notice, settlement, and/or fund administration. We offer the highest level of security and have the in-house capacity to mail four million personalized pieces every 24 hours. The company's 170,000-square-foot mail distribution center, with its own on-site United States Postal Service (USPS) substation, is one of the nation's largest and most advanced facilities. In addition, A.B. Data has been entrusted to Magnetic Ink Character Recognition- (MICR-)print and mail more than 20 million checks in one year alone and has the capacity to print and mail 1 million checks per day.

A.B. Data has administered some of the largest and most complex class action cases in history. Our success is driven by passion for class action administration and our focus on client relationships. An intensely case-specific approach and a philosophy of respect and professionalism toward our clients and claimants guide every aspect of our work, from the presettlement phase through notice administration, claims processing, and fund distribution.

A.B. Data administers class action cases on schedule and on budget with accuracy and efficiency. Trust the extraordinary, experienced professional talent at A.B. Data, and retain our services.

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Rev. 1/10/17

## TABLE OF CONTENTS

### FACTORS THAT DIFFERENTIATE A.B. DATA

### CLASS ACTION ADMINISTRATION SERVICES

Presettlement Consultation

Notice Administration

Publication Notice, Print Media, Social Media, and Digital Media

Reach and Frequency Analysis

Claims Processing

Development of Distribution Plans

Fund Distribution

Call Center

Website Services

Secure Environment

Data Security

Fraud Prevention and Detection

Accountability and Reporting

Community and Diversity

Environmentally Friendly Business

### A.B. DATA'S LEADERSHIP

### NOTABLE NON-CLASS-ACTION ENGAGEMENTS

### NOTABLE CLASS ACTION ENGAGEMENTS



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## FACTORS THAT DIFFERENTIATE A.B. DATA

- A.B. Data's competitive and transparent pricing structure contains no hidden fees or unpredictable expenses. No out-of-scope or additional services or costs are incurred without clients' prior approval.
- Our experienced class action administration team includes attorneys and CPAs who handle every aspect of the administration and deliver an impeccable work product with exemplary service. Our executive and management professionals have, on average, 14 years or more of industry experience, and our client services/project employees average ten years.
- We rapidly respond to our clients' needs and strive to exceed their expectations in every detail.
- A.B. Data's notice programs are known worldwide for their innovation, efficiency, and compliance with due process requirements.
- Our customized approach results in simplified claims processing, quick distributions, and considerable cost savings.
- A.B. Data's proprietary fraud detection database prevents payment of fraudulent claims.
- Our call center operates 24/7 and contains state-of-the-art telecommunications systems designed to meet the requirements of all administration projects.
- Our cutting-edge information and systems technologies enable us to provide superior quality control and quality assurance.
- Our proprietary online claims-submission system allows class members to submit claims in a fast, flexible, and cost-effective manner.
- A.B. Data offers the highest level of security and has the in-house capacity to mail 4 million personalized pieces every 24 hours. A.B. Data's 170,000-square-foot mail distribution center, with its own on-site USPS substation, is one of the nation's largest and most advanced facilities.
- We maintain a neutral focus when working with multiple clients, including class counsel, defense counsel, defendant companies, government entities, special masters, and claims-filing services.
- A.B. Data's in-house printing, mailing, and operational facilities streamline communication and maintain the highest level of security.
- Documents are designed to withstand legal scrutiny through accurate, efficient, and timely preparation.
- Clients receive updates with the latest developments in class action and industry news.



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Page | 4 of 15

## CLASS ACTION ADMINISTRATION SERVICES

### PRESETTLEMENT CONSULTATION

**A.B. Data helps its clients to prepare a stronger case.** During investigation and discovery, our electronic records management and proven procedures enable our team to quickly provide a fully interactive media package for court presentations and settlement negotiations.

By retaining A.B. Data, clients gain confidence that their case management is rock-solid from the start with

- Document analysis, organization, and conversion into an interactive media package
- Consultation on proposed plans of allocation and damages analyses by our experienced administration team and certified public accountants
- Assistance with “reach and frequency” analysis
- Consultation for designing and implementing preliminary notice programs that will withstand objections and challenges, as well as meet legal statutes and CAFA requirements
- Consultation to determine probable claim rates and settlement structures in an effort to avoid unexpected delays and additional costs that can arise when providing notice and distributing a settlement fund

### NOTICE ADMINISTRATION

**A.B. Data is an industry leader in full-service class action notice administration.** Our class action notice programs are known worldwide for their efficiency, effectiveness, affordability, and compliance with Federal Rule of Civil Procedure 23 and due process requirements. Our services include class member location; third-party outreach; and media, Internet, email, and direct-mail notice.

A.B. Data has designed and implemented some of the largest and most complicated national and international antitrust and class action notifications in the world. Globally, A.B. Data has successfully notified millions of class members throughout 137 countries in more than 80 languages. Domestically, as part of our multifaceted approach to class member location, A.B. Data is a licensee of various postal products, including NCOALink, which tracks millions of moves across the United States.

As a leading class action notice administrator, A.B. Data produces high volumes of notice documents with accuracy, speed, and quality. We print customized notice packages in a cost-efficient format that substantially improves the efficacy of the notice program.

A.B. Data’s team of attorneys, proofreaders, design specialists, and experienced Project Managers ensures that all notice packages are clear, accurate, and easy to understand. We

- Identify and locate potential class members via proprietary methods and research tools
- Design and implement synergistic media notice campaigns (online, print, radio, and television)
- Develop and implement case-specific third-party outreach campaigns
- Coordinate legal translation of notice documents
- Draft CAFA notices, identify appropriate government agencies, and disseminate CAFA notices
- Utilize a proprietary list of over 5,000 domestic and international banks, brokers, and other nominees (for securities class action cases and SEC enforcement actions)

### PUBLICATION NOTICE, PRINT MEDIA, SOCIAL MEDIA, AND DIGITAL MEDIA

**A.B. Data’s Media Notice Division** is led by Linda V. Young, a media veteran with decades of class action media notice expertise in some of the most prominent cases in the industry. As Vice President of Media, Young develops media notice plans along with Thomas R. Glenn, President; members of the Development Management Team; Mary Getz, Vice President, Digital Media; and Kelly Gardner, Vice President, List Services.



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Page | 5 of 15

The Media Notice Division will also provide expertise on Rule 23, MRI-generated audience analysis, reach and frequency analysis, and direct-marketing tactics to reach unidentified class members. Under Young's leadership, the A.B. Data Media Division continues to expand the array of targeted media solutions for class action notice programs.

## CLAIMS PROCESSING

**A.B. Data's customized approach combines accuracy, accountability, and speed with our human touch.** Each claim is reviewed in detail and processed precisely in accordance with the court-approved plan of allocation or settlement stipulation. A.B. Data's claims-processing services include paper and electronic claims processing, with optical character recognition technology to convert claims and correspondence into electronically searchable databases.

A.B. Data's proprietary Claims Engine, created by expert software engineers in collaboration with the Claimant Services Department, offers an extremely flexible workflow engine that allows high-speed claims imaging and processing without compromising quality. The database's high level of automation allows maximum control and provides a comprehensive and accurate claims solution. The A.B. Data Claims Engine contains the following special features:

- Eligibility criteria formula, which allows automatic flagging of claimants that do not meet the established criteria
- High-speed, bar-coded claims-processing system
- Complete tracking of all claims administration-related activities
- Case-specific algorithms and formulas for the calculation of individual payments and pro rata distributions.

When processing is complete and recommendations must be made to the court for settlement distribution, A.B. Data prepares timely affidavits that are accurate, concise, supported by the required documentation, and designed to withstand legal scrutiny. A.B. Data has the in-house capacity to process millions of pages, but every process is transparent, and every claim is handled as if it were the only one.

Whether processing a claim form requires only a signature or detailed data with supporting documentation, A.B. Data's claims administration team

- Prepares affidavits and recommendations drafted by experienced class action litigators and accounting professionals
- Assures that the lead plaintiff's claim is filed timely and correctly
- Verifies claims substantiations, as well as flags deficiencies and resolutions
- Detects and rejects fraudulent, duplicate, or excluded-party claims
- Processes exclusion requests and objections within two hours of receipt
- Calculates recognized losses and individual payments
- Manages claim-related correspondence
- Audits claims processing, including quality control and quality assurance
- Provides comprehensive on-demand reporting

## DEVELOPMENT OF DISTRIBUTION PLANS

**A.B. Data's team of fund administration professionals** includes attorneys, certified public accountants, and certified financial analysts and auditors. They bring years of dedicated experience assisting investors with SEC enforcement actions and private securities litigations.

We have developed hundreds of distribution plans, all in accordance with applicable orders, laws, regulations, policies, and procedures. Our customized approach to every case results in timely distributions, user-friendly claims processes, and greater cost savings. Depending upon the circumstances of each action, A.B. Data works in concert with its clients to conduct relevant economic and financial analyses, develop related methodologies for loss calculation, create appropriate plans of allocation, and if applicable, generate targeted notice programs and claims processes.



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## FUND DISTRIBUTION

**A.B. Data provides a full-service solution to settlement fund distribution.** Our team of certified public accountants and financial advisers expertly manages fund distribution while meeting legal, financial, and governmental requirements. We offer complete escrow services; establish qualified settlement funds; print and mail checks, vouchers, and/or coupons; electronically distribute cash or stock; and provide tax services. We also

- Establish and maintain accounts (escrow, FDIC-insured controlled distribution, or managed distribution), with daily account reconciliations and records of all distributions
- Create fund investment strategies
- Electronically transfer cash and/or common stock
- Utilize positive pay
- Securely print and mail checks (up to 1 million per day)
- Monitor outstanding and cleared checks
- Investigate and attempt to resolve issues with undelivered checks
- Provide detailed reporting, including completion of the standardized fund accounting report (SFAR)
- Offer all-inclusive tax and accounting services, including 1099 and W-2 tax reporting

## CALL CENTER

**A.B. Data's multilingual call center utilizes state-of-the-art telecommunications systems** designed to meet the specific requirements of any administration project, as well as to maximize the financial and service goals of our clients.

Our call center is managed by full-time staff well versed in the specific details of every case. Our skilled multilingual customer service representatives are trained using case-specific materials and resources and use telephone scripts written by our attorneys and approved by our clients.

Quality assurance and quality control procedures ensure the transmission of clear and accurate information to class members in a courteous and professional manner. The call center is able to handle large call volumes for notice mailing and emailing, claims administration, deficiency and rejection letter mailings, and distribution check mailings.

In addition to providing class members with superior-quality service, our customer service representatives can respond to online and email inquiries; document notice, claim form, and call-back requests; and return calls on a next-business-day basis regarding the status of an administration.

Clients may also utilize A.B. Data's advanced interactive voice response (IVR) system, which is a cost-effective way for class members to receive informational announcements, request notices and claim forms, and obtain case-specific details. Our IVR system provides toll-free telephone numbers, multilingual customer service representatives, and Teletype (TTY) for deaf and hearing-impaired individuals.

## WEBSITE SERVICES

In cases where a website is required, **A.B. Data in each instance designs, hosts, and maintains a case-specific website** via which class members have access to relevant case information and updates, key documents, and downloadable notice and claim documents. Depending upon the circumstances of the specific case, the website could include the following:

- Case status
- Responses to frequently asked questions
- Online claim forms and instructions
- Real-time claim status updates
- Case contact information

For all Web-based features, A.B. Data's system has complete functionality using the three most recent versions of industry-standard browsers. Samples of case-specific websites developed by A.B. Data can be obtained by referencing cases on our website at [abdataclassaction.com/cases/](http://abdataclassaction.com/cases/).



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Page | 7 of 15

## SECURE ENVIRONMENT

A.B. Data's facilities provide the highest level of security and customization of security procedures, including

- A Secure Sockets Layer server
- Video monitoring
- Limited physical access to production facilities
- Lockdown mode when checks are printed
- Background checks of key employees completed prior to hire
- Frequency of police patrol – every two hours, with response time of five or fewer minutes
- Disaster recovery plan available upon request

## DATA SECURITY

A.B. Data is committed to protecting the confidentiality, integrity, and availability of information we collect from our clients, investors, and class members. We transmit, save, and process an immense quantity of electronic information on a daily basis. A.B. Data's Information Security Policy includes procedures intended to address all information-security issues for A.B. Data's divisions, departments, employees, vendors, and clients.

A.B. Data has a number of high-profile clients, including the Securities and Exchange Commission (SEC), the United States government, and the Government of Israel, direct-banking and payment-service companies for popular brands, and some of the largest credit-card issuers in the world.

A.B. Data is frequently subject to physical, logical, data, and information system security reviews and audits. We are compliant with our clients' security standards as well as with ISO/IEC 27001/2 and Payment Card Industry (PCI) data-security standards, the Gramm-Leach-Bliley Act of 1999, the National Association of Insurance Commissioners' regulations, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and the Health Information Technology for Economic and Clinical Health Act (HITECH).

The Government of Israel has determined that A.B. Data is compliant with its rigorous security standards in connection with its work on Project HEART (Holocaust Era Asset Restitution Taskforce).

A.B. Data's fund distribution team has been audited by EisnerAmper LLP and was found compliant with class action industry standards and within 99% accuracy. EisnerAmper LLP is a full-service advisory and accounting firm and is ranked the 15<sup>th</sup>-largest accounting firm in the United States.

In addition, as part of PCI compliance requirements, A.B. Data has multiple network scans and audits from third-party companies, such as SecurityMetrics and 403 Labs, and is determined to be compliant with each of them.

## FRAUD PREVENTION AND DETECTION

A.B. Data is at the forefront of class action fraud prevention.

A.B. Data maintains and utilizes comprehensive proprietary databases and procedures to detect fraud and prevent payment of allegedly fraudulent claims. We are in constant communication and collaboration with federal, state, and local law enforcement agencies in an effort to identify and prevent fraudulent claims from being paid.

We review and analyze various filing patterns across all existing cases and claims. Potential fraudulent filers are reported to our clients as well as to the appropriate governmental agencies.



## ACCOUNTABILITY AND REPORTING

A.B. Data has the expertise necessary to provide project-management services to ensure that all work is completed timely, accurately, and precisely to our clients' specifications. Upon request, we provide affidavits detailing the methodologies employed in notice administration, claims processing, and fund administration, as well as expert testimony and audit trail reporting.

A.B. Data tracks and audits every aspect of daily production with

- Receipt of files (noting any issues with transmission)
- Status reports regarding claims or check status
- Audited and confirmed record counts
- Confirmation of mailings
- Inventory counts
- Daily production counts reported on a weekly basis

Once funds are fully distributed, we provide a detailed accounting of fund sources and usage with a listing of individual disbursements. We maintain records of all disbursements to answer class member inquiries, investigate and resolve undelivered material, monitor outstanding and cleared checks, and maintain mailing and financial databases for an agreed-upon period.

## COMMUNITY AND DIVERSITY

**A.B. Data maintains employment policies that highlight and support diversity within the company** and utilizes employment programs that benefit minorities in the community. At the company's mail processing center, located in a HUBZone (Historically Underutilized Business Zone), more than half of the employees are minorities. A.B. Data continues to partner with community organizations to increase minority employment opportunities and benefits.

By participating in employment service programs, such as the Transitional Jobs Demonstration Project, A.B. Data helps to create jobs and build partnerships that improve people's lives with valued job opportunities. Operated by Policy Studies, Inc. (PSI), this important project helps to connect Milwaukee-area employers with qualified job seekers.

As part of the 30<sup>th</sup> Street Industrial Corridor, a nonprofit organization that advocates on behalf of the corridor-area community, A.B. Data works diligently to restore the economic vitality of the area, providing industry, jobs, and safety to its members, residents, and visitors.

In addition, A.B. Data's mail-processing center is located in Milwaukee's Renewal Community, a targeted area that was designated for renewal from 2002 to 2009. A.B. Data partnered with other businesses to guide and promote development that created jobs, generated wealth, and strengthened the urban environment.

A.B. Data maintains its assistance to workers in need of additional services through State of Wisconsin employment programs, such as Welfare-to-Work (WtW), so that eligible employees receive FoodShare and medical benefits as well as day-care services. Through participation in these and other available employment programs, A.B. Data continues in its commitment to enhancing people's lives by providing quality employment opportunities.

## ENVIRONMENTALLY FRIENDLY BUSINESS

**A.B. Data conserves its resources and operates as a green business.** Paper claim forms are imaged and stored on A.B. Data's secure SQL server, and all claims processing is done electronically. We emphasize the need for recycling and encourage the use of recycled products. Our policies compel employees to turn off their computers when not in use, and email communications are encouraged to the extent possible.

A.B. Data's headquarters in Milwaukee was designed with the environment in mind. Upon purchasing the 16-acre campus in September 2007, A.B. Data renovated the 30-year-old building, utilizing natural elements such as cork, bamboo, and concrete, and upgraded its mechanical and electrical systems to optimize efficiency. For its efforts, A.B. Data won the *Milwaukee Business Journal's* Real Estate Award for Best Environmentally Friendly Project.



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## A.B. DATA'S LEADERSHIP

A.B. Data's administration team is composed of the following key executives, who collectively have decades of experience settling and administering class actions:

**Bruce A. Arbit, Co-Managing Director**, one of the founders of the A.B. Data Group, serves as Chairman of the Board. Additionally, Mr. Arbit is the Chairman of the United Israel Appeal and has served as President and General Campaign Chair of the Milwaukee Jewish Federation. Mr. Arbit currently serves as the Treasurer of the Jewish Telegraphic Agency and on the Boards of the Milwaukee Jewish Community Foundation and the American Joint Jewish Distribution Committee. Mr. Arbit has been a member of the Jewish Agency for Israel Board of Governors since June 2002, is a member of Jewish Agency Executives, and chairs the Committee on Israel Government Relations. Mr. Arbit has also served on the Boards of community banks for more than 25 years.

**Thomas R. Glenn, President**. Mr. Glenn's management of A.B. Data's Class Action Administration Company includes designing and implementing notice plans and settlement administration programs for antitrust, securities, and Securities and Exchange Commission settlements and SEC disgorgement fund distributions, as well as consumer, employment, insurance, and civil rights class actions. Mr. Glenn previously served as Executive Vice President at Rust Consulting and has more than 20 years of industry executive management experience.

**Eric Miller, Vice President, Case Management**, as a key member of A.B. Data's Class Action Administration Leadership Team, oversees the Case Management Department and supervises the operations and procedures of all of A.B. Data's class action administration cases. Mr. Miller is recognized in the class action administration industry as an expert on securities, SEC, consumer, product recall, product liability, general antitrust, pharmaceutical antitrust, and futures contract settlements, to name a few settlement types. Prior to joining A.B. Data, Mr. Miller served as the Client Service Director for Rust Consulting, responsible there for its securities practice area. He has more than 15 years of operations, project management, quality assurance, and training experience in the class action administration industry. In addition, Mr. Miller manages A.B. Data's office in Palm Beach Gardens, Florida.

**Linda V. Young, Vice President, Media**, oversees the Media Department and is responsible for the direction, development, and implementation of media notice plans for A.B. Data's class action clients. Prior to joining A.B. Data, Ms. Young served as the Principal of Mile Marker Zero, LLC, a full-service marketing and advertising consulting firm. She has more than 20 years of marketing, advertising, and media planning experience, managing advertising for brands such as Georgia-Pacific, American Express, Denny's, and Coca-Cola. In addition, Ms. Young has developed and implemented national and international print- and earned-media notice programs for some of the industry's leading pharmaceutical, insurance, and securities class action cases, including cases involving Premarin, Unity Life Insurance Co., and Morgan Stanley.

**Eric Schachter, Esq., Vice President**, is a member of A.B. Data's Class Action Administration Leadership Team. He has over 15 years of experience in the legal settlement administration services industry. Mr. Schachter's responsibilities include ensuring successful implementation of claims administration services for A.B. Data's clients in accordance with settlement agreements, court orders, and service agreements. He also works closely with Project Managers to develop plans of administration to provide the highest level of effective and efficient delivery of work product. Mr. Schachter has a bachelor's degree in sociology from Syracuse University, earned his law degree at Hofstra University School of Law, and was previously an associate at Labaton Sucharow LLP in New York City.



**Paul Sauberer, Director of Quality Assurance**, is responsible for overseeing quality assurance and process management, working diligently to mitigate risk, ensure exceptional quality control, and develop seamless calculation programming. Mr. Sauberer brings more than 15 years of experience as a quality assurance specialist with a leading claims-processing company where he developed extensive knowledge in securities class action administration. He is recognized as the class action administration industry's leading expert on claims and settlement administrations of futures contracts class actions.

**Al Wichtoski, CPA, Vice President and Chief Financial Officer**, began as a Controller with A.B. Data over 20 years ago. Mr. Wichtoski rose to a number of corporate administrative and financial management positions before realizing his current role with the company. Mr. Wichtoski attained his financial management expertise through a broad range of roles, including bank liaison, Internal Revenue Service conduit, and final compliance officer for all financial accounts associated with A.B. Data. Mr. Wichtoski's responsibilities include risk management, budgeting, tax filing, statement preparation, and financial analysis.

**Kathy Versteegh, Vice President of Client Services and Marketing**, has been with A.B. Data since 1993. Ms. Versteegh is currently responsible for business-critical communications, client service operations, and marketing, in addition to serving as a Security Team and Corporate Management Team member. Ms. Versteegh has earned U.S. Postal Service and Postal Customer Council (PCC) professional certificates in Management and Leadership, Intelligent Mail, Enhancing Mail Value, Mail Center Operations, and PCC Leadership. In May 2010, Ms. Versteegh was elected the United States Postal Customer Council Co-Chair. Currently, Ms. Versteegh is serving her second term as Co-Chair. With more than 20 years of marketing services experience, Ms. Versteegh offers an outstanding track record in business/organizational development, client satisfaction, and marketing strategies that include print, Internet, mail, trade show, and other sales and marketing communications.

**Lizabeth Ludowissi, MQCCS, Vice President, Production**, is responsible for overseeing the production of all A.B. Data Group mailings and special projects. Ms. Ludowissi has experience in virtually every role in the company, which provides her with invaluable insight into the needs of our clients. During her tenure, Ms. Ludowissi has worked to streamline our Production Department, implementing strict quality controls and overseeing all scheduling and coordination, including print purchasing as well as data-processing, personalization, and mail-shop services. As a Mailpiece Quality Control Certified Specialist (MQCCS), Ms. Ludowissi acts as the company's Postal Liaison regarding all USPS-related matters. Ms. Ludowissi is a member of the Wisconsin Direct Marketing Association and the Milwaukee Postal Customer Council.

**Adam Walter, PMP, Senior Project Manager**, has more than nine years of experience managing a range of securities class action settlements and SEC disgorgements totaling more than \$3.5 billion. This includes developing case administration strategies, overseeing daily operations of case administrations, ensuring execution of client deliverables, providing case-related legal and administration support to case counsel, overseeing notice dissemination programs, implementing complex claims-processing and allocation methodologies, establishing quality assurance and quality control procedures, and managing distribution of settlement funds. Mr. Walter frequently consults with clients in planning, reporting, and management of each unique case to ensure that all requirements and objectives are met. Mr. Walter's background as Project Manager for a leading claims administrator brings his expertise on the development of case administration strategies and service methodologies to A.B. Data's Class Action Administration Company.

**Linda Opichka, CPA, Quality Assurance Analyst**, has over a decade of experience as a broker-dealer auditor, trainer, and manager and, in 2008, passed the examination for Certified Anti-Money Laundering Specialists. Ms. Opichka is responsible for managing and performing financial analysis, reviewing plans of allocation, working with independent distribution consultants, and performing account reconciliations for fund distributions. Prior to joining A.B. Data, Ms. Opichka conducted audits for Northwestern Mutual, where she was a subject-matter expert for anti-money laundering and broker-dealer audits. Ms. Opichka was also in charge of performing financial and compliance audits for broker-dealers and futures-commission merchants at the Chicago Board of Trade.



**Eric Schultz, MCSE, Information Technology Manager and Security Team Chairperson**, has been with A.B. Data for more than ten years, and is currently responsible for overseeing all information technology areas for all A.B. Data divisions across the United States and abroad. As a Microsoft Certified Systems Engineer (MCSE) with more than 20 years of experience in information technology systems and solutions, Mr. Schultz has developed specializations in network security, infrastructure, design/architecture, telephony, and high-availability network systems.

**Dan Deschamps, Project Manager**, since joining A.B. Data in November 2011, has handled a number of positions developing substantial knowledge regarding the administration of consumer, ERISA, and high-volume securities litigations. In his current role as Project Manager, he leads the planning and implementation of projects to meet internal and external deadlines; manages the day-to-day operational aspects of each of his assigned projects; continuously monitors and reports on the progress of his projects; and resolves any issues and solves problems with projects throughout the project life cycle. He also works closely with A.B. Data's Senior Project Managers, clients, and others on each of his assigned projects and coaches, mentors, and trains project team members. Mr. Deschamps' specialties include ERISA and complex consumer cases, but his practice areas also include SEC enforcement actions; Fair Debt Collection Practices Act (FDCPA), Telephone Consumer Protection Act (TCPA), and personal injury protection (PIP) class actions; Class Action Fairness Act (CAFA) mailings; and securities class actions. Mr. Deschamps received his paralegal certificate from Harper College, Palatine, Illinois, where he was a member of Lambda Epsilon Chi, the national honor society founded by the American Association for Paralegal Education.

**Steve Straub, Esq., Project Manager**, leads the planning and implementation of projects to meet internal and external deadlines; manages the day-to-day operational aspects of his assigned projects; continuously monitors and reports on the progress of those projects; and resolves any issues and solves problems with projects throughout each project life cycle. He works closely with A.B. Data's Senior Project Managers, clients, and others on his assigned projects and coaches, mentors, and trains project team members. Mr. Straub's experience in administering class action settlements includes securities, consumer, and antitrust settlements, with a primary focus on antitrust cases. He holds a Juris Doctor degree from Seton Hall University School of Law, Newark, New Jersey.

**Anike Keller, Business Development Director**, provides expertise in legal marketing strategies and brings extensive experience in client relations to A.B. Data's business development team. Previously, Ms. Keller served the legal industry as part of the marketing group at a major class action law firm specializing in securities and antitrust litigation. Ms. Keller's knowledge and understanding of the class action industry, as well as her client relationship skills, expand A.B. Data's capacity to effectively achieve its business development and marketing goals.



## NOTABLE NON-CLASS-ACTION ENGAGEMENTS

### Holocaust Era Asset Restitution Taskforce (Project HEART)

An initiative of the Government of Israel and the Jewish Agency for Israel (JAFI), Project HEART – Holocaust Era Asset Restitution Taskforce – sought to provide the tools, strategy, and information to bring about a small measure of justice to eligible heirs of Jewish victims, the victims themselves, and the Jewish people as a whole.

During its initial phase, Project HEART focused on identifying individuals in 137 countries with potential claims regarding the following types of private property for which no restitution was received after the Holocaust era: (1) private property that was located in countries that were controlled by the Nazi forces or Axis powers at any time during the Holocaust era; (2) private property that belonged to Jewish persons, as defined by Nazi/Axis racial laws; and (3) private property that was confiscated, looted, or forcibly sold by the Nazi forces or Axis powers during the Holocaust era.

### Obama for America – 2008 and 2012

Retained by Obama for America in 2007, A.B. Data was responsible for designing, analyzing, and directing its grassroots fundraising efforts for the presidential campaign of 2008. From February 2007 to Election Day 2008, A.B. Data's direct-marketing efforts helped to elect President Barack Obama, raising a record amount of money – almost \$108 million – via the mail from more than 700,000 donors. As a result, A.B. Data was reappointed to lead President Obama's 2012 direct-marketing campaign in his attempt to gain reelection. As the sole administrator of the direct-marketing campaign for Obama for America 2012, A.B. Data designed, printed, and mailed each direct-marketing piece to raise money and awareness about President Obama's candidacy and efforts for reelection in 2012. A.B. Data's effort shattered all previous records, raising more than \$147 million through the mail from almost 875,000 individual donors.

### Doctors Without Borders/Médecins Sans Frontières

In 2009, A.B. Data was chosen to manage all facets of the direct-mail program for Doctors Without Borders/Médecins Sans Frontières (MSF). MSF is one of the most respected organizations in the world, having won the 1999 Nobel Peace Prize for its emergency medical humanitarian response to people around the world caught in armed conflict or suffering from epidemics, malnutrition, and natural disasters without access to health care. MSF is known for its fierce independence and its refusal to “look the other way” when a crisis is caused by the failure of a government, either through passive or aggressive actions. MSF raises \$84 million a year through its direct-marketing program, and it mails 17 million prospect pieces annually. MSF's house file consists of 465,000 12-month donors and about 800,000 lapsed donors – and it has 38,000 monthly donors. MSF's total house-file volume is 11 million a year.

### Holocaust Victim Assets Litigation (Swiss Banks) – \$1.25-billion settlement

As a court-appointed notice administrator for this litigation, A.B. Data played a key role in a worldwide Phase I notice effort that resulted in the processing of more than 500,000 initial questionnaires. In Phase III of the administration, A.B. Data delivered notice to more than 10,000 Jewish communities in 109 countries and administered international help and call centers in Phases I and III that directly assisted more than 100,000 potential claimants.

A.B. Data created a class-appropriate notice targeting Romanies (Gypsies) in 48 countries and directed hundreds of staff members to communicate orally and directly with Romani communities and individuals. A.B. Data notified more than 2 million people and, as designated by the International Organization for Migration (IOM), directly assisted more than 22,000 Romanies in 17 countries of central and eastern Europe with claim completion.



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Page | 13 of 15

## German Forced Labour Compensation Programme (GFLCP)

As designated by the IOM, A.B. Data located more than 43,000 Romani survivors in 17 countries of central and eastern Europe who were potentially eligible for humanitarian aid. A.B. Data created a comprehensive database for the GFLCP and the Holocaust Victim Assets Litigation and directly assisted more than 11,000 Romanians in eight central and eastern European countries with claim completion.

## The Wilderness Society

In 2012, A.B. Data was chosen to oversee and implement all facets of the direct mail and online fundraising programs for The Wilderness Society.

The Wilderness Society – with 500,000 members and supporters – is the leading American conservation organization working to protect our nation's beautiful wildlands. Since 1945, it has been at the forefront of nearly every major public lands battle, and its collaborative style and focus on practical solutions have saved some of our most beloved natural treasures from destruction.

## NOTABLE CLASS ACTION ENGAGEMENTS

A.B. Data and/or its team members have successfully administered hundreds of class actions, including many major cases. Listed below are some of the most notable of these engagements.

### Securities Cases

- *In re Fannie Mae 2008 Securities Litigation*
- *In re Anadarko Petroleum Corporation Class Action Litigation*
- *Ge Dandong, et al., v. Pinnacle Performance Limited, et al.*
- *In Re: Rough Rice Commodity Litigation*
- *Xuechen Yang v. Focus Media Holding Limited et al.*
- *In re Massey Energy Co. Securities Litigation*
- *In re Swisher Hygiene, Inc.*
- *The City of Providence vs. Aeropostale, Inc., et al.*
- *In re Metrologic Instruments, Inc. Shareholders Litigation*
- *Public Pension Fund Group v. KV Pharmaceutical Company et al.*
- *Pension Trust Fund for Operating Engineers, et al. v. Assisted Living Concepts, Inc., et al.*
- *In re Lehman Brothers Equity/Debt Securities Litigation*
- *In re: Platinum and Palladium Commodities Litigation (Platinum/Palladium Physical Action)*
- *In re: Platinum and Palladium Commodities Litigation (Platinum/Palladium Futures Action)*
- *In re General Electric Co. Securities Litigation*
- *In re CNX Gas Corporation Shareholders Litigation*
- *Oscar S. Wyatt, Jr. et al. v. El Paso Corporation, et al.*
- *In re Par Pharmaceutical Securities Litigation*
- *In re Par Pharmaceutical Companies, Inc. Shareholders Litigation*
- *In re Delphi Financial Group Shareholders Litigation*
- *In re SLM Corporation Securities Litigation*
- *In re Del Monte Foods Company Shareholder Litigation*
- *Leslie Niederklein v. PCS Edventures!.com, Inc. and Anthony A. Maher*
- *In re Beckman Coulter, Inc. Securities Litigation*
- *Michael Rubin v. MF Global, Ltd., et al.*
- *Allen Zametkin v. Fidelity Management & Research Company, et al.*
- *In re BP Prudhoe Bay Royalty Trust Securities Litigation*
- *Police and Fire Retirement System of the City of Detroit et al. v. SafeNet, Inc., et al.*



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DATA

New York | Washington, D.C. | Chicago | West Palm Beach | Milwaukee

Page | 14 of 15

- *In re Limelight Networks, Inc. Securities Litigation*
- *In re Gilead Sciences Securities Litigation*
- *In re ACS Shareholder Litigation, Consolidated C.A. No. 4940-VCP*
- *Lance Provo v. China Organic Agriculture, Inc., et al.*
- *In re LDK Solar Securities Litigation*

### **General and Pharmaceutical Antitrust Cases**

- *In re Ready-Mixed Concrete Antitrust Litigation*
- *In re: Marine Hose Antitrust Litigation*
- *Iowa Ready Mixed Concrete Antitrust Litigation*
- *In re Potash Antitrust Litigation (II)*
- *In re Evanston Northwestern Healthcare Corp. Antitrust Litigation*
- *In re Polyurethane Foam Antitrust Litigation*
- *In re LIBOR-Based Financial Instruments Antitrust Litigation*
- *In re Lorazepam and Clorazepate Antitrust Litigation*
- *In re Cardizem CD Antitrust Litigation*
- *Vista Healthplan, Inc., and Ramona Sakiestewa v. Bristol-Myers Squibb Co., and American BioScience, Inc.*
- *In re Lupron Marketing and Sales Practices Litigation*
- *In re Terazosin Hydrochloride Antitrust Litigation*
- *In re Warfarin Sodium Antitrust Litigation*
- *Rosemarie Ryan House, et al. v. GlaxoSmithKline PLC and SmithKline Beecham Corporation*
- *Carpenters and Joiners Welfare Fund, et al. v. SmithKline Beecham*
- *New Mexico United Food and Commercial Workers Union's and Employers' Health and Welfare Trust Fund, et al. v. Purdue Pharma L.P.*
- *In Re Pharmaceutical Industry Average Wholesale Price Litigation*
- *Alma Simonet, et al. v. SmithKline Beecham Corporation, d/b/a GlaxoSmithKline*
- *In re Relafen Antitrust Litigation*
- *In Re Remeron Direct Purchaser Antitrust Litigation*
- *In re TriCor Indirect Purchasers Antitrust Litigation*
- *Nichols, et al., v. SmithKline Beecham Corporation*
- *In re: DDAVP Indirect Purchaser Antitrust Litigation*

### **Telephone Consumer Protection Act (TCPA) Cases**

- *Diana Mey vs. Frontier Communications Corporation*
- *Matthew Donaca v. Dish Network, L.L.C.*
- *Matthew Benzion and Theodore Glaser v. Vivint, Inc.*
- *John Lofton v. Verizon Wireless (VAW) LLC, et al.*
- *Lori Shamblin v. Obama for America et al.*
- *Ellman v. Security Networks*

### **Consumer Products Case**

- *In the Matter of Maxfield and Oberton Holdings, LLC and Craig Zucker, et al.* ("Buckyballs Case")

### **Representative Case and Client Lists**

Representative general lists of A.B. Data's cases and clients are appended.



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Page | 15 of 15

## A.B. DATA, LTD.: REPRESENTATIVE CASE LIST

*Ace Marine Rigging & Supply, Inc. v. Virginia Harbor Services, Inc.*  
*Acevedo v. Lawyers Title Insurance Corporation*  
*Aceves, et al. v. Knights Inspection Services, LLC, and Knight*  
*In re ACS Shareholders Litigation*  
*In re Adolor Corporation Shareholders Litigation*  
*In re Advanta Corp. ERISA Litigation*  
*In re Affiliated Computer Services ERISA Litigation*  
*In re AIG ERISA Litigation*  
*In re AirGate PCS, Inc. Securities Litigation*  
*Akins v. Worley Catastrophe Response, LLC*  
*Alakayak v. All Alaskan Seafoods, Inc.*  
*Allen v. HealthPort Technologies, LLC*  
*Alper v. Warnock Ford, Inc.*  
*Altier v. Worley Catastrophe Response, LLC*  
*In re American Italian Pasta Company Securities Litigation*  
*(AIPC Settlement)*  
*In re American Italian Pasta Company Securities Litigation*  
*(Ernst Settlement)*  
*Anderson v. Third Federal Savings and Loan Association*  
*of Cleveland*  
*In re Andrx Corporation, Inc.*  
*Annoreno and Perez, individually, and on behalf of all*  
*others similarly situated v. Claire's Stores, Inc. and*  
*Claire's Boutiques, Inc.*  
*Arias v. Award Homes, Inc.*  
*Arteaga v. MODA Furniture, Inc.*  
*In re Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*  
*In re Atlas Energy, Inc. Shareholders Litigation*  
*Austrian Banks Holocaust Litigation*  
*Baptista v. Mutual of Omaha Insurance Company*  
*Bauman v. Superior Financial Corp.*  
*Beach, et al. v. Citigroup Alternative Investments LLC, et al.*  
*In re Bear Stearns Companies, Inc. ERISA Litigation*  
*In re Beazer Homes USA, Inc. ERISA Litigation*  
*In re Beckman Coulter, Inc. Securities Litigation*  
*Benzion v. Vivint, Inc.*  
*Bergman et al. v. DAP Products Inc., et al. (XHose Litigation)*  
*Berry v. Third Federal Savings and Loan Association of*  
*Cleveland, et al.*  
*Best v. Bluegreen*  
*In re BigBand Networks, Inc. Securities Litigation*  
*In re BioScrip, Inc. Securities Litigation*  
*In re BISYS Securities Litigation*  
*Black v. Metso Paper USA, Inc.*  
*Blaine v. Pressler & Pressler, LLP*  
*Blanco v. KeyBank USA, N.A.*  
*Board of Commissioners of the Port of New Orleans v. Virginia*  
*Harbor Services Inc.*  
*Bosland v. Warnock Dodge, Inc.*  
*Bowe v. Public Storage*  
*In re BP plc Securities Litigation*  
*In re BP Prudhoe Bay Royalty Trust Securities Litigation*  
*Bragg v. Bill Heard Chevrolet, Inc.-Plant City*  
*Branham and Smith, et al. v. Crawford & Company*  
*Brattain v. Richmond State Hospital*  
*Brennan v. Community Bank*  
*Brey Corp. v. Life Time Improvements, Inc.*  
*Brieger v. Tellabs, Inc.*  
*Broad St. Partners Fund v. Dods*  
*Brown v. Hayt, Hayt & Landau, LLC*  
*Brown v. Rita's*  
*Brumfield v. Countrywide Home Loans, Inc.*  
*Burns v. First American Bank*  
*Bushansky v. Simplicity Bancorp, Inc. et al.*  
*In re Calpine Corporation ERISA Litigation*  
*Canning v. Concord EFS, Inc.*  
*Capovilla v. Lone Star Technologies, Inc.*  
*In re Cardinal Health, Inc. ERISA Litigation*  
*Carlson v. C.H. Robinson Worldwide, Inc.*  
*Carlson v. State of Alaska, Commercial Fisheries Entry Commission*  
*In the Matter of Determining whether there has been a violation of*  
*the Consumer Loan Act of Washington by CashCall, Inc. et al.*  
*In re Cbeyond, Inc. Securities Litigation*  
*Cement Masons & Plasterers Joint Pension Trust v. TNS, Inc.*  
*Cerda v. Associates First Capital Corporation*  
*Cervantes v. RCS Recovery*  
*Chamberlin v. Mullooly*  
*Chao v. Slutsky*  
*Charlessaint v. Persian Acceptance Corp. et al.*  
*Clayton v. Velociti, Inc.*  
*Clearview Imaging, L.L.C. v. Dairyland Insurance Company*  
*Clearview Imaging, L.L.C. v. Mercury Insurance Company of Florida*  
*Clearview Imaging, L.L.C. v. Nationwide Mutual Insurance Company*



*Clearview Imaging, L.L.C. v. Progressive Consumers Insurance Company*

*Clemons v. Thompson*

*In re CNX Gas Corporation Shareholders Litigation*

*Cohen v. JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A.*

*Coleman v. Lincoln Wood Products, Inc.*

*In re Colgate-Palmolive Co. ERISA Litigation*

*Collins v. American Consumer Shows, Inc.*

*Commonwealth of Massachusetts v. H&R Block, Inc.*

*Conlon v. The City of Fernandina Beach*

*In re Connetics Securities Litigation*

*In re: The Consumers Trust*

*Coppess v. Healthways, Inc.*

*Corsello v. Verizon New York, Inc.*

*Cotton v. Ferman Management Services Corporation*

*Cottrell v. Gardner*

*In re CP Ships Ltd. Securities Litigation*

*In re Crestwood Midstream Partners Unitholder Litigation*

*Croxall v. Tampa Hund L.P.*

*In re Crude Oil Commodity Futures Litigation*

*Cruz v. Condor Capital Corporation*

*Curtis v. Northern Life Insurance Company*

*Davis v. First Financial Federal Credit Union*

*In re: DDAVP Indirect Purchaser Antitrust Litigation*

*DeCario v. Lerner New York, Inc.*

*In re Del Monte Foods Company Shareholder Litigation*

*In re Delphi Financial Group Shareholders Litigation*

*Deprosio v. The Provident Bank*

*Desai v. ADT Security Services, Inc.*

*Di Popolo v. Ramsey Nissan, Inc.*

*In re Diebold ERISA Litigation*

*Dishkin v. Tire Kingdom, Inc.*

*In re Dole Food Co., Inc. Stockholder Litigation*

*Donepudi v. OfficeMax Inc.*

*Drury v. Countrywide Home Loans, Inc.*

*Duchene v. Westlake*

*In re Dura Pharmaceuticals, Inc. Securities Litigation*

*Eisenberger v. Boston Service Company, Inc.*

*In re Electronic Data Systems Corp. ERISA Litigation*

*In re Emergent Group, Inc. Shareholder Litigation*

*In re: Enterprise Rent-A-Car Wage & Hour Employment Practices Litigation*

*Epstein v. Sears, Roebuck and Co.*

*Estakhrian v. Obenstine et al.*

*Estates of Hampton v. Beverly Enterprises-Arkansas, Inc.*

*Estep v. Smythe Volvo, Inc.*

*Evans v. Stewart Title Guaranty Company*

*In re Facebook, Inc. IPO Securities and Derivative Litigation - NASDAQ*

*Family Open MRI, Incorporated v. Direct General Insurance Company*

*In re Fannie Mae ERISA Litigation*

*In re Fannie Mae 2008 Securities Litigation*

*Fernando v. Neopost USA, Inc.*

*Fernando v. Priority Mailing Systems*

*Ferro v. Florida Windstorm Underwriting Association*

*Finney v. Stewart Title Guaranty Company*

*In re First Financial Holdings Inc. Shareholders Litigation*

*In re FLAG Telecom Holdings, Ltd. Securities Litigation*

*Flood v. Dominguez*

*Office of the Attorney General, Department of Legal Affairs, State of Florida v. KB Home et al.*

*Kellman v. Forever 21 Retail, Inc.*

*Forsta AP-Fonden, et al. v. St. Jude Medical, Inc., et al.*

*Francis v. A&E Stores, Inc.*

*Franco v. Ace Parking Management Inc.*

*Fray-Witzer v. Metropolitan Antiques, LLC*

*Fray-Witzer v. Olde Stone Land Survey Company, Inc.*

*Fremont General Corporation Litigation*

*Friedman v. Rayovac Corporation*

*Froumy v. Stark & Stark*

*FW Transportation, Inc. v. Associates Commercial Corporation*

*In re General Electric Company Securities Litigation*

*German Forced Labor Compensation Program (GFLCP)*

*Gevaerts et al. v. TD Bank, N.A.*

*In re Gilead Sciences Securities Litigation*

*Gilley v. Ernie Haire Ford, Inc.*

*In re Goodrich Shareholders Litigation*

*Graham v. Town & Country Disposal of Western Missouri, Inc.*

*Greenstein v. Nations Title Agency of Florida, Inc.*

*Griffin v. Flagstar Bancorp, Inc.*

*Groen v. PolyMedica Corporation*

*Gulf Coast Injury Center, LLC v. Nationwide Mutual Fire Insurance Company*

*Haas v. Burlington County*

*Hall v. The Children's Place Retail Stores, Inc.*

*Hamilton v. ATX Services Inc.*

*Hargrave v. TXU Corp.*

*Harlacher and Woodring v. Members 1st Federal Credit Union*



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*Harris v. First Regional Bancorp*  
*Harris v. Koenig*  
*In re Hartford Financial Services Group Inc. ERISA Litigation*  
*Haynes v. Baptist Health*  
*In re: Hearst-Argyle Shareholder Litigation*  
*Hellmers v. Countrywide Home Loans, Inc.*  
*Hess v. Oriole Homes Corp.*  
*Hill v. American Medical Security Life Insurance Company*  
*Hill v. Countrywide Home Loans, Inc.*  
*Hockenberry v. People First Federal Credit Union*  
*Holley v. Kitty Hawk, Inc.*  
*In re Holocaust Victim Assets Litigation (Swiss Banks) (HVA)*  
*Hudson United Bank v. Chase*  
*Hughley v. Maryland Casualty Company*  
*Hunt v. PacifiCare Life and Health Insurance Company*  
*Hutt v. Martha Stewart Living Omnimedia, Inc.*  
*Hutson v. Baptist Health*  
*In re ICG Communications, Inc. Securities Litigation*  
*Ikuseghan v. MultiCare Health System*  
*The State of Illinois v. Au Optronics Corporation et al.*  
*In re: InfoSonics Securities Litigation*  
*In re ING Groep, N.V. ERISA Litigation*  
*In re International Business Machines Corp. Securities Litigation*  
 International Commission on Holocaust Era Insurance Claims (ICHEIC)  
*In re Iowa Ready-Mixed Concrete Antitrust Litigation*  
*In re J. Crew Group, Inc. Shareholders Litigation*  
*In re JDS Uniphase Corporation ERISA Litigation*  
*Johnson v. Navient Solutions Inc.*  
*Kalow & Springut, LLP v. Commence Corporation*  
*Katz et al. v. Live Nation Worldwide, Inc.*  
*Katz and Davidson v. Live Nation Worldwide, Inc.*  
*Kay v. Wells Fargo & Company*  
*Kemp v. DataBank IMX, LLC*  
*In re Kinder Morgan Energy Partnership, L.P. Capex Litigation*  
*In re: King Pharmaceuticals, Inc. Securities Litigation*  
*Kolluri v. Belco Community Credit Union*  
*Krakauer v. Dish Network L.L.C.*  
*Kreher v. City of Atlanta, Georgia*  
*Kubota v. Walker*  
*The Lafayette Life Insurance Company v. City of Menasha*  
*Laffan v. Santander Bank, N.A., et al.*  
*Lara, et al., v. G & E Florida Contractors, LLC*  
*In re LDK Solar Securities Litigation*

*In re Lear Corp. ERISA Litigation*  
*Lehmann v. Ivivi Technologies, Inc.*  
*In re Lehman Brothers Equity/Debt Securities Litigation*  
*In re Lernout & Hauspie Securities Litigation (Directors and FLV Settlements)*  
*In re Lernout & Hauspie Securities Litigation (KPMG Settlement)*  
*Leslie Niederklein v. PCS Edventures!.com, Inc.*  
*Li v. Bowers et al. (Square 1 Financial Case)*  
*Lilly v. Oneida Ltd. Employee Benefits Admin. Comm.*  
*In re Limelight Networks, Inc. Securities Litigation*  
*Long v. Eschelon Telecom, Inc.*  
*The Louisiana Municipal Police Employees Retirement System v. Deloitte & Touche LLP*  
*Lyons, et al. v. Litton Loan Servicing, LP, et al.*  
*Mann & Company, PC v. C-Tech Industries, Inc.*  
*Mann v. Lawyers Title Insurance Corporation*  
*Mantzouris v. Scarritt Motor Group, Inc.*  
*In re Marine Hose Antitrust Litigation (Bridgestone Settlement)*  
*In re Marine Hose Antitrust Litigation (Dunlop Settlement)*  
*In re Marine Hose Antitrust Litigation (Parker Settlement)*  
*In re Marine Hose Antitrust Litigation (Trelleborg Settlement)*  
*In re Marine Hose Antitrust Litigation (Yokohama Settlement)*  
*In re Marsh ERISA Litigation*  
*In re Martek Biosciences Corp. Securities Litigation*  
*Martin v. aaiPharma, Inc.*  
*Martin v. Dun & Bradstreet, Inc.*  
*Martin v. Foster Wheeler Energy Corporation*  
*In Re Massey Energy Co. Securities Litigation*  
*In the Matter of Maxfield and Oberton Holdings, LLC*  
*Mayer v. Administrative Committee of the Smurfit-Stone Container Corporation Retirement Plans*  
*Mayes v. The Geo Group, Inc.*  
*Mayotte v. Associated Bank, N.A.*  
*In re MBNA Corp. Securities Litigation*  
*Meadows v. Clearwater Bay Marketing, LLC*  
*Means v. River Valley Financial Bank*  
*In re Merck & Co. Inc. Vytarin ERISA Litigation*  
*Medoff v. CVS Caremark Corporation et al.*  
*Merrimon v. UNUM Life Insurance Company of America*  
*In re Metavante Technologies, Inc. Shareholder Litigation*  
*In re Metrologic Instruments, Inc. Shareholders Litigation*  
*Mey v. Herbalife International, Inc.*  
*Mey v. Interstate National Dealer Services, Inc., et al.*  
*In re Micromuse, Inc. Securities Litigation*  
*Milford & Ford Associates, Inc. v. Cell-Tek, LLC*



*Miller v. Weltman, Weinberg & Reis Co., L.P.A.*  
*In re: MK Resources Company Shareholders Litigation*  
*Montalvo v. Tripos, Inc.*  
*Moore v. The Hertz Corporation*  
*In re Morgan Asset Management, Inc.*  
 (Kelsoe and Weller Settlements)  
*Morrison v. MoneyGram International, Inc.*  
 Mortgage Settlement Consumer Restitution Program  
 (Foreclosure Restitution Program and Bank of America Victims Program)  
*In re Motive, Inc. Securities Litigation*  
*Mozenter v. Nalco Holding Company*  
*Mukoma v. Fleet Lease Network Inc.*  
*Mulhern v. MacLeod d/b/a ABC Mortgage Company*  
*Munday v. Navy Federal*  
*In re: National City Corporation Securities, Derivative & ERISA Litigation*  
*In re Neustar, Inc. Securities Litigation*  
*The Department of the Treasury of the State of New Jersey and its Division of Investment v. Cliffs Natural Resources Inc., et al.*  
*The People of the State of New York v. SKS Associates, LLC*  
*In re NII Holdings, Inc., Securities Litigation*  
*Norflot v. John Hancock Life Insurance Company*  
*Norris and Tatem v. Eichenbaum & Stylianou, LLC, et al.*  
*In re Novamed, Inc. Shareholders Litigation*  
*NSL Capital Management v. Gorman*  
*Nthenge v. Pressler and Pressler, LLP*  
*In re: NX Networks Securities Litigation*  
*Obermeyer v. Marinemax East, Inc.*  
*Olivo v. Homecomings Financial LLC*  
*Open MRI of Pinellas, Inc. v. Atlanta Casualty Insurance Company*  
*Ori v. Fifth Third Bank and Fiserv, Inc.*  
*In re: Ortiz v. Aurora Health Care, Inc.*  
*Osborn v. EMC Corporation*  
*In re OSI Pharmaceuticals, Inc. Securities Litigation*  
*Otte v. Life Insurance Company of North America*  
*Overby v. Tyco International Ltd.*  
*Ownby v. Citrus County, Florida*  
*In re: Pacific Gateway Exchange, Inc. Securities Litigation*  
*Paliotto v. Johnny Rockets Group, Inc.*  
*In re Par Pharmaceutical Companies, Inc. Shareholders Litigation*  
*In re Par Pharmaceutical Securities Litigation*  
*Parker v. American Medical Security Group, Inc.*  
*Parthiban v. GMAC Mortgage Corporation*

*Paskowitz v. Ernst & Young, LLP (Motive, Inc.)*  
*Patel v. Baluchi's Indian Restaurant*  
*Payson v. Capital One Home Loans, LLC (FLSA Settlement)*  
*Payson v. Capital One Home Loans, LLC (KWPA Settlement)*  
*Pension Trust Fund for Operating Engineers v. Assisted Living Concepts, Inc.*  
*Pereira v. Foot Locker, Inc.*  
*Perez v. Rent-A-Center, Inc.*  
*Pettway v. Harmon Law Offices, P.C.*  
*Pfeiffer and McElroy derivatively on behalf of Occidental Petroleum Corporation v. Abraham et al. and Occidental Petroleum Corporation*  
*In re: PFF Bancorp, Inc. ERISA Litigation*  
*Pickett v. Triad Financial Corporation*  
*In Re: Platinum And Palladium Commodities Litigation*  
*Police and Fire Retirement System of the City of Detroit, Plymouth County Retirement System v. SafeNet, Inc.*  
*Politi v. Pressler & Pressler, LLP*  
*Pollard, et al. v. ETS PC, Inc. (f/k/a Eberl's Temporary Services, Inc.) et al.*  
*Pollitt v. DRS Towing, LLC*  
*In re Potash Antitrust Litigation (II)*  
*Premier Open MRI, LLC v. Progressive American Ins. Co.*  
 Project HEART—Holocaust Era Asset Restitution Taskforce  
*In re Prospect Medical Holdings, Inc. Shareholders Litigation*  
*Provo v. China Organic Agriculture, Inc.*  
*Public Pension Group v. KV Pharmaceutical Co.*  
*Puritan Budget Plan, Inc. v. Amstar Insurance Company*  
*Quaak v. Dexia, S.A.*  
*Ragsdale v. SanSai USA, Inc.*  
*Ramirez v. GreenPoint Mortgage Funding, Inc.*  
*Rational Strategies Fund v. Demere, Jr.*  
*Rational Strategies Fund v. Hill*  
*Raul v. Western Liberty Bancorp*  
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*Reeves, et al. v. Zealandia Holding Company, Inc., f/k/a Festiva Hospitality Group, Inc., et al.*  
*In re Reliant Securities Litigation*  
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*Roberti v. OSI Systems, Inc.*  
*Rodriguez v. Fulton Bank, N.A.*  
*Rolark v. Lawyers Title Insurance Corporation*



*Rubin v. MF Global, Ltd.*  
*Rufo v. Alpha Recovery Corp.*  
*Rupp v. Thompson*  
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*Saint Pete MRI v. Hartford*  
*Saint Pete MRI v. Auto Club South Insurance Company*  
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*Santos v. Silver*  
*Scher v. Oxford Health Plans, Inc.*  
*In re Schering-Plough Corp. Enhance ERISA Litigation*  
*In re Schering-Plough Corp. ERISA Litigation*  
*Schmitz v. Liberty Mutual Insurance Company*  
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*SEC v. Anderson*  
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*Shane v. Edge*  
*Sheikh v. Maxon Hyundai, Inc.*  
*Silke v. Irwin Mortgage Corporation*  
*Sivsubramanian v. DNC Health Corp.*  
*In re SLM Corporation Securities Litigation*  
*Smith v. Mill-Tel, Inc.*  
*Smolkin v. Leviton Manufacturing Co., Inc.*  
*Soden v. East Brunswick Buick-Pontiac-GMC, Inc.*  
*Sokoloski v. Stewart Title Guaranty Company Settlement*  
*Sonoda v. Amerisave*  
*Southeast Texas Medical Associates, LLP v. VeriSign, Inc.*  
*Special Situations Fund III, L.P. v. Quovadx, Inc.*  
*Steele v. GE Money Bank*  
*Stein v. Pactiv Corporation*  
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*Stoffels v. SBC Communications, Inc.*  
*In re Stone & Webster, Inc. Securities Litigation*  
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*Sutterfield v. Carney*  
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*In re Take-Two Interactive Securities Litigation and SEC v. Brant*  
*Tannlund v. Real Time Resolutions, Inc.*  
*Taylor v. McKelvey (Monster Worldwide, Inc.)*  
*Taztia XT Securities Litigation*  
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*In the Matter of UBS Financial Services Inc. of Puerto Rico*  
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*Ultra Open MRI Corporation v. Nationwide Assurance Company*  
*United Consumer Financial Services Company v. William Carbo v. A&M Merchandising, Inc.*  
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*In re Vaso Active Pharmaceuticals Derivatives Litigation*  
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*Veal v. Crown Auto Dealerships, Inc.*  
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*Von Friewalde v. Boeing Aerospace Operations, Inc.*  
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*Walker v. Hill Wallack LLP*  
*Walter v. Level 3 Communications, Inc.*  
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*Warren v. Orkin Exterminating Company, Inc.*  
*State of Washington v. Au Optronics Corp., et al.*  
*Wells v. DTD Enterprises, Inc.*  
*Brown v. Wells Fargo & Company*  
*Wenger v. Cardo Windows, Inc.*  
*Wenger v. Freehold Subaru, LLC*



*White v. E-Loan, Inc.*

*White v. Wells Fargo, N.A.*

*Will v. American Equity Mortgage, Inc.*

*Williams v. CBE Group*

*Wisniak v. Mirant Americas Generation, LLC*

*Wood v. New Century Financial Services, Inc.*

*Wyatt v. El Paso Corporation*

*Herrera v. Wyeth ERISA Litigation*

*Yang v. Focus Media Holding Limited*

*Yariv v. AT&T Corp.*

*Yingling v. eBay, Inc.*

*Yost v. First Horizon*

*Young v. Heimbuch*

*In re: YRC Worldwide, Inc. ERISA Litigation*

*Zametkin v. Fidelity Management & Research Company*

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