

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

JENI RIEGER, ALOHA DAVIS,  
JODIE CHAPMAN, CARRIE VASEL,  
KAREN BURNAUGH, TOM  
GARDEN, ADA and ANGELI  
GOZON, HERNAN A. GONZALEZ,  
PATRICIA A. HENSLEY, CLYDIENE  
FRANCIS, PETER LOWEGARD, and  
GRANT BRADLEY, individually and  
on behalf of a class of similarly situated  
individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., a New Jersey  
corporation, d/b/a AUDI OF  
AMERICA, INC.,

Defendant.

Case No. 1:21-cv-10546-NHL-EAP

Motion Date: November 6, 2023

PLAINTIFFS' NOTICE OF  
UNOPPOSED MOTION FOR AN  
ORDER PRELIMINARILY  
APPROVING CLASS ACTION  
SETTLEMENT

**PLEASE TAKE NOTICE** that on November 6, 2023 at 9:00 AM or as soon thereafter as the matter can be heard, Plaintiffs Tom Garden, Carrie Vessel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada and Angeli Gozon, Peter Lowegard, and Patrician Hensley ("Plaintiffs"), individually and on behalf of the Settlement Class, move this Court before Hon. Noel L. Hillman, U.S.D.J., pursuant to Rule 23 of the Federal Rules of Civil Procedure for an Order: (1) granting preliminary approval of the Settlement; (2) conditionally certifying the proposed

Settlement Class for settlement purposes; (3) conditionally appointing Plaintiffs as the Settlement Class Representatives and Plaintiffs' Counsel, Berger Montague PC, Capstone Law APC, and Ladah Law Firm, as Settlement Class Counsel; (4) approving the Parties' proposed Class Notice Plan for disseminating the Class Notice; (5) conditionally appointing JND Legal Administration, as the Settlement Claim Administrator; (6) setting deadlines for the filing of any objections to, or requests for exclusion from the Settlement and other submissions in connection with the Settlement approval process; and (7) setting a hearing date and briefing schedule for Final Approval of the Settlement and Plaintiffs' application for service awards and attorneys' fees and expenses.

In support of this Motion, Plaintiffs rely upon the accompanying Brief, the Declaration of Tarek Zohdy ("Zohdy Decl."), the Declaration of Russel D. Paul ("Paul Decl."), the Declaration of Ramzy P. Ladah ("Ladah Decl."), and a copy of the fully executed Settlement Agreement, which is attached as Exhibit 1 to the Zohdy Decl. The following Exhibits are appended to the Settlement Agreement:

- Exhibit 1, Claim Form
- Exhibit 2, Class Notice
- Exhibit 3, Preliminary Approval Order
- Exhibit 4, Designated VINs for Settlement Class Vehicles

Defendant Volkswagen Group of America, Inc. does not oppose this Motion.

Dated: October 11, 2023

Respectfully Submitted,

/s/ Russell D. Paul

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**PLAINTIFFS' BRIEF IN SUPPORT OF  
THEIR UNOPPOSED MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

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## I. INTRODUCTION

As the Court appointed interim Rule 23(g) counsel in this matter (ECF 66), we hereby advise the Court that after nearly two-and-a-half years of litigation, the Parties<sup>1</sup> have reached a nationwide class settlement of this consumer class action on behalf of all persons and entities who purchased or leased, in the United States and Puerto Rico, certain model year Audi vehicles that were imported and distributed by Defendant Volkswagen Group of America, Inc. (“VWGoA” or “Defendant”) for sale or lease in the United States or Puerto Rico (“Settlement Class Vehicles”).<sup>2</sup> Plaintiffs respectfully seek preliminary approval of the Parties’ proposed Class Settlement Agreement (“Settlement”). As discussed below, this Settlement, which affords substantial benefits to the Settlement Class, was the result of extensive arm’s length negotiations of highly disputed claims by experienced class action counsel. Plaintiffs claim that the pistons rings and/or piston/piston heads in the Settlement Class Vehicles’ 2.0-liter turbocharged engines are defective in that they cause excessive

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<sup>1</sup> The named Plaintiffs who are Parties to the Settlement Agreement, individually and as representatives of the Settlement Class, are Plaintiffs Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada Gozon and Angeli Gozon, Peter Lowegard, and Patricia Hensley (collectively, “Plaintiffs”). “Parties” is defined as Plaintiffs and Defendant Volkswagen Group of America, Inc. Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement Agreement, attached as Exhibit 1 to the Declaration of Tarek H. Zohdy (“Zohdy Decl.”).

<sup>2</sup> Settlement Class Vehicles include only certain of the following models and model years: 2012, 2013, and 2014 Audi A4, A5, A6, and Q5 vehicles; model year 2012, 2013, 2014, 2016 and 2017 Audi TT vehicles, and model year 2015, 2016 and 2017 Audi A3 vehicles. A complete list of the Vehicle Identification Numbers of included Settlement Class Vehicles is attached as Exhibit 4 to the Settlement Agreement.

oil consumption and can cause the pistons and the engine itself to fail. Plaintiffs have asserted claims under theories of, *inter alia*, breach of express and implied warranties and violation of the state fraud and consumer-protections statutes of states in which Plaintiffs purchased their vehicles or are domiciled. VWGoA denies these allegations and maintains that the subject vehicles' pistons are not defective, were properly designed, manufactured, marketed, distributed and sold, and function properly. VWGoA further maintains that no express or implied warranties were breached, and no consumer statutes or common law duties were violated.

The proposed nationwide Class Settlement (hereinafter "Settlement" or "Class Settlement") was the culmination of extensive arms-length negotiations, ultimately reached with the assistance of a respected neutral Mediator who is highly experienced in class action settlements. The Settlement, described more fully below, provides Settlement Class Members with immediate and valuable relief, including a warranty extension and reimbursement for past covered repairs, that directly addresses issues applicable to respective categories of the Settlement Class Vehicles. It is fair, reasonable, and adequate, and complies in all respects with Fed. R. Civ. P. 23 ("Rule 23").

Plaintiffs accordingly request that this Court review their negotiated Settlement Agreement, attached as Exhibit A to the accompanying Declaration of Tarek H. Zohdy, and enter an order: (1) granting preliminary approval of the Settlement; (2) conditionally certifying the proposed Settlement Class for settlement purposes; (3) conditionally appointing Plaintiffs as the Settlement Class Representatives and Plaintiffs' approved Interim Rule 23(g) Class Counsel, Berger

Montague PC, Capstone Law APC, and Ladah Law Firm, as Settlement Class Counsel; (4) approving the Parties' proposed Class Notice Plan for disseminating the Class Notice; (5) conditionally appointing JND Legal Administration as the Settlement Claim Administrator; (6) setting deadlines for the filing of any objections to, or requests for exclusion from, the Settlement, and other submissions in connection with the Settlement approval process; and (7) setting a hearing date and briefing schedule for Final Approval of the Settlement and Plaintiffs' application for service awards and attorneys' fees and expenses.

## **II. FACTUAL BACKGROUND**

### **A. Plaintiffs' Experiences With the Class Vehicles**

This nationwide class action arises out of an alleged defect in certain model year 2012-2017 Audi vehicles equipped with the Audi 2.0T engine. Plaintiffs allege that the pistons and/or piston heads in the vehicles' engine are defective, causing excessive oil consumption or piston fracture, and in some instances, can potentially lead to engine damage. Each of the settling Plaintiffs asserts that they purchased a settlement class vehicle that experienced excessive oil consumption or a piston issue, requiring repair. Certain Plaintiffs allege that they paid out of pocket for repairs to address these issues, and others contend that they were unable to afford such repairs. Defendant asserts these engines are not defective, and the cause of damage was due to lack of or improper maintenance, improper usage of the subject vehicles and/or other outside influence.

## **B. Overview of the Litigation and Settlement Negotiations**

The Complaint asserting a nationwide putative class action was originally filed on April 30, 2021, and was amended on May 6, 2021 (First Amended Complaint) and July 26, 2021 (Second Amended Complaint) adding multiple named plaintiffs, including most of the Plaintiffs here. *See* ECF 11 and 36; Zohdy Decl. ¶¶ 2-3.

On August 5, 2021, Plaintiff Hernan A. Gonzalez, represented by Class Counsel, filed *Gonzalez v. Volkswagen Group of America, et al.*, in Superior Court of the State of New Jersey, Mercer County, Law Division, under Docket No. L-001632-21. Zohdy Decl. ¶ 4. On August 9, 2021, Defendant filed a notice of removal of the *Gonzalez* action to this Court. *See Gonzalez v. Volkswagen Group of America, et al.*, Civil Case No. 1:21-cv-15026-NLH-MJS, ECF 1. On September 30, 2021, pursuant to Consent Motion of the Parties, this Court entered an order consolidating *Gonzalez* with and into this action, and directing the filing of a Consolidated Class Action Complaint, which was filed on October 12, 2021. ECF 42, 45; Zohdy Decl. ¶ 4.

Defendant VWGoA filed a motion to dismiss the Consolidated Class Action Complaint on December 3, 2021. ECF 53; Zohdy Decl. ¶ 5. Substantial briefing on that motion thereafter ensued, with Plaintiffs filing an extensive opposition on January 14, 2022 (ECF 55; Zohdy Decl. ¶ 5), and VWGoA filing a reply on February 11, 2022. ECF 59; Zohdy Decl. ¶ 5.<sup>3</sup> On May 4, 2023, the Court granted in part and

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<sup>3</sup> On June 23, 2022, *Mishkin v. Volkswagen Group of America, Inc.* was filed in U.S. District Court for the Eastern District of Missouri involving the same vehicles and

denied in part the motion to dismiss, with leave to amend. ECF 66; Zohdy Decl. ¶ 6. As a result, on June 2, 2023, Plaintiffs filed the First Amended Consolidated Class Action Complaint. ECF 67; Zohdy Decl. ¶ 7.<sup>4</sup>

In Spring 2023, the Parties initially discussed the possibility of settlement, and the Parties agreed to participate in mediation before an experienced mediator. Zohdy Decl. ¶ 8. On July 7, 2023, following extensive settlement negotiations, the Parties engaged in a vigorous day-long mediation before Bradley A. Winters, Esq., a respected and very experienced neutral class action Mediator with JAMS during which the Parties reached agreement on the material terms of a settlement in principle. *Id.* at ¶ 9. The Parties continued negotiations, exchanging additional information and finalizing the details of this nationwide settlement. *Id.* at ¶ 10. Following further review of the information exchanged and investigation of the

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alleging the same defect and underlying allegations on behalf of a Missouri Plaintiff and a putative Missouri-only class. Since *Mishkin*'s Missouri-only putative class members were already encompassed within this action's putative nationwide class, the Missouri court, on October 11, 2022, transferred *Mishkin* to this Court, and that action was assigned to Judge Hillman under 1:22-cv-06127-NLH-EAP. Other than VWGoA's motion to dismiss (*Mishkin* ECF 41), which this Court granted in part and denied in part (*Id.*, ECF 52), there has been no litigation activity in the *Mishkin* action, nor did *Mishkin*'s counsel, who was well aware of this action, ever object to Class Counsel's appointment as Rule 23(g) interim class counsel for the nationwide class (ECF 66). The nationwide Class Settlement herein encompasses *Mishkin* and his putative Missouri-only class. This Court recently scheduled a Case Management Conference in *Mishkin* for November 1, 2023, and an application will be made to stay all proceedings in that case pending the Court's final determination of whether to approve this nationwide Class Settlement.

<sup>4</sup> On October 10, 2023, Plaintiff Jeni Rieger, Jodie Chapman, Aloha Davis, and Hernan A. Gonzalez filed voluntary dismissals of their claims. *See* ECF 81.

claims extensively, the Parties finalized the terms of the settlement and reduced those terms to a formal Settlement Agreement. Based on the information exchanged as well as a thorough investigation prior to filing the Complaint, including interviewing putative Class Members, researching publicly available materials, and inspecting Class Vehicles, Class Counsel gained a thorough understanding of both the strengths and weaknesses of Plaintiffs' claims and believe the proposed terms of the Settlement Agreement represent a substantial recovery on behalf of the putative Class. *Id.* at ¶¶ 10, 12-15.

Only after agreeing to the structure and material terms for settlement of the Class claims, the Parties negotiated, including during an additional mediation with Mr. Winters on August 21, 2023, and ultimately agreed upon an appropriate request for incentive awards and Plaintiffs' attorneys' fees and expenses. Zohdy Decl. ¶ 11. All the terms of the Settlement Agreement are the result of extensive, adversarial, and arm's-length negotiations between experienced counsel for both sides. *Id.* The settlement is set forth in complete and final form in the Settlement Agreement. *Id.*, Zohdy Decl., Ex. A.

### **III. MATERIAL TERMS OF THE PROPOSED SETTLEMENT**

#### **A. The Settlement Benefits**

If approved, the Settlement will provide to all persons and entities who purchased or leased a Settlement Class Vehicle in the United States and Puerto Rico ("Settlement Class")<sup>5</sup> substantial benefits that squarely address the issues in this

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<sup>5</sup> The Settlement Class Vehicles are certain model year 2012, 2013, and 2014 Audi

litigation. The Settlement provides for an extensive warranty extension and a reimbursement of certain previous past-paid out-of-pocket repair expenses, as follows.

**1. Warranty Extension for Current Owners and Lessees of Settlement Class Vehicles**

Effective on the Court-ordered date by which the Claim Administrator shall mail the Class Notice of this Settlement to the Settlement Class (the “Notice Date”), VWGoA will extend the New Vehicle Limited Warranties (“NVLWs”) for the Settlement Class Vehicles to cover 75% of the cost of repair (parts and labor), by an authorized Audi dealer, of the following during a period of up to nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the Settlement Class

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A4, A5, A6 and Q5 vehicles, certain model years 2012, 2013, 2014, 2016 and 2017 Audi TT vehicles, and certain model year 2015, 2016 and 2017 Audi A3 vehicles imported and distributed by VWGoA for sale or lease in the United States or Puerto Rico and are specifically designated by Vehicle Identification Number on Exhibit 4 to the Settlement Agreement. The benefits afforded by this Settlement Agreement differ among certain models/model years of the Settlement Class Vehicles.

Excluded from the Settlement Class are: (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents and representatives of Defendant, and their family members; (c) any affiliate, parent or subsidiary of Defendant and any entity in which Defendant has a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company that acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of this Agreement, settled with and released Defendant or any Released Parties from any Released Claims, and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class. *See* Settlement Agreement [“S.A.”] section I.V.

Vehicle's In-Service Date: (1) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption by an authorized Audi dealer, as confirmed by an authorized Audi dealer's oil consumption test,<sup>6</sup> or (2) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only – a diagnosed condition of a fractured piston by an authorized Audi dealer. S.A. § II.A.

The Warranty Extension shall also cover a percentage, based on a Sliding Scale detailed in the Settlement, of the cost of repair (parts and labor), by an authorized Audi dealer, of a diagnosed condition of engine damage which was directly caused by excessive oil consumption (for Audi A4, A5, A6, Q5, and Model Year 2012-2014 Audi TT Settlement Class Vehicles only), or a diagnosed condition of engine damage other than to a piston which was directly caused by a fractured piston (for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only), during the aforesaid period of nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the applicable Settlement Class Vehicle's In-Service Date. As to all Settlement Class Vehicles, the Warranty Extension is conditioned upon the Settlement Class Member providing, to the dealer, Proof of Adherence to Maintenance Requirements. *Id.* The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle's original NVLW and Warranty Information Booklet, and shall be fully transferable to

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<sup>6</sup> If an oil consumption repair is performed under the warranty extension, then the cost of the oil consumption test that led to said repair shall likewise be covered at the same percentage (75%) as provided under the warranty extension.

subsequent owners to the extent that its extended time and mileage limitation periods have not expired. S.A. § II.A.

Further, if a Settlement Class Vehicle's Warranty Extension time period from the In-Service Date has already expired as of the Notice Date, then for that Settlement Class Vehicle only, the Warranty Extension time and mileage limitations shall be for a period of up to seventy (70) days after the Notice Date or ninety-thousand (90,000) miles from the Settlement Class Vehicle's In-Service Date (whichever occurs first), subject to the same conditions and limitations set forth above. *Id.* Prior to the Notice Date, VWGoA will advise authorized Audi dealers of the Settlement's Warranty Extension, so that the Warranty Extension may be implemented in accordance with the terms and conditions of this Settlement Agreement. *Id.* at § IV.B.8.

## **2. Reimbursement of Certain Past Paid Out-of-Pocket Repair Expenses**

In addition to the very substantial Warranty Extension, the Settlement provides that Settlement Class Members who timely mail to the Settlement Claim Administrator a Claim for Reimbursement (*i.e.*, a fully completed, dated and signed Claim Form together with all Proof of Repair Expense and Proof of Adherence to Maintenance Requirements documentation) shall be eligible for 75% reimbursement of the paid (and unreimbursed) cost (*i.e.*, parts and labor) of a past repair (limited to one (1) past repair) that was performed on a Settlement Class Vehicle prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, to address the

following: (i) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption as confirmed by an authorized Audi dealer’s oil consumption test, or (ii) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only - a diagnosed condition of a fractured piston(s). S.A. § II.B.1.

Reimbursement shall also include a percentage, determined by the same percentages of coverage set forth in the Sliding Scale in the Settlement, of the past paid (and unreimbursed) cost (*i.e.*, parts and labor) of repair (limited to one (1) past repair), performed prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle’s In-Service Date, of: (1) for Audi A4, A5, A6, Q5 and 2012-2014 Audi TT Settlement Class Vehicles only – engine damage which was diagnosed to be directly caused by excessive oil consumption, or (2) for Audi A3 and 2016-2017 Audi TT Settlement Class Vehicles only - engine damage other than to a piston which was diagnosed to be directly caused by a fractured piston. S.A. § II.B.1.

**B. Release of Claims/Liability**

In consideration of the Settlement benefits, VWGoA and its related entities and affiliates (the “Release Parties,” as defined in S.A. § I.U.) will receive a release of claims and potential claims related to the alleged defects in the Settlement Class Vehicles that are the subject of this litigation and Settlement, including the claims that were or could have been asserted in the litigation (the “Released Claims,” as defined in S.A. § I.T.). The scope of the release properly reflects the issues, allegations and claims in this case, and specifically excludes claims for personal

injury and property damage (other than damage to the Settlement Class Vehicle itself). *Id.*

### **C. Claim Submission and Administration**

The Parties agreed to retain JND Legal Administration as the Claim Administrator. S.A. §I.C. The Claim Administrator will carry out the Notice Plan (discussed below), disseminate the CAFA notice, administer any requests for exclusion, and administer the Claims process including the review and determination of reimbursement claims, and distribution of payments to eligible Claimants whose claims are complete and have been approved under the Settlement terms. *Id.* at §§ III.B. and IV. Pursuant to the Settlement, VWGoA will pay all administrative costs separate and apart from any benefits to which the Settlement Class Members may be entitled. *Id.* § III.A. Thus, none of the Settlement Administration costs will be borne by the Class Members in any way.

The Settlement also provides for a fair, equitable, and straightforward claims process for Settlement Class Members. For each complete claim that is approved, the Claim Administrator will mail a reimbursement check to the Settlement Class Member within the later of 150 days after submission of the completed Claim, or 150 days after the Effective Date of the Settlement. S.A. § III.B. Significantly, the Settlement provides that if a claim and/or its supporting documentation is incomplete or deficient, the Claim Administrator will mail the Settlement Class Member a letter or notice outlining the deficiencies and affording a 30-day period to cure them. *Id.* The Claim Administrator's decision is final, but any Settlement Class Member that disagrees with the ultimate denial of his/her/its/their reimbursement claim, in whole

or in part, may request an “attorney review” of that decision within 15 days of such denial. *Id.* at § III.B.4 If an attorney review is requested, Class Counsel and Defense Counsel will confer and make good faith efforts to resolve the disputed denial. *Id.*

The Class Notice, its accompanying Claim Form, and a settlement website all provide the necessary details, including how and by when reimbursement claim must be submitted, what information and documentary proof is required for a valid claim, and how to contact the Claim Administrator, or Class Counsel, with any questions or requests for assistance with respect to a claim. Indeed, the Class Notice and settlement website provide the mailing address, the email address and a toll-free telephone number for Class Members to contact the Claim Administrator. S.A. § IV.B.6.

#### **D. The Proposed Class Notice Plan**

The Settlement Agreement contains an effective Notice Plan to be paid for solely by VWGoA. S.A. § III.A. Class Notice, together with the Claim Form, will be mailed to Settlement Class Members via first class mail within 100 days after entry of the Court’s Order preliminarily approving this proposed Settlement. (*Id.* at section IV.B.1.) Settlement Class Members will be located based on the Settlement Class Vehicles’ VIN (vehicle identification) numbers and using the services of Polk/IHS Markit or equivalent company like Experian. (*Id.* at section IV.B.2.) These established services obtain vehicle ownership histories through state title and registration records, thereby identifying the names and addresses of record of the

Settlement Class Members.<sup>7</sup> The Settlement Claim Administrator will then compare the obtained addresses to information in the National Change of Address database to confirm that addresses for mailing are the most current addresses possible. In addition, after the Class Notice is mailed, for any individual mailed Notice that is returned as undeliverable, the Claim Administrator will re-mail to any provided forwarding address, and for any undeliverable notice packets where no forwarding address is provided, the Claim Administrator will perform an advanced address search (e.g., a skip trace) and re-mail any undeliverable Class Notice packets to any new and current addresses located. *Id.* at section IV.B.3.

In addition to the mailing, the Claim Administrator will, with input from counsel for both Parties, establish a dedicated Settlement website that will include details regarding the lawsuit, the Settlement and its benefits, and the Settlement Class Members' legal rights and options including objecting to or requesting to be excluded from the Settlement and/or not doing anything; instructions on how and when to submit a claim for reimbursement; instructions on how to contact the Claim Administrator by e-mail, mail or (toll-free) telephone; copies of the Class Notice, Claim Form, Settlement Agreement, Motions and Orders relating to the Preliminary and Final Approval processes and determinations, and important submissions and documents relating thereto; important dates pertaining to the Settlement including

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<sup>7</sup> The 100-day time period for mailing of the Class Notice is needed to obtain the vehicle ownership and history records from the DMVs and/or state agencies of the 50 states and Puerto Rico, which typically several weeks to obtain, and for the Claim Administrator to identify the names and last known addresses of the Settlement Class Member to whom the Class Notice will be mailed.

the deadline to opt-out of or object to the Settlement, the deadline to submit a claim for reimbursement, and the date, place and time of the Final Fairness Hearing; and answers to Frequently Asked Questions (FAQs). S.A. § IV.B.6.

The Class Notice (Ex. 2 to Settlement Agreement) is very detailed and more than complies with Rule 23(c)(2)(B). It clearly and concisely states in plain, easily understood language the nature of the action; the Settlement Class definition; the class claims, issues and/or defendant's positions; the Settlement terms and benefits available under the Settlement; the claim submission process including details and instructions regarding how and when to submit a Claim for reimbursement and the required proof/documentation for a Claim; the release of claims under the Settlement; the manner of and deadline by which Settlement Class Members may object to the Settlement, Class Counsel's requested fee/expense award, and/or the Plaintiffs' requested service awards; the manner of and deadline by which a Settlement Class Member may request to be excluded from the Settlement; the binding effect of the Settlement and release upon Settlement Class Members that do not timely and properly exclude themselves from the Settlement; the procedure by which Settlement Class Members may appear at the final fairness hearing individually and/or through counsel; the settlement website address; how to contact the Claim Administrator (through the dedicated toll-free number, email or by mail) with any questions about the settlement or requests for assistance, the identities of and contact information for Class Counsel; and other important information about the Settlement and the Settlement Class Members' rights. *See* S.A., Ex. 2.

Pursuant to 28 U.S.C. § 1715, the Class Action Fairness Act of 2005, the

Claim Administrator will also provide timely notice to the U.S. Attorney General and the applicable State Attorneys General (“CAFA Notice”) so that they may review the proposed Settlement and raise any comments or concerns to the Court’s attention prior to final approval. S.A. § IV.A.

**E. Proposed Attorneys’ Fees, Litigation Expenses, and Service Awards**

The Parties did not discuss the issues of Class Representative service awards or reasonable Class Counsel attorneys’ fees and expenses until after agreement was reached on the material terms of the Settlement. Thereafter, the Parties, at arm’s length and with the assistance of an experienced mediator, were able to negotiate sums for attorneys’ fees, expenses, and service awards separately, with the amount finally awarded by the Court not affecting the Class benefits in any way. *See* S.A. § V.III.C. Subject to Court approval, VWGoA has agreed to not oppose Class Counsels’ application for attorneys’ fees and documented costs of a combined collective sum up to \$2,200,000. *Id.*

Also subject to Court approval, the Settlement Agreement provides for service awards to the named Class Representatives for their efforts to secure relief on behalf of the Settlement Class, in the amount of \$5,000.00, each,<sup>8</sup> to be paid separately from the benefits to the Settlement Class. S.A. §§ VIII.C. VWGoA pays that to Class Counsel to distribute – the Claim Administrator does not pay out the service awards

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<sup>8</sup> The Settlement Class Representatives Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Peter Lowegard, and Patricia Hensley will be paid \$5,000 each. Settlement Class Representatives Ada and Angeli Gozon will collectively receive a single \$5,000 service award. S.A. § VIII.C.1.

VWGoA will pay to the Claims Administrator the total amount of service awards approved by the Court, and the Claim Administrator will distribute to each Plaintiff. *Id.* Further details will be provided when Plaintiffs submit their application for fees, costs, and service awards.

#### **IV. ARGUMENT**

##### **A. The Court Should Grant Preliminary Approval of the Class Settlement**

In the Third Circuit, there is a strong policy that favors settlements in class actions. *See In re Pet Food Prod. Liab. Litig.*, 629 F.3d 333, 351 (3d Cir. 2010) (“We reaffirm the ‘overriding public interest is settling class action litigation.’”) (quoting *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 535 (3d Cir. 2004); *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d at 535 (“[T]here is an overriding public interest in settling class action litigation, and it should therefore be encouraged”); *In re Sch. Asbestos Litig.*, 921 F.2d 1330, 1333 (3d Cir. 1990) (The court “encourage[s] settlement of complex litigation ‘that otherwise could linger for years’”).

The ultimate approval of a class action settlement depends on whether the settlement is fair, adequate, and reasonable. *Girsh v. Jepson*, 521 F.2d 153, 156-57 (3d Cir. 1975). Unlike final approval, “[p]reliminary approval is not binding, and it is granted unless a proposed settlement is obviously deficient.” *Udeen v. Subaru of Am., Inc.*, 2019 WL 4894568, at \*2 (D.N.J. Oct. 4, 2019) (collecting cases and quoting *Shapiro v. All. MMA, Inc.*, 2018 WL 3158812, at \*3 (D.N.J. June 28, 2018); *Rudel Corp. v. Heartland Payment Sys., Inc.*, 2017 WL 4422416, at \*2 (D.N.J. Oct. 4, 2017) (finding “[t]he proposed settlement agreement here meets the not

‘obviously deficient’ standard.”) Settlements “are generally approved when they emerge from serious, non-collusive negotiations, do not give preferential treatment to certain segments of the class or class representatives, and fall with the range of possible approval.” *Rudel Corporation*, 2017 WL 4422416, at \*2.

At this preliminary stage, “the Court is required to determine only whether the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys, and whether it appears to fall within the range of possible approval.” *In re Nat’l Football League Players’ Concussion Injury Litig.* (“*In re NFL*”), 301 F.R.D. 191, 198 (E.D. Pa. 2014) (quoting *Mehling v. New York Life Ins.*, 246 F.R.D. 467, 472 (E.D.Pa.2007) (citations omitted)). Indeed, “a presumption of fairness exists where a settlement has been negotiated at arm’s length, discovery is sufficient, the settlement proponents are experienced in similar matters and there are few objectors.” *In re Ins. Brokerage Antitrust Litig.*, 297 F.R.D. 136, 144 (D.N.J. 2013) (citing *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d at 535).<sup>9</sup> This approach is consistent with the principle that “settlement of litigation is especially favored by courts in the class action setting.” *In re Insurance Brokerage Antitrust Litig.*, 297 F.R.D. at 144.

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<sup>9</sup> As the leading commentator on class actions has noted, courts may adopt an initial presumption of fairness when a proposed class settlement, which was negotiated at arm’s length by counsel for the class, is presented for court approval. See W. Rubenstein & H. Newberg, *Newberg and Rubenstein on Class Actions*, § 13:13 and n.9 (6th ed. 2022); see also *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1*, 921 F.2d 1371, 1391 (8th Cir. 1990) (stating that class action settlement agreements “are presumptively valid”).

In determining whether the proposed settlement falls within the “range of reasonableness,” district courts within the Third Circuit typically consider factors such as: (i) whether the negotiations occurred at arm’s length; (ii) whether there was sufficient discovery; and (iii) whether the proponents of the settlement are experienced in similar litigation.<sup>10</sup> *In re Gen. Motors Corp. Pick-Up Fuel Tank Prod. Liab. Litig.*, 55 F.3d 768, 785 (3d Cir. 1995). Under Rule 23, a settlement falls within the “range of possible approval,” if there is a conceivable basis for presuming that the standard applied for final approval—fairness, adequacy, and reasonableness—will be satisfied. *In re NFL*, 301 F.R.D. at 198. Here, because there are no “obvious deficiencies” in the Settlement Agreement, nor any “grounds to doubt its fairness,” the standards for granting preliminary approval are readily satisfied and the factors above are easily met.

### **1. The Settlement Is the Result of Arm’s-Length Negotiations**

Under Rule 23(e)(2)(A) and (B), the Court should “consider whether the settlement is proposed by experienced counsel who reached the agreed-upon terms

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<sup>10</sup> At the final approval stage, courts in the Third Circuit apply a nine factor “*Girsh*” analysis to assess the fairness, adequacy, and reasonableness of the proposed class action settlement. Specifically, the Court would review the settlement in light of the factors established by *Girsh*, 521 F.2d at 157: (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risk of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation. *See also In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 301 (3d Cir. 2005).

through arms-length bargaining.” *Alves v. Main*, 2012 WL 6043272, at \*9 (D.N.J. Dec. 4, 2012). “A settlement is presumed fair when it results from ‘arm's-length negotiations between experienced, capable counsel after meaningful discovery.’” *Udeen*, 2019 WL 4894568, at \*2 (citation omitted). This applies here as the settlement was the result of months-long negotiations and two mediations conducted by a neutral mediator between the Parties. Zohdy Decl. ¶¶ 9-11. The Parties first reached an agreement with respect to the terms of the Settlement, prior to negotiating the Class Representatives’ service awards and attorneys’ fees. *Id.*

Further, counsel on both sides are experienced class action litigators, including litigating class action automotive cases such as this action. The Parties only entered into the Settlement Agreement after diligently exploring the strengths and weaknesses of their claims and defenses, as discussed further below. Zohdy Decl. ¶¶ 11-15. Moreover, as courts have emphasized, the views of experienced counsel supporting settlement should be accorded substantial weight. *See Glaberson v. Comcast Corp.*, 2014 WL 7008539, at \*4 (E.D. Pa. Dec. 12, 2014) (a settlement is presumed to be fair “when the negotiations were at arm’s length, there was sufficient discovery, and the proponents of the settlement are experienced in similar litigation”); *Rolland v. Cellucci*, 191 F.R.D. 3, 10 (D. Mass. 2000) (“When the parties’ attorneys are experienced and knowledgeable about the facts and claims, their representations to the court that the settlement provides class relief which is fair, reasonable and adequate should be given significant weight.”).

Here, Interim Class Counsel, who are highly experienced class action litigators with national reputations, have made a considered judgment regarding the

risks, benefits, and duration of further litigation and have concluded - based on their deep familiarity with the factual and legal issues in this case, extensive pre-litigation investigation, interviews with many putative Class Members, information provided by Defendant, vehicle inspections, and their independent research - that the Settlement is not only fair, reasonable, and adequate, but a very favorable result for the Settlement Class that should be granted preliminary approval.

## **2. The Extent of Discovery Completed Supports Preliminary Approval**

Interim Class Counsel obtained sufficient informal information from Defendant to enter into the proposed Settlement on a fully informed basis. Class Counsel conducted a detailed investigation into the origins and nature of the issues reported by owners of the vehicles who had contacted them. Before filing the Complaint, Class Counsel inspected Plaintiffs' vehicles, documented their issues, interviewed many other putative Class Members, reviewed vehicle repair records, analyzed Technical Service Bulletins addressing the relevant issues, symptoms for the Class Vehicles, analyzed owners' and warranty manuals for the Class Vehicles, researched publicly available documents and reviewed other materials, to determine the extent to which the alleged vehicle issues affected the putative Class, as well as VWGoA's alleged knowledge. Zohdy Decl. ¶¶ 12-14. In addition, Class counsel continued to respond to inquiries from many putative Class Members and investigate their complaints. *Id.* at ¶ 13. Class counsel also gained information from vehicle inspections, including inspection of certain Plaintiffs' vehicles. *Id.* Then, in light of settlement negotiations, the parties informally exchanged information, including

technical information, regarding the nature of the alleged issues, condition of the Settlement Class Vehicles, and Defendant's ameliorative actions. *Id.* at ¶ 10. *See Udeen*, 2019 WL 4894568, at \*3 (third *Girsh* factor supported preliminary approval even when discovery was not "overly extensive"); *In re Nat'l Football League Players Concussion Injury Litig.*, 821 F.3d 410, 436 (3d Cir. 2016). VWGoA has been trying to fix the problem since at least 2013 by issuing Technical Service Bulletins ("TSBs"). *See* Zohdy Decl., ¶ 14; Compl. ¶¶ 270-271.

Based on this information and investigation, Class Counsel gained an understanding of both the strengths and weaknesses of Plaintiffs' claims and other the anticipated defenses to those claims. In particular, both sides would face risks were the litigation to proceed, and in contrast to the complexity, delay, risk, and expense of continued litigation, the proposed Settlement will produce certain, prompt and very substantial benefits for the Settlement Class.

The immediacy and certainty of the significant benefits provided by the Settlement supports granting preliminary approval. *See In re Ins. Brokerage Antitrust Litig.*, 282 F.R.D. 92, 103 (D.N.J. 2012) ("By reaching a favorable Settlement . . . Class Counsel have avoided significant expense and delay and have also provided an immediate benefit.").

The benefit provided to the Settlement Class is substantial, addresses the alleged issues in this litigation, is in line with similar automotive class-action settlements, and is fair, reasonable, and adequate. *See e.g., Udeen*, 2019 WL 4894568, at \*1 (preliminarily approving a settlement that reimbursement of certain repair-related expenses); *Parrish v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-

01148 (C.D. Cal. Jan. 27, 2022), ECF 81 (preliminarily approving class action settlement, which provided a reimbursement for previous out of pocket costs of specified transmission-related repairs, to owners and lessees of certain 2019 Volkswagen Jetta or 2018, 2019, or 2020 Volkswagen Tiguan vehicles); *Patrick v. Volkswagen Grp. of Am., Inc.*, 2021 WL 3616105 (C.D. Cal. Mar. 10, 2021), ECF 72 (finally approving class action settlement, which provided reimbursement for previous out of pocket costs for repairs of specified engine stalling issues, to owners and lessees of certain 2019 and 2020 Volkswagen Golf GTI or Jetta GLI vehicles equipped with manual transmissions suffering from an alleged engine stalling defect); *Saint v. BMW of N. Am., LLC*, 2015 WL 2448846 (D.N.J. May 21, 2015) (finding settlement that provided a warranty extension of three months and a reimbursement program to owners or lessees of service demo vehicles was fair reasonable and adequate and finally approving class-action settlement).

### **3. Class Counsel Have Extensive Experience in Similar Litigation**

As set forth in greater detail below and in the Declarations appended to this motion, proposed Class Counsel are highly experienced and skilled in handling complex class actions, and in particular, automotive class actions such as this. Proposed Class Counsel have served in leadership positions many class actions and have successfully obtained meaningful recoveries for consumers through class litigation. *See* Zohdy Decl. at ¶¶ 24-27; Declaration of Russell D. Paul (“Paul Decl.”) at ¶¶ 4-7. Accordingly, this factor strongly supports granting preliminary approval.

#### 4. The *Girsh* Factors Support Preliminary Approval

Although the foregoing analysis is sufficient for the Court to grant preliminary approval, courts sometimes consider the final approval factors to mitigate any potential issues in the future. *Udeen*, 2019 WL 4894568, at \*3.<sup>11</sup> The Third Circuit directs district courts to analyze the following nine factors at the final approval stage:

(1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) stage of the proceedings and the amount of discovery completed; (4) risks of establishing liability; (5) risks of establishing damages; (6) risks of maintaining the class action through the trial; (7) ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

*Girsh*, 521 F.2d at 157. All of the *Girsh* factors that the Court can analyze at this stage support preliminary approval.<sup>12</sup>

As to the first factor, the complexity, expense, and likely duration support

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<sup>11</sup> Rule 23(e) was amended in December 2018 to specify uniform standards for settlement approval. Courts in this district have continued to apply the same legal standards to preliminary approvals after the 2018 amendments. *See, e.g., Udeen*, 2019 WL 4894568; *Smith v. Merck & Co.*, 2019 WL 3281609 (D.N.J. July 19, 2019). Further, “[t]he 2018 Committee Notes to Rule 23 recognize that, prior to this amendment, each circuit had developed its own list of factors to be considered in determining whether a proposed class action was fair[.]” *Huffman v. Prudential Ins. Co. of Am.*, 2019 WL 1499475, at \*3 (E.D. Pa. Apr. 5, 2019) (citing Fed. R. Civ. P. 23(e)(2), Advisory Committee Notes). “[T]he goal of the amendment is not to displace any such factors, but rather to focus the parties [on] the ‘core concerns’ that motivate the fairness determination.” *Id.* In this Circuit, the *Girsh* factors govern the analysis.

<sup>12</sup> The reaction of the class cannot be evaluated until after notice is issued to the Class Members pursuant to the Settlement.

preliminary approval because, without the Settlement, the parties would be engaged in contested motion practice and adversarial litigation for years. The claims advanced on behalf of the Settlement Class Members involve complex technical, engineering and legal issues. Continued litigation would be complex, time consuming and expensive, with no certainty of a favorable outcome. The Settlement Agreement secures substantial benefits for the Settlement Class while avoiding the delays, risks and uncertainties of continued litigation.

The third factor, the stage of the proceedings and the amount of discovery completed, also supports preliminary approval. In addition, Plaintiffs' counsel have conducted their own extensive independent investigation into the alleged issues, and informally obtained detailed information from Defendant. The information investigated and obtained has allowed Plaintiffs' counsel to understand the strengths and weaknesses of their case, and to analyze the risks of future litigation in comparison to the relief offered by the Settlement. *Udeen*, 2019 WL 4894568, at \*3.

The fourth, fifth, and sixth factors all analyze the risks of continued litigation. If the parties had been unable to resolve this case through the Settlement, the litigation would likely have been protracted and costly. Plaintiffs' counsel have litigated many automotive class actions that have taken several years to conclude. Before ever approaching a trial in this case, the parties likely would have briefed, and the Court would have had to decide, discovery-related motions, a motion for class certification (along with a potential Rule 23(f) appeal), motions for summary judgment, as well as *Daubert* /FRE 702 motions and other pre-trial and trial-related motions. Additionally, considerable resources would have been expended on

discovery, depositions, and expert witnesses.

Moreover, there is a risk of not obtaining class certification should this action be litigated rather than settled. Defendant is likely to assert numerous defenses that may apply to many individual putative class members under the applicable laws of their respective states, such as lack of standing, statute of limitations, privity, and others, which, if litigated, could substantially if not completely bar many Settlements Class Members' claim and/or recovery. Likewise, if this action is litigated, there are other potentially predominating individualized issues relating to each putative class member's claim including the facts and circumstances of each putative class member's purchase or lease transaction; what, if anything, each putative class member viewed, heard and/or relied upon prior to purchase or lease; individual vehicle-related facts including the maintenance, use, repair history, and physical and mechanical condition of each vehicle; whether individual putative class members ever experienced the alleged issues; and the individual facts and circumstances of any putative class member's interactions, if any, with Audi dealers with respect to the breach of warranty claims.

Conversely, in the context of a class settlement, these potential impediments do not preclude certification of a nationwide Settlement Class, since the Court is not faced with the significant manageability problems of a trial. *See Amchem Prod Inc. v. Windsor*, 521 U.S. 591, 620 (1997) (individual issues that may preclude class certification in litigation do not preclude class certification for settlement purposes, since manageability at trial is no longer a concern).

Courts routinely find the seventh factor – the defendant's ability to withstand

greater judgement – to be neutral, as it is here. Such a factor is typically only relevant when “the defendant’s professed inability to pay is used to justify the amount of the settlement.” *In re Nat’l Football League Players Concussion Injury Litig.*, 821 F.3d at 440. This not a factor here.

Finally, the remaining *Girsh* factors – the range of reasonableness of the settlement both independently and weighed against the risk of further litigation – support preliminary approval. While it is important to remember that “settlement is a compromise,” the proposed Settlement is reasonable and confers a substantial benefit on the Settlement Class, namely an extended warranty and reimbursement for out-of-pocket repair expenses. As a result, the 8th and 9th *Girsh* factors are also fulfilled because these factors involve analyzing the outcome of the Settlement in comparison to the potential risks of litigation. *See, e.g., In re Nat’l Football League Players Concussion Injury Litig.*, 821 F.3d at 440 (“In evaluating the eighth and ninth *Girsh* factors, we ask ‘whether the settlement represents a good value for a weak case or a poor value for a strong case.’”) (citation omitted).

The settlement must be judged “against the realistic, rather than theoretical potential for recovery after trial.” *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 323 (3d Cir. 2011). In conducting the analysis, the court must “guard against demanding too large a settlement based on its view of the merits of the litigation; after all, settlement is a compromise, a yielding of the highest hopes in exchange for certainty and resolution.” *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Litig.*, 55 F.3d at 806; *see also In re Shop-Vac Mktg. & Sales Pracs. Litig.*, 2016 WL 3015219, at \*2 (M.D. Pa. May 26, 2016) (“The proposed settlement amount does not have to

be dollar-for-dollar the equivalent of the claim...and a satisfactory settlement may only amount to a hundredth or even a thousandth part of a single percent of the potential recovery.”) (internal citations and quotations omitted). Here, as shown, the settlement provides significant benefits to the Settlement Class Members in the form of a Warranty Extension and reimbursements for certain out-of-pocket costs of a repair for a diagnosed condition of excessive oil consumption or a diagnosed condition of a fractured piston(s). And the reasonable class notice expense, claim administration expense, counsel fees/expenses and/or service awards are paid by Defendant without reducing, in any way, any Settlement Class Member’s available benefits.

**B. Certification of the Settlement Class Is Appropriate for Settlement Purposes**

Both the Supreme Court and various circuit courts have recognized that the benefits of a proposed settlement of a class action can be realized only through the certification of a settlement class. *See Amchem Products Inc.*, 521 U.S. 591 at 620; *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998). Accordingly, Plaintiffs seek the certification of the Settlement Class set forth above for settlement purposes. “Rule 23 of the Federal Rules of Civil Procedure allows this Court to certify a class for settlement purposes only,” *Chemi v. Champion Mortg.*, 2009 WL 1470429, at \*6 (D.N.J. May 26, 2009), and here, certification of the Settlement Class for settlement purposes only clearly satisfies the Rule 23(a) and 23(b)(3) factors, especially under the standards for preliminary approval.

In the Third Circuit, “a class action—whether certified for settlement or

litigation purposes—must meet the class requisites enunciated in Rule 23.” *In re Gen. Motors Corp. Pick-up Truck Fuel Tank Prod. Liab. Litig.*, 55 F.3d at 778, 800.

**1. Numerosity Under Rule 23(a)(1)**

Rule 23(a)(1) requires that the class be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). “[G]enerally, if the named plaintiff demonstrates that the potential number of plaintiffs exceeds 40, the [numerosity requirement] of Rule 23(a) has been met.” *Stewart v. Abraham*, 275 F.3d 220, 226-227 (3d Cir. 2001) (citation omitted). The Settlement Class is comprised of all persons and entities who purchased or leased a Settlement Class Vehicle in the United States of America and Puerto Rico. S.A. § I.V.

The number of Settlement Class Vehicles in the putative class here is 2-5,152. Therefore, the numerosity requirement has been met.

**2. Commonality Under Rule 23(a)(2)**

Rule 23(a)(2) requires that there be “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). The test for commonality is “easily met.” *Baby Neal for & by Kanter v. Casey*, 43 F.3d 48, 56 (3d Cir. 1994). All that is required is that “the named plaintiffs share at least one question of fact or law with the grievances of the prospective class.” *Stewart*, 275 F.3d at 227. “A finding of commonality does not require that all class members share identical claims, and factual differences among the claims of the putative class members do not defeat certification.” *In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Actions*, 148 F.3d 283, 310 (3d Cir. 1998). The Supreme Court has stated that Rule 23(a)(2)’s commonality requirement

is satisfied where the plaintiffs assert claims that “depend upon a common contention” that is “of such a nature that it is capable of classwide resolution -- which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (“[F]or purposes of Rule 23(a)(2) even a single common question will do.”).

In this case, there are common questions of law and fact, such as, *inter alia*: (1) whether the Settlement Class Vehicles suffer from the alleged defects relating to the pistons within the 2.0T engine; (2) whether the defects relating to the pistons in the 2.0T engines implicate safety issues; (3) whether VWGoA knew about the alleged defects and, if so, for how long; and (4) whether the alleged defective nature of the pistons constitutes a material fact. Commonality is, therefore, satisfied. *See Henderson v. Volvo Cars of N. Am., LLC*, 2013 WL 1192479, at \*4 (D.N.J. Mar. 22, 2013) (“Several common questions of law and fact exist in this case, including whether the transmissions in the Class Vehicles suffered from a design defect, whether Volvo had a duty to disclose the alleged defect, whether the warranty limitations on Class Vehicles are unconscionable or otherwise unenforceable, and whether Plaintiffs have actionable claims.”). For classes alleging automobile defects, such questions are common. *See Udeen*, 2019 WL 4894568, at \*5 (commonality satisfied where there were numerous common questions regarding whether the class vehicles were defective); *Alin v. Honda Motor Co.*, 2012 WL 8751045 at\*5 (D.N.J. April 13, 2012) (finding commonality and predominance satisfied where “class vehicles allegedly suffer from defects that cause their air conditioning systems to

break down, although there are differences as to how the breakdowns occur”).

### **3. Typicality Under Rule 23(a)(3)**

Rule 23(a)(3) requires that a representative plaintiff’s claims be “typical” of those of other class members. Fed. R. Civ. P. 23(a)(3). “The typicality requirement is designed to align the interests of the class and the class representatives so that the latter will work to benefit the entire class through the pursuit of their own goals.” *Barnes v. Am. Tobacco Co.*, 161 F.3d 127, 141 (3d Cir. 1998). “As with numerosity, the Third Circuit has ‘set a low threshold’ for satisfying typicality, holding that ‘[i]f the claims of the named plaintiffs and class members involve the same conduct by the defendant, typicality is established....’” *In re Ins. Brokerage Antitrust Litig.*, 297 F.R.D. at 149 (alternations in original) (citation omitted).

Here, the claims of Plaintiffs and the Settlement Class Members arise out of the same alleged defects and VWGoA course of conduct. *See Henderson*, 2013 WL 1192479, at \*5 (typicality satisfied where “the claims made by the named Plaintiffs and those made on behalf of Settlement Class Members arise out of the same alleged conduct by Volvo – namely, Volvo’s design, manufacture and sale of the allegedly defective Class Vehicles and Volvo’s alleged failure to disclose the defect.”); *Skeen v. BMW of N. Am., LLC*, 2016 WL 70817, at \*6 (D.N.J. Jan. 6, 2016) (typicality satisfied where class suit alleged defendants “knowingly placed Class Vehicles containing the alleged defect into the stream of commerce and refused to honor its warranty obligations”). This requirement is, likewise, met here.

#### 4. Adequacy of Representation Under Rule 23(a)(4)

The final requirement of Rule 23(a) is that “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). In determining the adequacy of representation, the court should “evaluate [both] the named plaintiffs’ and ... counsel’s ability to fairly and adequately represent class interests.” *Gotthelf v. Toyota Motor Sales, U.S.A., Inc.*, 525 Fed. Appx. 94, 100-101 (3d Cir. 2013) (alterations in original; citation omitted)). In doing so, “the district court ensures that no conflict of interest exists between the named plaintiffs’ claims and those asserted on behalf of the class, and inquires whether the named plaintiffs have the ability and incentive to vigorously represent the interests of the class.” *Id.* at 101 (citing *In re Cmty. Bank of N. Virginia*, 622 F.3d 275, 291 (3d Cir. 2010)).

In addressing the adequacy of the proposed class representative, district courts examine whether he or she “has the ability and incentive to represent the claims of the class vigorously, that he or she has obtained adequate counsel, and that there is no conflict between the individual’s claims and those asserted on behalf of the class.” *Hassine v. Jeffes*, 846 F.2d 169, 179 (3d Cir. 1988). Here, all of the Representative Plaintiffs are adequate because they purchased Settlement Class Vehicles and were allegedly injured in the same manner based on the same alleged defect as absent Class Members. They have also actively participated in the litigation of this case and been in regular communication with their attorneys regarding these proceedings.

The Settlement Agreement designates Berger Montague PC, Capstone Law APC (“Capstone”), and the Ladah Law Firm, all experienced and respected class action firms, as co-Class Counsel. Class Counsel have significant experience

litigating consumer class actions, including automobile-defect class actions. *See* Zohdy Decl. at ¶¶ 24-27 and Ex. B; Paul Decl. at ¶¶ 4-7 and Ex. A; Declaration of Ramzy P. Ladah (“Ladah” Decl.) ¶¶ 4-5 and Ex. A. Class Counsel have invested considerable time and resources into the prosecution of this action. They have a wealth of experience in litigating complex class actions and were able to negotiate an outstanding settlement for the Class. The extensive experience of Class Counsel is discussed more fully in their Declarations filed concurrently herewith. Based on the results achieved here, the Court should appoint these attorneys as Class Counsel for the Class and determine that Rule 23(a)’s adequacy requirement is satisfied.

Further, Plaintiffs have no interest adverse or “antagonistic” to the absent Class Members. Each of the Plaintiffs is an owner of a Settlement Class Vehicle who claims to have experienced the piston defect which is the condition at issue. Plaintiffs have no interests antagonistic to the other Settlement Class Members and will continue to vigorously represent the Settlement Class's interests. The interests of Plaintiffs and other Class Members are aligned in seeking to maximize the Class's recovery relating to the alleged defect. *See In re Philips/Magnavox Television Litig.*, 2012 WL 1677244, at \*6 (D.N.J. May 14, 2012) (plaintiffs adequately represent the interests of class where they purchased the same allegedly defective televisions as the rest of the class and were allegedly injured in the same manner).

#### **5. The Requirements of Rule 23(b)(3) Are Met**

Plaintiffs seek to certify the Class under Rule 23(b)(3), which has two components: predominance and superiority. When assessing predominance and superiority, the court may consider that the class will be certified for settlement

purposes only, and that a showing of manageability at trial is not required. *See Amchem Products Inc.*, 521 U.S. at 618 (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems... for the proposal is that there be no trial.”); *Marchese v. Cablevision Sys. Corp.*, 2016 WL 7228739, at \*2 (D.N.J. Mar. 9, 2016) (There is “a ‘key’ distinction between certification for settlement purposes and certification for litigation: when taking a proposed settlement into consideration, individual issues which are normally present in litigation usually become irrelevant, allowing the common issues to predominate.”).

The Third Circuit has reiterated that the focus of the predominance “inquiry is on whether the defendant’s conduct was common as to all of the class members, and whether all of the class members were harmed by the defendant’s conduct.” *Sullivan*, 667 F.3d at 298. Here, there are several common questions of law and fact that predominate over any questions that may affect individual Class Members, especially for settlement purposes. For example, were this case to proceed, the focus would be whether VWGoA is liable to the Class under the claims pled, based on the alleged existence of a piston defect and VWGoA’s related conduct. Both issues are subject to generalized proof, and reflect a question that is common to all class members. *See Henderson*, 2013 WL 1192479, at \*6. Accordingly, the predominance prong of Rule 23(b)(3) is satisfied.

The second prong of Rule 23(b)(3) – that a class action be superior to other available methods for the fair and efficient adjudication of the controversy – is also readily satisfied. *See Fed. R. Civ. P. 23(b)(3)*. Superiority requires the Court to

consider whether or not “a class action is superior to other available methods of fairly and efficiently adjudicating the controversy.” *Sullivan*, 667 F.3d at 296 (citations omitted). Rule 23(b)(3) provides a non-exhaustive list of factors to be considered when making this determination. *McCoy v. Health Net, Inc.*, 569 F. Supp. 2d 448, 457 (D.N.J. 2008). These factors include: “(i) the class members’ interests in individually controlling the prosecution or defense of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by or against class members; (iii) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (iv) the likely difficulties in managing a class action.” *Id.* (quoting Fed. R. Civ. P. 23(b)(3)).

The Settlement Agreement provides Class Members with substantial prompt, predictable, and certain relief, with well-defined procedures to ensure due process, such as affording the right of any Class Members who are dissatisfied with the Settlement to object or to exclude themselves. The Settlement also would relieve the substantial judicial burdens that would be caused by repeated adjudication of the same issues in thousands of individualized trials against VWGoA. *See Marchese*, 2016 WL 7228739, at \*2 (finding that certification of a class for settlement purposes is more efficient than separate litigation of numerous individual claims). To litigate the claims of the potential Class Members on an individual basis would be economically infeasible and result in “needless duplication of effort.” *See Henderson*, 2013 WL 1192479, at \*6 (citation omitted). And because the Parties seek to resolve this case through a settlement, any manageability issues that could have arisen at trial are marginalized. *Sullivan*, 667 F.3d at 302-03. Therefore, “class

status here is not only the superior means, but probably the only feasible [way] . . . to establish liability and perhaps damages.” *In re Nassau Cnty. Strip Search Cases*, 461 F.3d 219, 229 (2d Cir. 2006) (quoting *Tardiff v. Knox Cnty*, 365 F.3d 1, 7 (1st Cir. 2004)).

In sum, because the requirements of Rule 23(a) and Rule 23(b)(3) are satisfied, certification of the proposed Settlement Class is appropriate.

**C. The Court Should Appoint Plaintiff’s Counsel as Settlement Class Counsel**

The Fed. R. Civ. P. 23(g) requires a court to appoint class counsel. In appointing class counsel, the Court “must” consider:

- the work counsel has done in identifying or investigating potential claims in the action;
- counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- counsel’s knowledge of the applicable law; and
- the resources that counsel will commit to representing the class.

Fed. R. Civ. P. 23(g)(1)(A). The court “may” also consider “any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B).

Proposed Class Counsel, including Berger Montague PC, Capstone Law APC, and the Ladah Law Firm, clearly satisfy this criteria and have already been appointed by this Court as Interim Class Counsel for the nationwide putative class under Rule 23(g). These firms expended time, effort, and expense investigating this action and the bona fides of the Settlement herein. Further, as set forth in their respective Declarations submitted herewith, they are highly experienced in consumer and other

complex class action litigation. *See* Zohdy Decl. at ¶¶ 24-27 and Ex. B; Paul Decl. at ¶¶ 4-7 and Ex. A; Declaration of Ramzy P. Ladah (“Ladah” Decl.) ¶¶ 4-5 and Ex. A. It is clear from the firm’s track record of success that proposed Class Counsel are highly skilled and knowledgeable concerning consumer law and class action practice. As confirmed by the result obtained in this case, Class Counsel have made the investment and have the experience to represent the Class vigorously. Accordingly, the appointment of the proposed Class Counsel under Rule 23(g) is warranted.

#### **D. The Court Should Approve the Notice Plan**

Under Federal Rule of Civil Procedure 23(e), class members who would be bound by a settlement are entitled to reasonable notice before the settlement is approved. *See* Fed. Jud. Ctr., *Manual for Complex Litig.* Fourth, § 30.212 (2004). In an action certified for settlement purposes under Rule 23(b)(3) “the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). “Generally speaking, the notice should contain sufficient information to enable class members to make informed decisions on whether they should take steps to protect their rights, including objecting to the settlement or, when relevant, opting out of the class.” *In Re Nat’l Football League Players Concussion Injury Litig.*, 821 F.3d at 435.

The notice plan described above and set forth in sections III and IV of the Settlement Agreement provides the best notice practicable under the circumstances. Here, the Notice Program includes: (1) mailing a First Class Notice to the Settlement

Class; (2) a settlement website established to allow Settlement Class Members to obtain information regarding the Settlement and access important documents regarding the Settlement; and (3) a toll-free number to provide Settlement Class Members with information regarding the Settlement. First Class Notices and Full Notices provided in this manner have been held to be sufficient. *Udeen*, 2019 WL 4894568, at \*7; *Patrick v. Volkswagen Grp. Of Am.*, 2021 WL 3616105, at \*5. The content and substance of the proposed notice, which is attached as Exhibit 2 the Settlement Agreement, will include all necessary legal requirements and provide a comprehensive explanation of the Settlement in simple layman's terms. *See* Fed. R. Civ. P. 23(c)(2)(B). Accordingly, the Parties respectfully request that the Court approve the Notice Plan.

#### **E. A Final Approval Hearing Should be Scheduled**

Finally, the Court should schedule a final approval hearing to decide whether to grant final approval to the Settlement, address Class Counsel's request for attorneys' fees, expenses, and an incentive award for the Representative Plaintiffs, consider any objections and exclusions, and determine whether to dismiss this action with prejudice. *See* Fed. Jud. Ctr., *Manual for Complex Litig.* Fourth, § 30.44 (2004); *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 600 (3d Cir. 2010). Plaintiffs respectfully request that the final approval hearing be scheduled for approximately six months from the date the preliminary approval order is entered.

#### **V. CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully request that this Court enter an Order: (1) granting preliminary approval of the Settlement; (2) conditionally

certifying the proposed Settlement Class for settlement purposes; (3) conditionally appointing Plaintiffs as the Settlement Class Representatives and Plaintiffs' Counsel, Berger Montague PC, Capstone Law APC, and Ladah Law Firm, as Settlement Class Counsel; (4) approving the Parties' proposed Class Notice Plan for disseminating the Class Notice; (5) conditionally appointing JND Legal Administration, as the Settlement Claim Administrator; (6) setting deadlines for the filing of any objections to, or requests for exclusion from the Settlement and other submissions in connection with the Settlement approval process; and (7) setting a hearing date and briefing schedule for Final Approval of the Settlement and Plaintiffs' application for service awards and attorneys' fees and expenses.

Dated: October 11, 2023

Respectfully Submitted,

/s/ Russell D. Paul

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Class and Subclasses*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

JENI RIEGER, ALOHA DAVIS, JODIE  
CHAPMAN, CARRIE VASEL, KAREN  
BURNAUGH, TOM GARDEN, ADA and  
ANGELI GOZON, HERNAN A.  
GONZALEZ, PATRICIA A. HENSLEY,  
CLYDIENE FRANCIS, PETER  
LOWEGARD, and GRANT BRADLEY,  
individually and on behalf of a class of  
similarly situated individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., a New Jersey  
corporation, d/b/a AUDI OF AMERICA,  
INC.,

Defendant.

Case No. 1:21-cv-10546-NHL-EAP

**DECLARATION OF TAREK H. ZOHDY IN SUPPORT OF PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

I, Tarek Zohdy, hereby declare as follows:

1. I am an attorney at law duly licensed to practice before the courts of the State of California and all Federal District Courts in California. I am also a Senior Counsel at Capstone Law APC which, along with Berger Montague PC and Ladah Law (collectively, "Class Counsel"), are counsel of record for Plaintiffs Carrie Vassel, Karen Burnaugh, Tom Garden, Ada and Angeli Gozon, Patricia A. Hensley,

Clydiene Francis, Peter Lowegard, and Grant Bradley (“Plaintiffs”) in the above-captioned action. Unless the context indicates otherwise, I have personal knowledge of the facts stated herein, and if called as a witness, I could and would testify competently thereto. I make this declaration in support of the Motion for Preliminary Approval of Class Action Settlement.

#### **OVERVIEW OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

2. This nationwide class action arises out of an alleged defect in certain model year 2012-2017 Audi vehicles equipped with the Audi 2.0T engine. On April 30, 2021, original Plaintiff Jeni Rieger filed this class action asserting various individual and putative class claims alleging that defects in the pistons and/or piston heads of the putative class vehicles may allegedly result in engine malfunctions and/or excessive oil consumption.

3. She amended the Complaint on May 6, 2021, and filed a Second Amended Complaint on July 26, 2021, adding multiple named plaintiffs, including most of the Plaintiffs here.

4. On August 5, 2021, Plaintiff Hernan A. Gonzalez filed *Gonzalez v. Volkswagen Group of America, et al.*, in Superior Court of the State of New Jersey, Mercer County, Law Division, under Docket No. L-001632-21. On August 9, 2021, Defendants in that action filed a notice of removal to this Court. *See Gonzalez v. Volkswagen Group of America, et al.*, Civil Case No. 1:21-cv-15026-NLH-MJS, ECF No. 1. On September 30, 2021, the Court entered an order consolidating *Gonzalez* with and into this action, and directing the filing of a Consolidated Class Action Complaint, which was filed on October 12, 2021.

5. Defendant Volkswagen Group of America (“VWGoA”) filed a motion to dismiss the Consolidated Class Action Complaint on December 3, 2021. Plaintiffs filed a response in opposition to the motion to dismiss on January 14, 2022. Plaintiffs voluntarily sought to dismiss the foreign defendants Volkswagen AG and Audi AG from the action, on February 2, 2022. VWGoA filed a reply on February 11, 2022, in support of its motion to dismiss.

6. On May 4, 2023, the Court granted in part and denied in part the motion to dismiss, with leave to amend.

7. As a result, on June 2, 2023, Plaintiffs filed the First Amended Consolidated Class Action Complaint solely against VWGoA. This complaint alleged a nationwide class as well as various state sub-classes for class members who purchased or leased class vehicles in California, Florida, Georgia, Illinois, Louisiana, Minnesota, Nevada, New Jersey, Oregon, Pennsylvania, Texas, and Washington.

8. In Spring 2023, the Parties initially discussed the possibility of settlement, after which the Parties agreed to participate in mediation before an experienced mediator.

9. On July 7, 2023, the Parties engaged in a vigorous day-long mediation before Bradley A. Winters, Esq., a respected and very experienced neutral class action Mediator with JAMS in which no agreement could be reached.

10. The Parties continued negotiations, exchanging additional information related to a potential settlement. Following further review of the information exchanged and investigation of the claims extensively, the Parties participated in a

second mediation on August 21, 2023. The return to mediation resulted in a class-wide Settlement. Mediator Winters helped the Parties to bridge the gap between their respective positions and agree to a settlement in principle. The terms of this Settlement have since been memorialized in the Settlement Agreement.

11. After agreeing to the structure and material terms for settlement of the Class claims, the Parties negotiated and ultimately agreed upon an appropriate request for incentive awards and Plaintiffs' attorneys' fees and expenses. All the terms of the Settlement Agreement are the result of extensive, adversarial, and arm's-length negotiations between experienced counsel for both sides. The settlement is set forth in complete and final form in the Settlement Agreement. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit A**.

**CLASS COUNSEL THOROUGHLY INVESTIGATED THE CLAIMS AND DEFENSES**

12. Based on the information exchanged as well as a thorough investigation prior to filing the Complaint, including interviewing putative Class Members, researching publicly available materials, and inspecting Class Vehicles, counsel gained a thorough understanding of both the strengths and weaknesses of Plaintiffs' claims and believe the proposed terms of the Settlement Agreement represent a substantial recovery on behalf of the putative Class.

13. Class Counsel conducted a detailed investigation into the origins and nature of the issues reported by owners of the vehicles who had contacted them. Before filing the Complaint, Class Counsel investigated Plaintiffs' complaints, documented their problems, interviewed other putative Class Members, and researched publicly available materials to determine the extent to which the

problems affected the putative Class, as well as VWGoA's knowledge of the defect alleged. Class Counsel reviewed Technical Service Bulletins addressing the relevant symptoms and owners' and warranty manuals for each of the Class Vehicles. In addition, Class Counsel continued to respond to inquiries from putative Class Members and investigate their complaints. Class Counsel also gained information from vehicle inspections, including inspection of certain Plaintiffs' vehicles.

14. Class Counsel researched publicly available materials and information provided by the National Highway Traffic Safety Administration ("NHTSA") concerning consumer complaints about the Class Vehicles. Counsel reviewed and researched consumer complaints and discussions of related problems in articles and forums online, in addition to the various manuals and Technical Service Bulletins dating back to 2013 discussing the alleged defect. Finally, counsel conducted research into the various causes of actions and other similar automotive actions.

15. Accordingly, Class Counsel identified information that was instrumental to the case and to Plaintiffs' efforts during mediation. Class Counsel thoroughly investigated and researched the claims in litigating this action, which allowed Class Counsel to better evaluate VWGoA's claimed representations and omissions concerning the alleged piston defect.

#### **SETTLEMENT BENEFITS**

16. Class Counsel have been responsible for the prosecution of this Action and for the negotiation of the Settlement Agreement. Counsel have vigorously represented the interests of the Class Members throughout the course of the litigation

and settlement negotiations. The number of Settlement Class Vehicles in the putative class here is over 205,152.

17. The Settlement is an excellent result, as it provides the Settlement Class with valuable relief that squarely addresses the piston defect issues raised in this litigation. This includes a Warranty Extension and reimbursement of certain previous out-of-pocket repair expenses.

18. In regards to the Warranty Extension, effective on the Court-ordered date by which the Claim Administrator shall mail the Class Notice of this Settlement to the Settlement Class (“Notice Date”), VWGoA will extend the New Vehicle Limited Warranties (“NVLWs”) to cover 75% of the cost of repair (parts and labor), by an authorized Audi dealer, of the following during a period of up to nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the Settlement Class Vehicle’s In-Service Date: (1) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption by an authorized Audi dealer, as confirmed by an authorized Audi dealer’s oil consumption test,<sup>1</sup> or (2) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only – a diagnosed condition of a fractured piston by an authorized Audi dealer. The Warranty Extension shall also cover a percentage, based on a Sliding Scale detailed in the Settlement, of the cost of repair (parts and labor), by an authorized Audi dealer, of a diagnosed condition of engine damage

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<sup>1</sup> If an oil consumption repair is performed under the warranty extension, then the cost of the oil consumption test that led to said repair shall likewise be covered at the same percentage (75%) as provided under the warranty extension.

which was directly caused by excessive oil consumption (for Audi A4, A5, A6, Q5, and Model Year 2012-2014 Audi TT Settlement Class Vehicles only), or a diagnosed condition of engine damage other than to a piston which was directly caused by a fractured piston (for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only), during the aforesaid period of nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the applicable Settlement Class Vehicle's In-Service Date. As to all Settlement Class Vehicles, the Warranty Extension is conditioned upon the Settlement Class Member providing, to the dealer, Proof of Adherence to Maintenance Requirements.

19. The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle's original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired. Further, If a Settlement Class Vehicle's Warranty Extension time period from the In-Service Date has already expired as of the Notice Date, then for that Settlement Class Vehicle only, the Warranty Extension time and mileage limitations shall be for a period of up to seventy (70) days after the Notice Date or ninety-thousand (90,000) miles from the Settlement Class Vehicle's In-Service Date (whichever occurs first), subject to the same conditions and limitations set forth above. Prior to the Notice Date, VWGoA will advise authorized Audi dealers of the Settlement's Warranty Extension, so that the Warranty Extension may be implemented in accordance with the terms and conditions of this Settlement Agreement.

20. In regards to the reimbursement for out-of-pocket repairs, Settlement Class Members who timely mail to the Settlement Claim Administrator a Claim for Reimbursement (i.e., a fully completed, dated and signed Claim Form together with all Proof of Repair Expense and Proof of Adherence to Maintenance Requirements documentation) shall be eligible for 75% reimbursement of the paid (and unreimbursed) cost (i.e., parts and labor) of a past repair (limited to one (1) past repair) that was performed on a Settlement Class Vehicle prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, to address the following: (i) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption as confirmed by an authorized Audi dealer's oil consumption test, or (ii) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only - a diagnosed condition of a fractured piston(s).

21. Reimbursement shall also include a percentage, determined by the same percentages of coverage set forth in the Sliding Scale in the Settlement, of the past paid (and unreimbursed) cost (i.e., parts and labor) of repair (limited to one (1) past repair), performed prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, of: (1) for Audi A4, A5, A6, Q5 and 2012-2014 Audi TT Settlement Class Vehicles only – engine damage which was diagnosed to be directly caused by excessive oil consumption, or (2) for Audi A3 and 2016-2017 Audi TT

Settlement Class Vehicles only - engine damage other than to a piston which was diagnosed to be directly caused by a fractured piston.

22. Plaintiffs remain convinced that their case has merit but recognize the substantial risk that comes along with continued litigation. Based on Counsel's investigation and review of information and evidence exchanged, and in consideration of the risks of continued litigation and the relative strengths and weaknesses of Plaintiffs' claims and VGWoA's defenses, we have concluded that the Settlement represents an excellent result for Class Members.

#### **SETTLEMENT NOTICE AND CLAIMS ADMINISTRATION**

23. The Parties agreed to retain JND Legal Administration as the Claim Administrator. The Claim Administrator will carry out the Notice Plan (as discussed in the Settlement), disseminate the CAFA notice, administer any requests for exclusion, and administer the Claims process including the review and determination of reimbursement claims, and distribution of payments to eligible Claimants whose claims are complete and have been approved under the Settlement terms. Pursuant to the Settlement, VWGoA will pay all administrative costs separate and apart from any benefits to which the Settlement Class Members may be entitled. Thus, none of the Settlement Administration costs will be borne by the Class Members in any way.

#### **QUALIFICATIONS TO SERVE AS CLASS COUNSEL**

24. Capstone is one of California's largest plaintiff-only labor and consumer law firms. With over twenty-five seasoned attorneys, Capstone has the experience, resources, and expertise to successfully prosecute complex employment and consumer actions.

25. Capstone's accomplishments since its creation in 2012 are set forth in the firm resume. A true and correct copy of Capstone's firm resume is attached hereto as **Exhibit B**.

26. Capstone, as lead or co-lead counsel, has obtained final approval of sixty class actions valued at over \$100 million dollars. Recognized for its active class action practice and cutting-edge appellate work, Capstone's recent accomplishments have included three of its attorneys being honored as California Lawyer's Attorneys of the Year in the employment practice area for 2014 for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014).

27. Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019). Capstone was also appointed sole class counsel after contested class certification in *Victorino v. FCA US LLC*, No. 16CV1617-GPC(JLB), 2021 WL 4124245 (S.D. Cal. Sept. 9, 2021) and, along with co-counsel, in *Speerly v. Gen. Motors, LLC*, 343 F.R.D. 493 (E.D. Mich. 2023). Capstone has negotiated numerous class action settlements providing relief to owners/lessees in the last five years. *See, e.g., Weckwerth, et al. v. Nissan North America, Inc.*, No. 3:18-cv-00588 (M.D. Tenn, Mar. 10, 2020) (finally approving settlement on behalf of millions of Nissan drivers with alleged transmission defects); *Wylie, et al. v. Hyundai Motor America*, No. 8:16-cv-02102-DOC (C.D. Cal. Mar. 02, 2020) (finally approving settlement on behalf of tens of thousands of Hyundai drivers with alleged transmission defects); *Granillo v. FCA US LLC*, No. 16-00153-FLW (D. N.J. Feb.

12, 2019); *Morishige v. Mazda Motor of Am., Inc.*, No. BC595280 (Los Angeles Sup. Ct. Aug. 20, 2019); *Falco v. Nissan N. Am. Inc.*, No. 13-00686-DDP (C.D. Cal. July 16, 2018), Dkt. No. 341 (finally approving settlement after certifying class alleging timing chain defect on contested motion); *Vargas v. Ford Motor Co.*, No. CV12-08388 AB (FFMX), 2017 WL 4766677 (C.D. Cal. Oct. 18, 2017) (finally approving class action settlement involving transmission defects for 1.8 million class vehicles); *Batista v. Nissan N. Am., Inc.*, No. 14-24728-RNS (S.D. Fla. June 29, 2017), Dkt. 191 (finally approving class action settlement alleging CVT defect); *Chan v. Porsche Cars N.A., Inc.*, No. No. 15-02106-CCC (D. N.J. Oct. 6, 2017), Dkt. 65 (finally approving class action settlement involving alleged windshield glare defect); *Klee v. Nissan N. Am., Inc.*, No. 12-08238-AWT, 2015 WL 4538426, at \*1 (C.D. Cal. July 7, 2015) (settlement involving allegations that Nissan Leaf's driving range, based on the battery capacity, was lower than was represented by Nissan); *Asghari v. Volkswagen Group of America, Inc.*, Case No. 13-cv-02529-MMM-VBK, 2015 WL 12732462 (C.D. Cal. May 29, 2015) (class action settlement providing repairs and reimbursement for oil consumption problem in certain Audi vehicles).

### CONCLUSION

28. As a result of this litigation, all current owners and lessees of the Settlement Class Vehicles receive substantial benefits from the Settlement. Based on my experience, the Settlement is fair, reasonable, and adequate, and treats all Class Members equitably. I ask that the Court approve the Settlement achieved on behalf of the Class resulting from this litigation.

I declare under penalty of perjury under the laws of United States of America

that the foregoing is true and correct.

Dated: October 11, 2023

  
\_\_\_\_\_  
Tarek H. Zohdy

**EXHIBIT A**

## CLASS SETTLEMENT AGREEMENT

This Class Settlement Agreement (the “Settlement Agreement” or the “Agreement”), is made and entered into as of this 10th day of October, 2023, by and between (i) Plaintiffs Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada Gozon and Angeli Gozon, Peter Lowegard, and Patricia Hensley (collectively, “Plaintiffs”), individually and as representatives of the Settlement Class defined below, and Volkswagen Group of America, Inc. (“VWGoA”) (“Defendant”) (all collectively referred to as the “Parties”).

### RECITALS

WHEREAS, on April 30, 2021, Plaintiffs filed a putative class action entitled *Jeni Rieger individually, and on behalf of a class of similarly situated individuals v. Volkswagen Group of America, Inc.*, et al., 1:21- cv - 10546 (NLH)(MJS), United States District Court, District of New Jersey, asserting various individual and putative class claims alleging that defects in the pistons and/or piston heads of the putative class vehicles may allegedly result in engine malfunctions and/or excessive oil consumption (hereinafter, “the Action”);

WHEREAS, on May 6, 2021, Plaintiffs filed an Amended Complaint (ECF 11), and on July 26, 2021, Plaintiffs filed a Second Amended Class Action Complaint (ECF 36);

WHEREAS, on September 30, 2021, the Court entered an Order consolidating an action entitled *Gonzalez v. Volkswagen Group of America, Inc.*, et al., 21-cv-15026 (NLH)(MJS), United States District Court, District of New Jersey, with and into the Action, and directing the filing of a Consolidated Class Action Complaint (ECF 42);

WHEREAS, on October 12, 2021, Plaintiffs filed their Consolidated Class Action Complaint (ECF 45);

WHEREAS, on December 3, 2021, VWGoA filed a motion to dismiss Plaintiffs' Consolidated Class Action Complaint (ECF 53), which, by decision and order dated May 4, 2023 (ECF 66), the Court granted in part and denied in part, with leave to amend;

WHEREAS, on June 2, 2023, Plaintiffs filed a First Amended Consolidated Class Action Complaint (ECF 67);

WHEREAS, VWGoA denies the Plaintiffs' allegations and claims with respect to both liability and damages, and maintains, *inter alia*, that the putative class vehicles function properly and are not defective, that no applicable warranties (express or implied) were breached, that no common law or legal duties or applicable statutes, laws, rules or regulations were violated, that the subject vehicles' components and systems were properly designed, tested, manufactured, distributed, marketed, advertised, warranted, and sold, and that the Action is not suitable for class treatment if it were to proceed through litigation and trial;

WHEREAS, the Parties, after investigation and careful analysis of their respective claims and defenses, and with full understanding of the potential risks, benefits, expense, and uncertainty of continued litigation, desire to compromise and settle all issues and claims that were asserted or could have been asserted in the Action by or on behalf of Plaintiffs and members of the Settlement Class;

WHEREAS, the Parties agree that neither this Settlement Agreement and exhibits, the underlying Settlement itself, nor its negotiations, documents, or any filings relating thereto, shall constitute or be construed as, (i) any admission or evidence of liability, damages, or wrongdoing on the part of Defendant or any Released Party, and/or (ii) the existence or validity of any fact, allegation and/or claim that was or could have been asserted in the Action, all of which are expressly denied by Defendant.

WHEREAS, this Settlement Agreement is the result of vigorous and extensive arm's length negotiations of highly disputed claims, with adequate knowledge of the facts, issues, and the strengths or weaknesses of the Parties' respective positions, and with the assistance of an experienced neutral Mediator from JAMS; and

WHEREAS, the Settlement is fair, reasonable, and adequate; in all respects satisfies the requirements of Fed. R. Civ. P. 23; and is in the best interests of the Settlement Class;

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth below, the Parties hereby agree as follows:

**I. DEFINITIONS**

**A. "Action"**

"Action" refers to the consolidated putative class action entitled *Jeni Rieger, et al. v. Volkswagen Group of America, Inc., et al.*, No. 1:21-cv-10546 (NLH)(MJS), pending in the United States District Court for the District of New Jersey.

**B. "Agreement," "Settlement," or "Settlement Agreement"**

"Agreement," "Settlement," or "Settlement Agreement" means this Settlement Agreement including all terms, provisions and conditions embodied herein and all attached Exhibits (which are an integral part of, and incorporated by reference in, this Settlement Agreement).

**C. "Claim Administrator" or "Settlement Administrator"**

The "Claim Administrator" or "Settlement Administrator" shall mean JND Legal Administration.

**D. "Claim" or "Claim for Reimbursement"**

"Claim" or "Claim for Reimbursement" means the timely and proper submission of the required fully completed, signed, and dated Claim Form, together with all required Proof of Repair Expense documents (as defined in Section I.S. of this Agreement), in which a Settlement Class

Member (as defined in Section I.V. of this Agreement) seeks to claim reimbursement for a percentage of certain past paid and unreimbursed out-of-pocket expenses pursuant to the terms, conditions and limitations set forth in Section II.B. of this Settlement Agreement.

**E. “Claim Form”**

“Claim Form” means the form that must be fully completed, signed, dated, and timely mailed to the Claim Administrator, together with all required Proof of Repair Expense documentation, in order to make a Claim for Reimbursement under the terms of this Settlement Agreement, which Claim Form will be substantially in the form attached hereto as Exhibit 1.

**F. “Claim Period”**

“Claim Period” means the period of time within which a Claim for Reimbursement under this Settlement must be mailed (postmarked) to the Claim Administrator, which period shall expire seventy-five (75) days after the Notice Date.

**G. “Class Counsel” or “Plaintiffs’ Counsel”**

“Class Counsel” or “Plaintiffs’ Counsel” shall mean Berger Montague PC, Capstone APC, and the Ladah Law Firm.

**H. “Class Notice”**

“Class Notice” means the Class Notice, which will be substantially in the form attached hereto as Exhibit 2.

**I. “Class Notice Plan” or “Notice Plan”**

“Class Notice Plan” or “Notice Plan” means the plan for disseminating the Class Notice to the Settlement Class as set forth in Section IV of this Settlement Agreement, and includes any further notice provisions that may be agreed upon by the Parties.

**J. “Court”**

“Court” means the United States District Court for the District of New Jersey, located in Camden, New Jersey.

**K. “Defense Counsel”**

“Defense Counsel” means Michael B. Gallub, Esq., Brian T. Carr, Esq. and Homer B. Ramsey, Esq. of Shook, Hardy & Bacon L.L.P.

**L. “Effective Date”**

“Effective Date” means the third business day after: (1) the Court enters a Final Order and Judgment approving the Settlement Agreement, substantially in the form agreed upon by counsel for the Parties, and (2) all appellate rights with respect to said Final Order and Judgment, other than those related solely to any award of attorneys’ fees, costs or service/incentive payments, have expired or been completely exhausted in such a manner as to affirm such Final Order and Judgment.

**M. “Fee and Expense Application”**

“Fee and Expense Application” means Class Counsel’s application for an award of reasonable attorneys’ fees, costs, and expenses (“Class Counsel Fees and Expenses”), and for Class Representative service awards.

**N. “Final Fairness Hearing”**

“Final Fairness Hearing” means the hearing at or after which the Court will determine whether to grant final approval of the Settlement as fair, reasonable, and adequate under Fed. R. Civ. P. 23(e).

**O. “Final Order and Judgment”**

“Final Order and Judgment” means the Final Order and Judgment granting final approval of this Settlement Agreement and dismissing the Action with prejudice, the form of which will be agreed by the Parties and submitted to the Court prior to the Final Fairness Hearing.

**P. “In-Service Date”**

“In-Service Date” means the date on which a Settlement Class Vehicle was first delivered to either the original purchaser or the original lessee; or if the vehicle was first placed in service as a “demonstrator” or “company” car, on the date such vehicle was first placed in service.

**Q. “Notice Date”**

“Notice Date” means the Court-ordered date by which the Claim Administrator shall mail the Class Notice of this Settlement to the Settlement Class, substantially in the form attached hereto as Exhibit 3. The Notice Date shall be a date that is up to one-hundred (100) days after the Court enters a Preliminary Approval Order.

**R. “Proof of Adherence to Maintenance Requirements”**

“Proof of Adherence to Maintenance Requirements” means documents or records evidencing the Settlement Class Member’s adherence to the oil maintenance aspects of the Settlement Class Vehicle’s maintenance schedule set forth in the Warranty and Maintenance Booklet during the time he/she/it owned and/or leased the vehicle up to the date/mileage of the repair or replacement, within a variance of ten percent (10%) of each scheduled time/mileage oil maintenance interval. If, however, the Settlement Class Member is unable to obtain said documents or records despite a good faith effort to obtain them, the Settlement Class Member may submit a Declaration, signed under penalty of perjury, detailing: (i) the good faith efforts that were made to obtain the records including why the records are not available, and (ii) attesting to adherence to the oil maintenance aspects of the vehicle’s maintenance schedule during the time he/she/it owned or leased the vehicle, up to the date/mileage of the replacement/repair, within the ten percent (10%) variance set forth above

**S. “Proof of Repair Expense”**

“Proof of Repair Expense” shall mean all of the following: (1) an original or legible copy of the repair invoice for the subject repair, containing the claimant’s name, the make and model and Vehicle Identification Number (VIN) of the Settlement Class Vehicle, the name and address of the dealer or repair shop that performed the repair covered under this Agreement, the date of the covered repair and vehicle mileage at the time of the repair, a description of the repair work including the parts repaired or replaced and a breakdown of parts and labor costs for the covered repair; proof of payment and the amount paid for the covered repair; and, if the person claiming reimbursement is not the person to whom the Claim Form was mailed, proof of ownership or lease of the Settlement Class Vehicle at the time of the covered repair. In addition, if reimbursement is sought for repair of a damaged engine pursuant to Section II.B of this Agreement, then the repair documentation must, in addition to the above information, also show that such damage was directly caused by (i) excessive oil consumption (for reimbursement only for Audi A4, A5, A6, Q5, or Model Year 2012-2014 Audi TT Settlement Class Vehicles) or (ii) a fractured piston (for reimbursement only for Audi A3 or Model Year 2016-2017 Audi TT Settlement Class Vehicles).

**T. “Released Claims” or “Settled Claims”**

“Released Claims” or “Settled Claims” means any and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, actions, rights of action, costs, expenses, and remedies of any kind, nature and description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, and regardless of any legal or equitable theory, existing now or arising in the future, by Plaintiffs and any and all Settlement Class Members (including their successors, heirs, assigns and representatives) which, in any way, arise from or relate to the Settlement Class Vehicles’ pistons (including the piston, piston seals, and related components), rate and/or extent of oil consumption, and/or any engine damage resulting or

claimed to result therefrom, and any other consequences, damage or loss relating thereto, including but not limited to all matters that were asserted or could have been asserted in the Action, and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, actions, rights of action and remedies of any kind, nature and description, arising under any state, federal or local statute, law, rule and/or regulation including any consumer protection, consumer fraud, unfair or deceptive business or trade practices, false or misleading advertising, and/or other sales, marketing, advertising and/or consumer statutes, laws, rules and/or regulations, under any common law cause of action or theory, and under any legal or equitable causes of action or theories whatsoever, and on any basis whatsoever including tort, contract, products liability, express warranty, implied warranty, negligence, fraud, misrepresentation, concealment, false or misleading advertising or marketing, unfair, deceptive and/or inequitable business practice, consumer protection, express or implied covenants, restitution, quasi-contract, unjust enrichment, injunctive relief of any kind and nature, including but not limited to the Magnuson-Moss Warranty Act, each and every federal, state and local consumer protection, consumer fraud, deceptive trade practices, unfair practices and/or related statute, law, rule and regulation in the United States and Puerto Rico, all other or similar federal, state or local statutes, laws, rules or derivations thereof, any state Lemon Laws, secret warranty, and/or any other theory of liability and/or recovery whatsoever, whether in law or in equity, and for any and all injuries, losses, damages, remedies (legal or equitable), costs, recoveries or entitlements of any kind, nature and description, under statutory and/or common law, and including, but not limited to, compensatory damages, economic losses or damages, exemplary damages, punitive damages, statutory damages, statutory penalties or rights, restitution, unjust enrichment, injunctive relief, costs, expenses and/or counsel fees, and any other legal or equitable relief or theory of relief. This Settlement Agreement expressly

exempts claims for personal injuries and property damage (other than for damage to the Settlement Class Vehicle itself).

**U. “Released Parties”**

“Released Parties” means Volkswagen Group of America, Inc., Audi AG, Volkswagen AG, Audi of America LLC, Audi of America, Inc., Volkswagen de México S.A. de C.V., Volkswagen Group of America Chattanooga Operations, LLC, Volkswagen Credit, Inc., all designers, manufacturers, assemblers, distributors, importers, retailers, marketers, advertisers, testers, inspectors, sellers, suppliers, component suppliers, lessors, warrantors, dealers, repairers and servicers of the Settlement Class Vehicles and each of their component parts and systems, all of their past and present directors, officers, shareholders, principals, partners, employees, agents, servants, assigns and representatives, and all of the aforementioned persons’ and entities’ attorneys, insurers, trustees, vendors, contractors, heirs, executors, administrators, successors, successor companies, parent companies, subsidiary companies, affiliated companies, divisions, trustees and representatives.

**V. “Settlement Class” or “Settlement Class Members”**

“Settlement Class” or “Settlement Class Members” means: “All persons and entities who purchased or leased a Settlement Class Vehicle, as defined in Section I.X. of this Agreement, in the United States of America and Puerto Rico.”

Excluded from the Settlement Class are: (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents and representatives of Defendant, and their family members; (c) any affiliate, parent or subsidiary of Defendant and any entity in which Defendant has a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company that

acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of this Agreement, settled with and released Defendant or any Released Parties from any Released Claims, and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class.

**W. “Settlement Class Representatives”**

“Settlement Class Representatives” means Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada and Angeli Gozon, Peter Lowegard and Patricia Hensley.

**X. “Settlement Class Vehicles”**

Settlement Class Vehicles means certain model year 2012, 2013, and 2014 Audi A4, A5, A6, and Q5 vehicles, model year 2012, 2013, 2014, 2016 and 2017 Audi TT vehicles, and model year 2015, 2016 and 2017 Audi A3 vehicles, that were imported and distributed by VWGoA for sale or lease in the United States or Puerto Rico and are specifically designated by Vehicle Identification Number (“VIN”) on Exhibit 4 to this Agreement.

The benefits afforded by this Settlement Agreement differ among certain models/model years of the Settlement Class Vehicles. Therefore, each Settlement benefit set forth in the Section II below will delineate the particular model/model year of Settlement Class Vehicle(s) to which that benefit applies.

**II. SETTLEMENT CONSIDERATION**

In consideration for the full and complete Release of all Released Claims against the Defendant and all Released Parties, and the dismissal of the Action with prejudice, Defendant VWGoA agrees to provide the following consideration to the Settlement Class:

### **A. Warranty Extension for Current Owners and Lessees of Settlement Class Vehicles**

Effective on the Notice Date, VWGoA will extend the New Vehicle Limited Warranties (NVLWs) to cover 75% of the cost of repair (parts and labor), by an authorized Audi dealer, of the following during a period of up to nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the Settlement Class Vehicle's In-Service Date:

(1) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption by an authorized Audi dealer, as confirmed by an authorized Audi dealer's oil consumption test,<sup>1</sup> or

(2) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only – a diagnosed condition of a fractured piston by an authorized Audi dealer.

As to all Settlement Class Vehicles, the Warranty Extension is conditioned upon the Settlement Class Member providing, to the dealer, Proof of Adherence to Maintenance Requirements.

The Warranty Extension shall also cover a percentage (as set forth in the Sliding Scale below) of the cost of repair (parts and labor), by an authorized Audi dealer, of a diagnosed condition of engine damage which was directly caused by excessive oil consumption (for Audi A4, A5, A6, Q5, and Model Year 2012-2014 Audi TT Settlement Class Vehicles only), or a diagnosed condition of engine damage other than to a piston which was directly caused by a fractured piston (for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only), during the aforesaid period of nine (9) years or ninety-thousand (90,000) miles (whichever

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<sup>1</sup> If an oil consumption repair is performed under the warranty extension, then the cost of the oil consumption test that led to said repair shall likewise be covered at the same percentage (75%) as provided under the warranty extension.

occurs first) from the applicable Settlement Class Vehicle’s In-Service Date, subject to (i) the Proof of Adherence to Maintenance Requirements, and (ii) the following Sliding Scale percentages of coverage which are based upon the age and mileage of the Settlement Class Vehicle at the time of such repair:

Time from In-Service Date	Less than 50,000 miles	50,001 to 60,000 miles	60,001 to 70,000 miles	70,001 to 90,000 miles
4 years or less	100%	70%	60%	50%
4-5 years	70%	60%	50%	40%
5-6 years	60%	50%	40%	35%
6-7 years	50%	40%	35%	30%
7-9 years and “Timed-Out” Settlement Class Vehicles within 70-Days after Notice Date	40%	35%	30%	25%

The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle’s original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired.

The Warranty Extension shall not cover or apply to excessive oil consumption, piston damage or breakage, or engine damage, resulting from abuse, modification or alteration of parts, absence/lack of sufficient oil maintenance (i.e., absence/lack of oil changes performed with the use of the correct Audi recommended oil and within a 10% variation of each time and mileage oil

maintenance interval), a collision or crash, vandalism and/or other impact, damage from an outside source, and/or lack of or improper maintenance with respect to other items that caused or contributed to the damage or need for repair.

If a Settlement Class Vehicle's Warranty Extension time period from the In-Service Date has already expired as of the Notice Date, then for that Settlement Class Vehicle only, the Warranty Extension time and mileage limitations shall be for a period of up to seventy (70) days after the Notice Date or ninety-thousand (90,000) miles from the Settlement Class Vehicle's In-Service Date (whichever occurs first), subject to the same conditions and limitations set forth above.

**B. Reimbursement of Certain Past Paid (and Not Reimbursed) Out-Of-Pocket Repair Expense for Repairs Performed Prior to the Notice Date and Within 9 Years or 90,000 Miles (Whichever Occurred First) from the Settlement Class Vehicle's In-Service Date**

1. **Reimbursement**: Settlement Class Members who timely mail to the Settlement Claim Administrator a Claim for Reimbursement (fully completed, dated and signed Claim Form together with all Proof of Repair Expense and Proof of Adherence to Maintenance Requirements documentation) shall be eligible for 75% reimbursement of the paid (and unreimbursed) cost (parts and labor) of a past repair (limited to one (1) past repair) that was performed on a Settlement Class Vehicle prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, to address the following:

(i) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption as confirmed by an authorized Audi dealer's oil consumption test, or

(ii) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only - a diagnosed condition of a fractured piston(s).

Reimbursement under this Section shall also include a percentage, determined by the same percentages of coverage set forth in the Sliding Scale above (Section II.A.), of the past paid (and unreimbursed) cost (parts and labor) of repair (limited to one (1) past repair), performed prior to the Notice Date and within nine (9) years or ninety-thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, of: (1) for Audi A4, A5, A6, Q5 and 2012-2014 Audi TT Settlement Class Vehicles only – engine damage which was diagnosed to be directly caused by excessive oil consumption, or (2) for Audi A3 and 2016-2017 Audi TT Settlement Class Vehicles only - engine damage other than to a piston which was diagnosed to be directly caused by a fractured piston; all of which is subject to the above Proof of Repair Expense and Proof of Adherence to Maintenance Requirements.

If the covered repair for which reimbursement under this Section is sought was not performed by an authorized Audi dealer, then the maximum paid invoice amount to which the applicable reimbursement percentage shall be applied shall not exceed a maximum of: (1) for Audi A4, A5, A6, Q5 and 2012-2014 Audi TT Settlement Class Vehicles only – \$3,700 for a past paid (and unreimbursed) repair of a diagnosed condition of excessive oil consumption, and \$12,000 for a past paid (and unreimbursed) repair of engine damage which was diagnosed to be directly caused by excessive oil consumption, or (2) for Audi A3 and 2016-2017 Audi TT Settlement Class Vehicles only - \$9,000 for a past paid (and unreimbursed) repair of a diagnosed condition of a fractured piston(s), and for a past paid (and unreimbursed) repair of engine damage other than to a piston which was diagnosed to be directly caused by a fractured piston.

Reimbursement under this Section is subject to the Limitations, Conditions and Claim requirements set forth in Sections II.B.2 and II.B.3 below.

**2. Limitations and Other Conditions:**

a. Any reimbursement under Section II.B.1. shall be reduced by goodwill or other amount or concession paid by an authorized Audi dealer, any other entity (including insurers and providers of extended warranties or service contracts), or by any other source. If the Settlement Class Member received a free repair covered under this Agreement, or was otherwise reimbursed the full amount for the covered repair, then he/she/it will not be entitled to any reimbursement.

b. Defendant shall not be responsible for, and shall not warrant, repair/replacement work performed at any service center or facility that is not an authorized Audi dealer.

c. Reimbursement under Section II.B.1. shall not apply to excessive oil consumption, piston damage or breakage, or engine damage, resulting from abuse, modification or alteration of parts, absence/lack of sufficient oil maintenance (i.e., absence/lack of oil changes performed with the use of the correct Audi recommended oil and within a 10% variation of each time and mileage oil maintenance interval), a collision or crash, vandalism and/or other impact, damage from an outside source, and/or lack of or improper maintenance with respect to other items that caused or contributed to the damage or need for repair.

d. If, within the Settlement Class Vehicle's original NVLW time and mileage period, the past paid repair for which reimbursement is sought was performed by a service entity or facility that is not an authorized Audi dealer, then the Settlement Class Member must also submit with his/her/its Claim, in addition to the Proof of Repair Expense and Proof of Adherence to Maintenance Requirements, documentation (such as a written estimate or invoice), or if documents are not available after a good-faith effort to obtain them, a Declaration signed under penalty of perjury, confirming that the Settlement Class Member first attempted to have the said repair performed by an authorized Audi dealer, but the dealer declined or was unable to perform the repair free of charge pursuant to the NVLW.

**3. Requirements for a Valid and Timely Claim for Reimbursement:**

a. In order to submit a valid and timely Claim for Reimbursement pursuant to Section II.B. of this Agreement, the Settlement Class Member must mail to the Settlement Claim Administrator, post-marked within the Claim Period (no later than 75-days after the Notice Date), a fully completed, signed and dated Claim Form, together with the required Proof of Repair Expense, Proof of Adherence to Maintenance Requirements, and any other proof set forth in Section II.B. of this Agreement.

b. If the claimant is not a person to whom the Claim Form was addressed, and/or the vehicle with respect to which a Claim is made is not the vehicle identified by VIN number on the mailed Claim Form, the Claim must contain proof that the claimant is a Settlement Class Member and that the vehicle that is the subject of the Claim is a Settlement Class Vehicle.

c. The Claim Form and supporting documentation must demonstrate the Settlement Class Member's right to reimbursement, for the amount requested, under the terms and conditions of this Settlement Agreement.

**III. CLAIMS ADMINISTRATION**

**A. Costs of Administration and Notice**

As between the Parties, VWGoA shall be responsible for the Claim Administrator's reasonable costs of class notice and settlement administration. The Parties retain the right to audit and review the Claims handling by the Claim Administrator, and the Claim Administrator shall report to both parties jointly.

**B. Claim Administration**

1. Only timely Claims that are complete and which satisfy the Settlement criteria for reimbursement can be approved for payment. For each approved reimbursement claim, the Claim Administrator, on behalf of VWGoA, shall mail to the Settlement Class Member, at the

address listed on the Claim Form, a reimbursement check to be sent within one hundred fifty (150) days of the date of receipt of the completed Claim, or within one hundred fifty (150) days of the Effective Date, whichever is later. The reimbursement checks shall remain valid for 180 days. The Settlement Class Member may make one (1) request for reissuance of an expired un-negotiated check from the Claims Administrator within 225 days of its original issuance.

2. The Claim Administrator's denial of any Claim in whole or in part shall be binding and non-appealable, except that Class Counsel and Defendant's counsel may confer and attempt to resolve in good faith any disputed denial by the Claim Administrator.

3. If the Claims Administrator initially determines that the Claim Form is incomplete, deficient or otherwise not fully completed, signed and/or dated, and/or that supporting documentation is missing, deficient, or otherwise incomplete, then the Claim Administrator will send the Settlement Class Member a letter or notice by regular mail advising of the deficiency(ies) in the Claim Form and/or the documentation. The Settlement Class Member will then have until thirty (30) days after the date of said letter/notice to mail a response to the Claim Administrator that cures all said deficiencies and supplies all missing or deficient information and documentation, or the claim will be denied.

4. If a Claim is denied in whole or in part, either for not meeting the Settlement criteria for reimbursement, or for failure to timely cure any deficiencies or missing or incomplete information/documentation, the Claim Administrator will so notify the Settlement Class Member by sending a letter or notice of the denial by regular mail. Any Settlement Class Member whose claim is denied shall have fifteen (15) days from the date of the Claim Administrator's letter/notice of denial to request an "attorney review" of the denial, after which time Class Counsel and Defense Counsel shall meet and confer and determine whether said denial, based upon the Claim Form and

documentation previously submitted, was correct under the terms of the Settlement, whether the denial should be modified if it is not correct, and/or whether any disputed issues can amicably be resolved. The Claim Administrator will thereafter advise the Settlement Class Member of the attorney review determination, which shall be binding and not appealable.

#### **IV. NOTICE**

A. To Attorneys General: In compliance with the Attorney General notification provision of the Class Action Fairness Act, 28 U.S.C. § 1715, the Claim Administrator shall provide notice of this proposed Settlement to the Attorney General of the United States, and the Attorneys General of each state in which a known Settlement Class Member resides. The Claim Administrator shall also provide contemporaneous notice to the Parties.

B. To Settlement Class: The Claim Administrator shall be responsible for the following Settlement Class Notice Plan:

1. On an agreed upon date with the Claim Administrator, but in no event more than one-hundred (100) days after entry of the Preliminary Approval Order, the Claim Administrator shall cause individual Class Notice, substantially in the form attached hereto as Exhibit 2, together with the Claim Form, substantially in the form attached hereto as Exhibit 1, to be mailed, by first class mail, to the current or last known addresses of all reasonably identifiable Settlement Class Members. Defendant VWGoA may format the Class Notice in such a way as to minimize the cost of the mailing, so long as Settlement Class Members can reasonably read it and Class Counsel approves all changes and formatting. The Claim Administrator shall be responsible for mailing of the Class Notice.

2. For purposes of identifying Settlement Class Members, the Claim Administrator shall obtain from Polk/IHS Markit or an equivalent company (such as Experian) the

names and current or last known addresses of Settlement Class Vehicle owners and lessees that can reasonably be obtained, based upon the VINs of Settlement Class Vehicles to be provided by VWGoA.

3. Prior to mailing the Class Notice, the Claim Administrator shall conduct an address search through the United States Postal Service's National Change of Address database to update the address information for Settlement Class Vehicle owners and lessees. For each individual Class Notice that is returned as undeliverable, the Claim Administrator shall re-mail all Class Notices where a forwarding address has been provided. For the remaining undeliverable notice packets where no forwarding address is provided, the Claim Administrator shall perform an advanced address search (e.g., a skip trace) and re-mail any undeliverable to the extent any new and current addresses are located.

4. The Claim Administrator shall diligently, and/or as reasonably requested by Class Counsel or Defense counsel, report to Class Counsel and Defense counsel the number of individual Class Notices originally mailed to Settlement Class Members, the number of individual Class Notices initially returned as undeliverable, the number of additional individual Class Notices mailed after receipt of a forwarding address, and the number of those additional individual Class Notices returned as undeliverable.

5. The Claim Administrator shall, upon request, provide Class Counsel and Defense counsel with the names and addresses of all Settlement Class Members to whom the Claim Administrator sent a Class Notice pursuant to this section.

6. The Claim Administrator shall implement a Settlement website that contains the following information:

- (i) instructions on how to submit a Claim for Reimbursement by mail;

(ii) instructions on how to contact the Claim Administrator, Class Counsel and Defense Counsel for assistance;

(iii) a copy of the Claim Form, Class Notice and this Settlement Agreement, the Preliminary Approval Order, the motion for Final Approval, the Class Counsel Fee and Expenses Application, and other pertinent orders and documents to be agreed upon by counsel for the Parties; and

(iv) the deadlines for any objections, requests for exclusion and mailing of claims, the date, time and location of the final fairness hearing, and any other relevant information agreed upon by counsel for the Parties.

7. No later than ten (10) days after the Notice Date, the Claim Administrator shall provide an affidavit to Class Counsel and Defense counsel, attesting that the Class Notice was disseminated in a manner consistent with the terms of the Class Notice Plan of this Agreement or those required by the Court and agreed by counsel.

8. Notification to Authorized Audi dealers: Prior to the Notice Date, VWGoA will advise authorized Audi dealers of the Settlement's Warranty Extension, so that the Warranty Extension may be implemented in accordance with the terms and conditions of this Settlement Agreement. Defense Counsel will confirm with Class Counsel that VWGoA has notified authorized dealers of the Settlement's Warranty Extension.

## **V. RESPONSE TO NOTICE**

### **A. Objection to Settlement**

Any Settlement Class Member who intends to object to the fairness of this Settlement Agreement and/or to Class Counsel's Fee and Expense Application must, by the date specified in the Preliminary Approval Order, which date shall be approximately thirty (30) days after the Notice Date, either (i) file any such objection, together with any supporting briefs and/or documents, with the Court either in person at the Clerk's Office of the United States District Court for the District of New Jersey, located at Mitchell H. Cohen Building & U.S. Courthouse, 4<sup>th</sup> & Cooper Streets, Camden, NJ 08101, or (ii) file same via the Court's electronic filing system, or

(iii) if not filed in person or via the Court's electronic system, then, by U.S. first-class mail post-marked within the said 30-day deadline, mail the objection, together with any supporting briefs and/or documents, to the United States District Court for the District of New Jersey, located at Mitchell H. Cohen Building & U.S. Courthouse, 4<sup>th</sup> & Cooper Streets, Camden, NJ 08101, and also, by U.S. first-class mail post-marked within said deadline, serve same upon the following counsel for the Parties: Russell D. Paul, Esq., Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103, on behalf of Plaintiffs, and Michael B. Gallub, Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, New York 10020, on behalf of Defendant.

1. Any objecting Settlement Class Member must include with his or her objection:
  - (a) the objector's full name, address, and telephone number,
  - (b) the model, model year and Vehicle Identification Number of the Settlement Class Vehicle, along with proof that the objector has owned or leased the Settlement Class Vehicle (i.e., a true copy of a vehicle title, registration, or license receipt);
  - (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; and
  - (d) copies of any papers, briefs, or other documents upon which the objection is based and are pertinent to the objection;
  - (e) the name and address of the lawyer(s), if any, who is/are representing the objecting Settlement Class Member in making the objection;
  - (f) a statement of whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, and the identity(ies) of any counsel who will appear on behalf of the Settlement Class Member objection at the Final Approval Hearing; and

(g) a list of all other objections submitted by the objector, and/or the objector's counsel, to any class action settlements in any court in the United States in the previous five (5) years, including the full case name with jurisdiction in which it was filed and the docket number. If the Settlement Class Member and/or his/her/its counsel has not objected to any other class action settlement in the United States in the previous five years, then he/she/it shall affirmatively so state in the objection.

2. Any Settlement Class Member who has not timely and properly filed an objection in accordance with the deadlines and requirements set forth herein shall be deemed to have waived and relinquished his/her/its right to object to any aspect of the Settlement, or any adjudication or review of the Settlement, by appeal or otherwise.

3. Subject to the approval of the Court, any timely and properly objecting Settlement Class Member may appear, in person or by counsel, at the Final Fairness Hearing to explain the bases for the objection to final approval of the proposed Settlement and/or to any motion for Class Counsel Fees and Expenses or incentive awards. In order to appear at the Final Fairness Hearing, the objecting Settlement Class Member must, no later than the objection deadline, file with the Clerk of the Court, and serve upon all counsel designated in the Class Notice, a Notice of Intention to Appear at the Final Fairness Hearing. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence and identity of any witnesses that the objecting Settlement Class Member (or the objecting Settlement Class Member's counsel) intends to present to the Court in connection with the Final Fairness Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other specifications set forth in the Class Notice, or who has not filed an objection that complies in full with the deadline and other requirements set forth in the Settlement Agreement and Class Notice,

shall be deemed to have waived and relinquished any right to appear, in person or by counsel, at the Final Fairness Hearing.

**B. Request for Exclusion from the Settlement**

1. Any Settlement Class Member who wishes to be excluded from the Settlement Class must timely mail a request for exclusion (“Request for Exclusion”) to the Claim Administrator at the address specified in the Class Notice, by the deadline set forth below and specified in the Preliminary Approval Order. To be effective, the Request for Exclusion must be timely mailed to the specified addresses below and:

- (a) include the Settlement Class Member’s full name, address and telephone number;
  - (b) identify the model, model year and VIN of the Settlement Class Vehicle;
- and
- (c) specifically and unambiguously state his/her/its desire to be excluded from the Settlement Class.

2. Any Request for Exclusion must be postmarked on or before the deadline set by the Court, which date shall be approximately thirty (30) days after the Notice Date, and mailed to all of the following: the Claims Administrator, Russell D. Paul, Esq., Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103 on behalf of Class Counsel, and Michael B. Gallub, Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, NY 10020, on behalf of Defense Counsel. Any Settlement Class Member who fails to submit a timely and complete Request for Exclusion mailed to the proper addresses, shall be subject to and bound by this Settlement Agreement, the Release, and every order or judgment entered relating to this Settlement Agreement.

3. Class Counsel and Defense Counsel will review the purported Requests for Exclusion and determine whether they meet the requirements of a valid and timely Request for Exclusion. Any communications from Settlement Class Members (whether styled as an exclusion request, an objection or a comment) as to which it is not readily apparent whether the Settlement Class Member meant to exclude himself/herself/itself from the Settlement Class will be evaluated jointly by counsel for the Parties, who will make a good faith evaluation, if possible. Any uncertainties about whether a Settlement Class Member is requesting exclusion from the Settlement Class will be submitted to the Court for resolution. The Claim Administrator will maintain a database of all Requests for Exclusion, and will send written communications memorializing those Requests for Exclusion to Class Counsel and Defense counsel. The Claim Administrator shall report the names of all such persons and entities requesting exclusion, and the VINs of the Settlement Class Vehicles owned or leased by the persons and entities requesting exclusion, to the Court, Class Counsel and Defense Counsel at least eighteen (18) days prior to the Final Fairness Hearing, and the list of persons and entities deemed by the Court to have timely and properly excluded themselves from the Settlement Class will be attached as an exhibit to the Final Order and Judgment.

## **VI. WITHDRAWAL FROM SETTLEMENT**

**Plaintiffs or Defendant shall have the option to withdraw from this Settlement Agreement, and to render it null and void, if any of the following occurs:**

1. Any objection to the proposed Settlement is sustained and such objection results in changes to this Agreement that the withdrawing party deems in good faith to be material (e.g., because it increases the costs of the Settlement, alters the Settlement, or deprives the withdrawing party of a material benefit of the Settlement; a mere delay of the approval and/or implementation

of the Settlement including a delay due to an appeal procedure, if any, shall not be deemed material); or

2. The preliminary or final approval of this Settlement Agreement is not obtained without modification, and any modification required by the Court for approval is not agreed to by both parties, and the withdrawing party deems any required modification in good faith to be material (e.g., because it increases the cost of the Settlement, alters the Settlement, or deprives the withdrawing party of a benefit of the Settlement; a mere delay of the approval and/or implementation of the Settlement including a delay due to an appeal procedure, if any, shall not be deemed material); or

3. Entry of the Final Order and Judgment described in this Agreement is vacated by the Court or reversed or substantially modified by an appellate court, except that a reversal or modification of an order awarding reasonable attorneys' fees and expenses, if any, shall not be a basis for withdrawal; or

4. In addition to the above grounds, the Defendant shall have the option to withdraw from this Settlement Agreement, and to render it null and void, if more than five-percent (5%) of the persons and entities identified as being members of the Settlement Class exclude themselves from the Settlement Class.

5. To withdraw from this Settlement Agreement under this paragraph, the withdrawing Party must provide written notice to the other Party's counsel and to the Court within ten (10) business days of receipt of any order or notice of the Court modifying, adding or altering any of the material terms or conditions of this Agreement. In the event either Party withdraws from the Settlement, this Settlement Agreement shall be null and void, shall have no further force and effect with respect to any party in the Action, and shall not be offered in evidence or used in

the Action or any other litigation or proceeding for any purpose, including the existence, certification or maintenance of any purported class. In the event of such withdrawal, this Settlement Agreement and all negotiations, proceedings, documents prepared and statements made in connection herewith shall be inadmissible as evidence and without prejudice to the Defendant and Plaintiffs, and shall not be deemed or construed to be an admission or confession by any party of any fact, claim, matter or proposition of law, and shall not be used in any manner for any purpose, and all parties to the Action shall stand in the same position as if this Settlement Agreement had not been negotiated, made or filed with the Court. Upon withdrawal, either party may elect to move the Court to vacate any and all orders entered pursuant to the provisions of this Settlement Agreement.

6. A change in law, or change of interpretation of present law, that affects this Settlement shall not be grounds for withdrawal from the Settlement.

## **VII. ADMINISTRATIVE OBLIGATIONS**

A. In connection with the administration of the Settlement, the Claim Administrator shall maintain a record of all contacts from Settlement Class Members regarding the Settlement, any Claims submitted pursuant to the Settlement and any responses thereto. The Claim Administrator, on a monthly basis, shall provide to Class Counsel and Defense Counsel summary information concerning the number of Claims made, number of Claims approved, the number of Claims denied, the number of Claims determined to be deficient, and total dollar amount of payouts on Claims made, such that Class Counsel and Defense Counsel may inspect and monitor the claims process.

B. Except as otherwise stated in this Agreement, as between the Parties, the reasonable costs of the Claim Administrator in dissemination of the Class Notice and administration of the Settlement pursuant to the terms of this Agreement shall be borne by VWGoA.

### **VIII. SETTLEMENT APPROVAL PROCESS**

#### **A. Preliminary Approval of Settlement**

Promptly after the execution of this Settlement Agreement, Class Counsel shall present this Settlement Agreement to the Court, along with a motion requesting that the Court issue a Preliminary Approval Order substantially in the form attached as Exhibit 3.

#### **B. Final Approval of Settlement**

1. If this Settlement Agreement is preliminarily approved by the Court, and pursuant to a schedule set forth in the Preliminary Approval Order or otherwise agreed by the Parties, Class Counsel shall present a motion requesting that the Court grant final approval of the Settlement and issue a Final Order and Judgment directing the entry of judgment pursuant to Fed. R. Civ. P. 54(b) substantially in a form to be agreed by the Parties.

2. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. Such best efforts shall include taking all reasonable steps to secure entry of a Final Order and Judgment, as well as supporting the Settlement and the terms of this Settlement Agreement through any appeal.

**C. Plaintiffs' Application for Class Counsel Reasonable Fees and Expenses and Class Representative Service Awards**

1. After the Parties reached an agreement on the material terms of this Settlement, the Parties commenced efforts to negotiate the issue of Class Counsel Fees and Expenses and Class Representative service awards. As a result of adversarial arm's length negotiations, the Parties hereby agree that Class Counsel may apply to the Court ("Fee and Expense Application") for a combined award of reasonable attorneys' fees, costs and expenses (hereinafter, collectively, "Class Counsel Fees and Expenses") in an amount up to, but not exceeding, the total combined sum of Two Million Two Hundred Thousand Dollars (\$2,200,000). Class Counsel may apply for such an award, up to and not exceeding that total combined sum, on or before thirty (30) days prior to the deadline in the Preliminary Approval Order for objections and/or requests for exclusion, or as otherwise directed by the Court. Defendant will not oppose a request for Class Counsel Fees and Expenses that does not exceed said total combined and collective sum of up to Two Million Two Hundred Thousand Dollars (\$2,200,000), and Class Counsel shall not seek or be awarded, nor shall Class Counsel accept, any amount of Class Counsel Fees and Expenses exceeding said total combined and collective sum. The award of reasonable Class Counsel Fees and Expenses, to the extent consistent with this Agreement, shall be paid by Defendant as set forth below, and shall not reduce or in any way affect any benefits available to the Settlement Class pursuant to this Agreement.

The Parties also agree that Class Counsel may also apply to the Court for a reasonable Service Award of up to, but not exceeding, Five Thousand Dollars (\$5,000) for each of the following named Plaintiffs who are serving as Settlement Class Representatives: Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada and Angeli Gozon (who will collectively receive a single \$5,000 service award), Peter Lowegard, and Patricia Hensley, to

be paid by Defendant as set forth below. Defendant will not oppose Plaintiffs' request, made as part of the Fee and Expense Application, for a Service Award of up to and not exceeding the above amount for each of the aforesaid Plaintiff-Settlement Class Representatives.

2. The Class Counsel Fees and Expenses and Settlement Class Representative Service Awards, to the extent consistent with this Agreement, shall be paid as directed by the Court by wire transfer to Berger Montague PC within thirty (30) days after the later of the Effective Date of the Settlement or the date of entry of the Final Order and Judgment for attorney fees, expenses, and service awards, including final termination or disposition of any appeals relating thereto. Said payment to Berger Montague PC shall fully satisfy and discharge all obligations of Defendant and the Released Parties with respect to payment of the Class Counsel Fees and Expenses, any attorneys' fees and expenses in connection with this Action, and Settlement Class Representative service awards, and Berger Montague PC shall thereafter have sole responsibility to distribute the appropriate portions of said payment to the other Class Counsel as agreed among them and/or directed by the Court, and to the Settlement Class Representatives.

3. The procedure for, and the grant, denial, allowance or disallowance by the Court of, the Fee and Expense Application are not part of the Settlement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement. Any order or proceedings relating solely to the Fee and Expense Application, or any appeal from any order related thereto or reversal or modification thereof, will not operate to terminate or cancel this Settlement Agreement, or affect or delay the Effective Date of the Settlement if it is granted final approval by the Court. Payment of Class Counsel Fees and Expenses and the Settlement Class Representatives' Service Awards will not reduce the benefits to which Settlement Class Members may be eligible under the Settlement terms, and the Settlement

Class Members will not be required to pay any portion of the Class Counsel Fees and Expenses and Settlement Class Representative Service Awards.

**D. Release of Plaintiffs' and Settlement Class Members' Claims**

1. Upon the Effective Date, the Plaintiffs and each and every Settlement Class Member shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, completely and forever released, acquitted, and discharged the Defendant and all Released Parties from all Released Claims.

2. Upon the Effective Date, with respect to the Released Claims, the Plaintiffs and all Settlement Class Members expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

3. Upon the Effective Date, the Action will be deemed dismissed with prejudice.

**IX. MISCELLANEOUS PROVISIONS**

**A. Effect of Exhibits**

The exhibits to this Agreement are an integral part of the Settlement and are expressly incorporated and made a part of this Agreement.

**B. No Admission of Liability**

Neither the fact of, nor any provision contained in this Agreement, nor any action taken hereunder, shall constitute, or be construed as, any admission of the validity of any claim, allegation or fact alleged in the Action or of any wrongdoing, fault, violation of law or liability of any kind and nature on the part of Defendant and the Released Parties, or any admission by Defendant or any Released Parties of any claim or allegation made in any action or proceeding

against them. The Parties understand and agree that neither this Agreement, any documents prepared and/or filed in connection therewith, nor the negotiations that preceded it, shall be offered or be admissible in evidence against Defendant, the Released Parties, the Plaintiffs or the Settlement Class Members, or cited or referred to in the Action or any action or proceeding, except as needed to enforce the terms of this Agreement, its Release of Claims against the Released Parties, and the Final Approval Order and Judgment herein.

**C. Entire Agreement**

This Agreement represents the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, agreements and understandings relating to the subject matter of this Agreement. The Parties acknowledge, stipulate and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation or understanding concerning any part or all of the subject matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. No modification or waiver of any provisions of this Agreement shall in any event be effective unless the same shall be in writing and signed by the person or party against whom enforcement of the Agreement is sought.

**D. Arm's-Length Negotiations and Good Faith**

The Parties have negotiated all of the terms and conditions of this Agreement at arm's-length and in good faith. All terms, conditions and exhibits in their exact form are material and necessary to this Agreement and have been relied upon by the Parties in entering into this Agreement. In addition, the Parties hereby acknowledge that they have had ample opportunity to, and that they did, confer with counsel of their choice regarding, and before executing, this Agreement, and that this Agreement is fully entered into voluntarily and with no duress whatsoever.

**E. Continuing Jurisdiction**

The Parties agree that the Court may retain continuing and exclusive jurisdiction over them, including all Settlement Class Members, for the purpose of the administration and enforcement of this Agreement.

**F. Binding Effect of Settlement Agreement**

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, attorneys, executors, administrators, heirs, successors and assigns.

**G. Extensions of Time**

The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Agreement, without further notice (subject to Court approval as to Court dates).

**H. Service of Notice**

Whenever, under the terms of this Agreement, a person is required to provide service or written notice to Defense counsel or Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other parties in writing, of a successor individual or address:

As to Plaintiffs: Russell D. Paul, Esq.  
Berger Montague PC  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103

As to Defendant: Michael B. Gallub, Esq.  
Brian T. Carr, Esq.  
Shook, Hardy & Bacon L.L.P.  
1 Rockefeller Plaza, Suite 2801  
New York, NY 10020

**I. Authority to Execute Settlement Agreement**

Each counsel or other person executing this Agreement or any of its exhibits on behalf of any party hereto warrants that such person has the authority to do so.

**J. Return of Confidential Materials**

All documents and information designated as “confidential” and produced or exchanged in the Action, shall be returned or destroyed within thirty (30) days after entry of the Final Order and Judgment.

**K. No Assignment**

The Parties represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the litigation or any related action.

**L. No Third-Party Beneficiaries**

This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party (other than Settlement Class Members themselves) as a beneficiary of this Agreement. However, this does not apply to, or in any way limit, any Released Party’s right to enforce the Release of Claims set forth in this Agreement.

**M. Construction**

The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement and, therefore, the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.

**N. Captions**

The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

IN WITNESS HEREOF, the Parties have caused this Agreement to be executed, by their duly authorized attorneys, as of the date(s) indicated on the lines below.

ON BEHALF OF PLAINTIFFS:

Dated: October 9, 2023



\_\_\_\_\_  
Russell D. Paul  
Berger Montague PC  
1818 Market Street, Suite 3600  
Philadelphia PA 19103

Dated: October 10, 2023

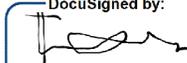


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Tarek H. Zohdy  
Cody R. Padgett  
Capstone Law APC  
1875 Century Park East, Suite 1000  
Los Angeles CA 90067

Dated: October \_\_, 2023

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Ladah Law Firm  
517 S. 3<sup>rd</sup> Street  
Las Vegas NV 89101

10/7/2023  
Dated: October \_\_, 2023

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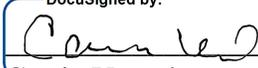
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10/6/2023

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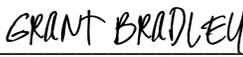
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10/6/2023

Dated: October \_\_, 2023

DocuSigned by:  


\_\_\_\_\_  
Ada and Angeli Gozon

10/10/2023

Dated: October \_\_, 2023

DocuSigned by:

*Peter Lowegard*  
Peter Lowegard

Dated: October \_\_, 2023

Patricia Hensley

ON BEHALF OF DEFENDANT:

Dated: October \_\_, 2023

Michael B. Gallub  
Brian T. Carr  
SHOOK, HARDY & BACON L.L.P.  
1 Rockefeller Plaza, Suite 2801  
New York, New York 10020

Dated: October \_\_, 2023

10/9/2023

Dated: October \_\_, 2023

\_\_\_\_\_  
Peter Lowegard

DocuSigned by:

*Patricia Hensley*

\_\_\_\_\_  
Patricia Hensley

ON BEHALF OF DEFENDANT:

Dated: October \_\_, 2023

\_\_\_\_\_  
Michael B. Gallub

Brian T. Carr

SHOOK, HARDY & BACON L.L.P.

1 Rockefeller Plaza, Suite 2801

New York, New York 10020

Dated: October \_\_, 2023

\_\_\_\_\_  
Peter Lowegard

Dated: October \_\_, 2023

\_\_\_\_\_  
Patricia Hensley

ON BEHALF OF DEFENDANT:

Dated: October 10, 2023

  
\_\_\_\_\_  
Michael B. Gallub  
Brian T. Carr  
SHOOK, HARDY & BACON L.L.P.  
1 Rockefeller Plaza, Suite 2801  
New York, New York 10020

# EXHIBIT 1



Settlement) including the parts repaired/replaced and a breakdown of the parts and labor costs;

- (f) The vehicle’s mileage at the time of the repair;
- (g) If you are not the person to whom the Class Notice was mailed, you must also provide proof of ownership of the Settlement Class Vehicle; and
- (h) Proof of payment, including the amount paid, for the covered repair.

Total Dollar Amount Claimed For Repair:

\$						•		
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**(3) Provide Proof of Adherence to Vehicle Maintenance Schedule**

Provide documents or records evidencing your adherence to the oil maintenance aspects of the Settlement Class Vehicle’s maintenance schedule set forth in the Warranty and Maintenance Booklet during the time you owned and/or leased the vehicle up to the date/mileage of the repair or replacement, within a variance of ten percent (10%) of each scheduled time/mileage oil maintenance interval. If, however, you are unable to obtain said documents or records despite a good faith effort to obtain them, you may submit a Declaration, signed under penalty of perjury, detailing: (i) the good faith efforts that you made to obtain the records including why the records are not available, and (ii) attesting to your adherence to the oil maintenance aspects of the vehicle’s maintenance schedule during the time you owned or leased the vehicle, up to the date/mileage of the replacement/repair, within the ten percent (10%) variance set forth above. A form Declaration is available for you on the Settlement website at [www. .com](http://www. .com).

**(4) Answer the Following Question:**

For the amount of the repair cost for which you are seeking to be reimbursed, did you receive any payment, credit, coverage, concession, or reimbursement for all or any part of that amount from any other source, including from Audi, any warranty, maintenance program, goodwill, coupon or reduction, or other full or partial reimbursement or refund (for example, by an Audi dealership or any insurance company, under any extended warranty or service contract, or by any other source)?

Yes     No

If you answered YES, list the total amount of the cost for which you received a payment, reimbursement, coverage, credit, or concession:

\$						•		
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**(5) Sign & Date:**

All the information that I (we) supplied in this Claim Form is true and correct to the best of my (our) knowledge and belief, and this document is signed under penalty of perjury.

--

Signature

Date: 

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 / 

--	--

 / 

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MM                      DD                      YYYY

**(6) Mail Claim Form and all Documents/Paperwork, postmarked no later than \_\_\_\_\_, 2024, to:**

JND Legal Administration

**For more information, please view the Class Notice, call the Claims Administrator at 1-\_\_-\_\_-\_\_, or visit [www. .com](http://www. .com)**

## EXHIBIT 2

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

If you currently or previously owned or leased a certain Audi brand vehicle, listed below, in the United States or Puerto Rico, you may be entitled to benefits afforded by a class action settlement. This notice is being mailed to you because you have been identified as owning or leasing such a vehicle.

- **This proposed class action, pending in the United States District Court for the District of New Jersey, is captioned *Jeni Rieger, et al. v. Volkswagen Group of America, Inc., et al.* Civil Action No. 1:21-cv-10546-NLH-MJS (the “Action” or “Lawsuit”). The parties have agreed to a class settlement of the Action and have asked the Court to approve the proposed Settlement. As a Settlement Class Member, you have various options that you may exercise before the Court decides whether to approve the Settlement.**
- **This Notice explains the Action, the proposed Settlement, your legal rights and options, available benefits, who is eligible for and how to obtain the benefits, and applicable dates, time deadlines and procedures.**
- **Your legal rights are affected whether you act or do not act. Read this Notice carefully.**
- **The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after appeals, if any, are resolved.**

#### BASIC INFORMATION

##### 1. Why you received this notice, and what the Lawsuit and settlement benefits are.

According to records, you are a current or past owner or lessee of a certain specific Audi vehicle of the following models/model years, that was imported and distributed by Volkswagen Group of America, Inc. (“VWGoA”) in the United States or Puerto Rico (hereinafter, collectively, “Settlement Class Vehicles”):

- Certain MY2012-2014 Audi A4\*
- Certain MY2012-2014 Audi A5\*
- Certain MY2012-2014 Audi A6\*
- Certain MY2012-2014 Audi Q5\*
- Certain MY2011-2014 and 2016-2017 Audi TT\*
- Certain MY2015-2017 Audi A3\*

\*Not every such model and model year vehicle is covered by this Settlement (i.e., a Settlement Class Vehicle). The Settlement Class Vehicles are determined by specific Vehicle Identification Numbers (VINs). You can look up whether your vehicle is a Settlement Class Vehicle by typing your vehicle’s VIN, where indicated, in the VIN Lookup Portal on the Settlement website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

A Settlement Class Member is defined as a current or past owner or lessee of a Settlement Class Vehicle.

The Lawsuit claims that there was a defect that caused excessive oil consumption in some Settlement Class Vehicles, sometimes requiring repair. VWGoA denies the claims and maintains that the engines in the Settlement Class Vehicles are not defective, function properly, were properly designed, manufactured, marketed and sold, and that no applicable warranties were breached nor any applicable statutes violated. The Court has not decided in favor of either

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

party. Instead, the Lawsuit has been resolved through a Settlement under which eligible Settlement Class Members who qualify may obtain the following benefits:

**I. Warranty Extension for Current Owners or Lessees of Settlement Class Vehicles**

Effective on \_\_\_\_\_, 2023 [the “Notice Date”], VWGoA will extend the New Vehicle Limited Warranties (NVLWs) to cover 75% of the cost of repair (parts and labor), by an authorized Audi dealer, of the following during a period of up to nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the Settlement Class Vehicle’s In-Service Date:

(1) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption by an authorized Audi dealer, as confirmed by an authorized Audi dealer’s oil consumption test,<sup>1</sup> or

(2) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only – a diagnosed condition of a fractured piston by an authorized Audi dealer.

As to all Settlement Class Vehicles, the Warranty Extension is conditioned upon the Settlement Class Member providing, to the dealer, Proof of Adherence to Maintenance Requirements.

The Warranty Extension shall also cover a percentage (as set forth in the Sliding Scale below) of the cost of repair (parts and labor), by an authorized Audi dealer, of a diagnosed condition of engine damage which was directly caused by excessive oil consumption (for Audi A4, A5, A6, Q5, and Model Year 2012-2014 Audi TT Settlement Class Vehicles only), or a diagnosed condition of engine damage other than to a piston which was directly caused by a fractured piston (for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only), during the aforesaid period of nine (9) years or ninety-thousand (90,000) miles (whichever occurs first) from the applicable Settlement Class Vehicle’s In-Service Date, subject to (i) the Proof of Adherence to Maintenance Requirements, and (ii) the following Sliding Scale percentages of coverage which are based upon the age and mileage of the Settlement Class Vehicle at the time of such repair:

Time from In-Service Date	Less than 50,000 miles	50,001 to 60,000 miles	60,001 to 70,000 miles	70,001 to 90,000 miles
4 years or less	100%	70%	60%	50%
4-5 years	70%	60%	50%	40%
5-6 years	60%	50%	40%	35%
6-7 years	50%	40%	35%	30%
7-9 years and “Timed-Out” Settlement Class Vehicles within 70-Days after Notice Date	40%	35%	30%	25%

The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle’s original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired.

<sup>1</sup> If an oil consumption repair is performed under the warranty extension, then the cost of the oil consumption test that led to said repair shall likewise be covered at the same percentage (75%) as provided under the warranty extension.

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_.com](http://www.____.com)**

The Warranty Extension shall not cover or apply to excessive oil consumption, piston damage or breakage, or engine damage, resulting from abuse, modification or alteration of parts, absence/lack of sufficient oil maintenance (i.e., absence/lack of oil changes performed with the use of the correct Audi recommended oil and within a 10% variation of each time and mileage oil maintenance interval), a collision or crash, vandalism and/or other impact, damage from an outside source, and/or lack of or improper maintenance with respect to other items that caused or contributed to the damage or need for repair.

If a Settlement Class Vehicle’s Warranty Extension time period from the In-Service Date has already expired as of the Notice Date, then for that Settlement Class Vehicle only, the Warranty Extension time and mileage limitations shall be for a period of up to seventy (70) days after the Notice Date or ninety-thousand (90,000) miles from the Settlement Class Vehicle’s In-Service Date (whichever occurs first), subject to the same conditions and limitations set forth above.

**II. Reimbursement for a Percentage of Certain Past Paid (and Unreimbursed) Out-of-Pocket Expenses for a Repair to Address Excessive Oil Consumption or Fractured Piston(s) of a Settlement Class Vehicle**

If, prior to \_\_\_\_\_, 2023 [the “Notice Date”] and within nine (9) years or ninety thousand (90,000) miles (whichever occurred first) from the vehicle’s In-Service Date, a Settlement Class Member paid for a repair:

- (i) for Audi A4, A5, A6, Q5 and Model Year 2012-2014 Audi TT Settlement Class Vehicles only – a diagnosed condition of excessive oil consumption as confirmed by an authorized Audi dealer’s oil consumption test, or
- (ii) for Audi A3 and Model Year 2016-2017 Audi TT Settlement Class Vehicles only - a diagnosed condition of a fractured piston(s).

he/she/it may submit a Claim to receive a seventy-five percent (75%) reimbursement of the paid invoice amount for the repair (parts and labor), limited to one (1) repair per Settlement Class Vehicle, in accordance with the proof requirements and limitations in Sections IV and V below. However, if said repair or replacement was performed by a service center or facility that is not an authorized Audi dealer, then the paid invoice amount of the repair (parts and labor), from which the Settlement Class Member may receive a percentage of reimbursement, shall be limited to a maximum of \$3,700.00 for a repair to address a condition of excessive oil consumption, and \$9,000 for a repair to address a diagnosed fractured piston. So, for example, if a repair to address a diagnosed condition of excessive oil consumption was performed at a facility that is not an authorized Audi dealer, and the invoice amount is more than \$3,700, the 75% reimbursement will be applied to \$3,700 for a reimbursement amount of \$2,775.

The above relief is subject to certain limitations and proof requirements which are set forth below and in the Settlement Agreement, which can be found on the Settlement website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**III. Reimbursement for a Percentage of Certain Past Paid (and Unreimbursed) Out-of-Pocket Expenses for Repair of Engine Damage of a Settlement Class Vehicle Directly Caused by a Excessive Oil Consumption or Fractured Piston**

If, prior to \_\_\_\_\_, 2023 [the “Notice Date”] and within nine (9) years or ninety thousand (90,000) miles (whichever occurred first) from the Settlement Class Vehicle’s In-Service Date, a Settlement Class Member paid for a repair of engine damage that was directly caused by excessive oil consumption, he/she/it may submit a Claim to receive a percentage of reimbursement of the paid invoice amount for the repair or replacement (parts and labor), limited to one (1) repair or replacement per Settlement Class Vehicle, in accordance with (i) the proof requirements and limitations in Sections IV and V below, and (ii) the following percentage limits of coverage which are based upon the age and mileage of the vehicle at the time of said repair or replacement:

Time from In-Service Date	Less than 50,000 miles	50,001 to 60,000 miles	60,001 to 70,000 miles	70,001 to 90,000 miles
4 years or less	100%	70%	60%	50%

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

4-5 years	70%	60%	50%	40%
5-6 years	60%	50%	40%	35%
6-7 years	50%	40%	35%	30%
7-9 years	40%	35%	30%	25%

However, if the Settlement Class Vehicle's engine was repaired or replaced by a service center or facility that is not an authorized Audi dealer, the maximum invoice amount, to which the applicable sliding scale percentage of coverage above will be applied, shall be \$12,000.00. Thus, for example, if the invoice amount for the engine repair exceeds \$12,000, the applicable sliding scale percentage will be applied to \$12,000.

#### **IV. Required Proof :**

To qualify for a Claim for Reimbursement of past paid and unreimbursed out-of-pocket expenses provided under Sections II and III above, Settlement Class Members must comply with the following requirements:

A. In order to submit a valid Claim for Reimbursement under this Settlement, you must mail to the Claim Administrator, by first-class mail post-marked no later than \_\_\_\_\_, 2023 [75 days after "Notice Date"], a fully completed, signed and dated Claim Form, a copy of which accompanies this Notice and is also available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), together with all required documentation listed below.

1. An original or legible copy of a repair invoice(s) or record(s) documenting the repair covered under the Settlement and containing the claimant's name, the make, model and vehicle identification number ("VIN") of the Settlement Class Vehicle, the name and address of the authorized Audi dealer or non-dealer service center that performed the repair, the date of repair, the Settlement Class Vehicle's mileage at the time of repair, a description of the repair work performed including the parts repaired/replaced and a breakdown of parts and labor costs, and the amount charged (parts and labor) for the repair covered under the Settlement. If reimbursement is sought for repair/replacement of a damaged or failed engine directly caused by excessive oil consumption or fractured piston under the terms of this Settlement, in addition to the proof requirements above, the Proof of Repair Expense must also show that the engine damage or failure that required repair/replacement was directly caused by a excessive oil consumption or piston fracture. If you opt to send an original document, please make and retain a copy for yourself.

2. Proof of the Settlement Class Member's payment for the repair covered under the Settlement;

3. Documents or records evidencing the Settlement Class Member's adherence to those aspects of the Settlement documents or records evidencing the Settlement Class Member's adherence to the oil maintenance aspects of the Settlement Class Vehicle's maintenance schedule set forth in the Warranty and Maintenance Booklet during the time he/she/it owned and/or leased the vehicle up to the date/mileage of the repair or replacement, within a variance of ten percent (10%) of each scheduled time/mileage oil maintenance interval. If, however, the Settlement Class Member is unable to obtain said documents or records despite a good faith effort to obtain them, the Settlement Class Member may submit a Declaration, signed under penalty of perjury, detailing: (i) the good faith efforts that were made to obtain the records including why the records are not available, and (ii) attesting to adherence to the oil maintenance aspects of the vehicle's maintenance schedule during the time he/she/it owned or leased the vehicle, up to the date/mileage of the replacement/repair, within the ten percent (10%) variance set forth above. A form Declaration can be downloaded at the Settlement website: [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

B. If the claimant is not a person to whom the Claim Form was addressed, and/or the vehicle with respect to which a Claim is made is not the vehicle identified by VIN number on the mailed Claim Form, the Claim shall contain proof that the claimant is a Settlement Class Member and that the vehicle is a Settlement Class Vehicle;

#### **V. Limitations:**

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

A. Any reimbursement pursuant to this Settlement shall be reduced by the amount of any payment, concession, goodwill accommodation, or discount(s) already received from any source (including VWGoA, an Audi dealer, an insurer, service contract provider, or extended warranty provider, or any other person or entity) for all or part of the amount of the repair that is the subject of the Claim for Reimbursement.

B. If, within the Settlement Class Vehicle's original NVLW time and mileage period, the past paid repair for which reimbursement is sought was performed by a service entity or facility that is not an authorized Audi dealer, then the Settlement Class Member must also submit with his/her/its Claim, in addition to the Proof of Repair Expense and Proof of Adherence to Maintenance Requirements, documentation (such as a written estimate or invoice), or if documents are not available after a good-faith effort to obtain them, a Declaration signed under penalty of perjury, confirming that the Settlement Class Member first attempted to have the said repair performed by an authorized Audi dealer, but the dealer declined or was unable to perform the repair free of charge pursuant to the NVLW.

C. Any repair that was due to misuse, abuse, accident, crash, racing, improper operation, lack of or improper maintenance, and/or damage from an external source, does not qualify for reimbursement.

D. VWGoA will not be responsible for, and shall not warrant, repair or replacement work performed at an independent service center.

E. Any replacement parts will be subject to the warranty terms and conditions accompanying replacement parts. The Settlement does not modify the terms, conditions, restrictions, or limitations of that warranty.

## 2. Why is this a class action settlement?

In a class action lawsuit, one or more persons, called Plaintiffs and Class Representatives, sue on behalf of other people who have similar claims. All of these people are Class Members or Settlement Class Members. The companies they sued are called the Defendants. One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Class.

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides agreed to a Settlement with no decision or admission of who is right or wrong. That way, all parties avoid the risks and cost of a trial, and the people affected (the Settlement Class Members) will receive benefits quickly. The Class Representatives and the attorneys believe the Settlement is best for the Settlement Class.

## WHO IS PART OF THE SETTLEMENT?

## 3. Am I in this Settlement Class?

The Court has conditionally approved the following definition of a Settlement Class Member: All persons or entities who purchased or leased a Settlement Class Vehicle in the United States of America and Puerto Rico. (The Settlement Class Vehicles are discussed in Section 1 above).

Excluded from the Settlement Class are (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents, and representatives of VWGoA, and their family members; (c) any affiliate, parent, or subsidiary of VWGoA and any entity in which VWGoA has a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company who acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of final approval of the Settlement, settled with and released VWGoA or any Released Parties from any Released Claims; and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class (see Section 10 below).

4. I'm still not sure if I am included in this Settlement.

If you are still not sure whether you are included in this Settlement, you can enter your VIN in the VIN look-up Portal at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) to determine if your vehicle is a Settlement Class Vehicle. You can also call the Claim Administrator at 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com) for more information.

**SETTLEMENT BENEFITS – WHAT YOU GET**

5. What does the Settlement provide?

The benefits afforded by the Settlement are described in Section 1. Additional details are provided in the next three sections.

6. Who can send in a Claim for reimbursement?

Any United States or Puerto Rico resident who purchased or leased a Settlement Class Vehicle can send in a timely Claim for Reimbursement for money spent prior to the Notice Date (date of this Notice) if the Claim satisfies the parameters and criteria required for reimbursement described in Section 1.

7. How do I send in a Claim for reimbursement?

To submit a Claim for reimbursement, you must do the following no later than \_\_\_\_\_, 2024 [75-days after Notice Date] :

- A. Complete, sign under penalty of perjury, and date a Claim Form. (There is one enclosed with this Class Notice, and you can also download one at [www.\\_\\_\\_\\_\\_.com](http://www._____.com)). It is recommended that you keep a copy of the completed Claim Form; and
- B. Mail the completed, signed, and dated Claim Form, together with your supporting documentation (i.e., repair record[s], receipts, proof of payment, proof of maintenance, etc.) by First-Class mail, post-marked no later than \_\_\_\_\_, 2024 [75-days after Notice Date], to the Claim Administrator at the address provided on the Claim Form. The information that must be reflected in your records is described on the Claim Form. It is recommended that you keep a copy of your records and receipts.

If you are eligible for reimbursement benefits under the Settlement but fail to submit the completed Claim Form and supporting documents by the required deadline, you will not receive a reimbursement.

8. When do I get my reimbursement or learn whether I will receive a payment?

If the Settlement Claim Administrator determines your Claim is valid, your reimbursement will be mailed to you within one hundred (150) days of either (i) the date of receipt of the completed Claim (with all required proof), or (ii) the date that the Settlement becomes final (the “Effective Date”), whichever is later. The Court will hold a Final Fairness Hearing on \_\_\_\_\_, to decide whether to approve the Settlement as fair, reasonable, and adequate. Information about the progress of the case will be available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

If the Claim Administrator determines your Claim should not be paid, you will be mailed a letter telling you this. If the reason for rejecting your Claim is due to a deficiency in your Claim Form and/or supporting proof, the letter will notify you of the deficiency in your Claim, and what needs to be submitted, and by when, to correct the deficiency. To check on the status of your Claim, you can call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_.

9. What am I giving up to participate in the Settlement and stay in the Class?

Unless you exclude yourself by taking the steps described in Section 10 below, you will remain in the Class, and that means that you will be bound by the release of claims and cannot sue, continue to sue, or be part of any other lawsuit about the same matters, claims, and legal issues that were or could have been asserted in this case, and the Released Claims set forth in the Settlement Agreement. It also means that all of the Court’s orders and judgments will apply to

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

you and legally bind you. The specific claims and parties you will be releasing are set forth in sections I.T and I.U of the Settlement Agreement, a copy of which is available for review on the settlement website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

**10. How do I Exclude Myself from this Settlement?**

**You have a right, if you so desire, to exclude yourself from this Settlement.** To exclude yourself from the Settlement, you must send a written Request for Exclusion by U.S. mail post-marked no later than \_\_\_\_\_, 2024 [30-days after “Notice Date”], stating clearly that you want to be excluded from the Settlement. You must include in the Request for Exclusion your full name, address, telephone number; the model, model year and VIN of the Settlement Class Vehicle; a statement that you are a present or former owner or lessee of a Settlement Class Vehicle; and specifically and unambiguously state your desire to be excluded from the Settlement Class. You must mail your exclusion request, post-marked no later than \_\_\_\_\_, 2024 [30-days after “Notice Date”], to each of the following:

CLAIM ADMINISTRATOR	CLASS COUNSEL	DEFENSE COUNSEL
JND Legal Administration	RUSSEL D. PAUL, ESQ. BERGER MONTAGUE PC 1818 MARKET STREET, SUITE 3600 PHILADELPHIA, PA 19103	MICHAEL B. GALLUB, ESQ. SHOOK, HARDY & BACON LLP 1 ROCKEFELLER PLAZA, SUITE 2801 NEW YORK, NY 10020

You cannot exclude yourself on the phone or by email. If you timely submit your request to be excluded by U.S. mail, you will not receive any benefits of the Settlement and you cannot object to the Settlement. You will not be legally bound by anything that happens in this Lawsuit.

**11. If I don’t exclude myself, can I sue later?**

No, not for the same matters and legal claims that were or could have been asserted in the Action or any of the Released Claims in the Settlement Agreement, unless your claim is for personal injury or property damage (other than damage to the Settlement Class Vehicle itself).

**12. If I exclude myself, can I get the benefits of this Settlement?**

No, if you exclude yourself from the Settlement Class, you will not receive any money or benefits from this Settlement, and you should not submit a Claim Form. You cannot do both.

**13. Do I have a lawyer in this case?**

The Court has appointed the law firms of Berger Montague PC, Capstone APC and the Ladah Law Firm as “Class Counsel” to represent Settlement Class Members.

**14. Should I get my own lawyer?**

You do not need to hire your own lawyer to participate in the Settlement because Class Counsel will be representing you and the Settlement Class. But, if you want your own lawyer, you may hire one at your own cost.

**15. How will the lawyers be paid, and will the Plaintiff Settlement Class Representative receive a service award?**

Class Counsel have prosecuted this case on a contingency basis. They have not received any fees or reimbursement for costs and expenses associated with this case. Class Counsel will file an application with the Court requesting an award of reasonable attorney fees and reasonable costs and expenses (“Fees and Expenses”) in an amount not exceeding a combined total sum of \$2,200,000.00. VWGoA has agreed not to oppose Class Counsel’s application for Fees and Expenses to the extent not exceeding that combined total sum, and Class Counsel have agreed not to accept any Fees and Expenses in excess of that combined total sum.

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

Class Counsel will also apply to the Court for service awards, in the amount of \$5,000 each, to the Settlement Class Representatives Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada and Angeli Gozon (who will collectively receive a single \$5,000 service award), Peter Lowegard, and Patricia Hensley, for their efforts in pursuing this litigation for the benefit of the Settlement Class.

**Any award for Class Counsel Fees and Expenses, and any service awards to Settlement Class Representatives, will be paid separately by Defendant and will not reduce any benefits available to you or the rest of the Settlement Class under the Settlement. You won't have to pay these Fees and Expenses.**

Class Counsel's motion for fees and expenses and Settlement Class Representative service awards will be filed by \_\_\_\_\_, and a copy will be made available for review at www.\_\_\_\_\_.com.

**SUPPORTING OR OBJECTING TO THE SETTLEMENT**

**16. How do I tell the Court that I like or dislike the Settlement?**

If you are a member of the Settlement Class and do not request to be excluded, you can tell the Court you like the Settlement and it should be approved, or you can ask the Court to deny approval by filing a written objection. You can object to the Settlement and/or to Class Counsel's requests for Fees and Expenses and Settlement Class Representative service awards. You cannot ask the Court to order a different settlement; the Court can only approve or reject the proposed Settlement. If the Court denies approval of the Settlement, no settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object on a timely basis. You are not required to submit anything to the Court unless you are objecting or wish to be excluded from the Settlement.

To object to or comment on the Settlement, you must do either of the following:

- i. File your written objection or comment, and any supporting papers or materials, on the Court's docket for this case, *Jeni Rieger, et al. v. Volkswagen Group of America, Inc., et al.*, United States District Court for the District of New Jersey, Civil Action No. 1:21-cv-10546-NLH-MJS, via its electronic filing system, no later than \_\_\_\_\_, 2024 [30-days after "Notice Date"], or
- ii. File your written objection or comment, and any supporting papers or materials, with the Court in person at the United States District Court for the District of New Jersey, 4<sup>th</sup> & Cooper Streets, Camden, New Jersey 08101, no later than \_\_\_\_\_, 2024 [30-days after "Notice Date"], or
- iii. Mail your written objection or comment, and any supporting papers or materials, to each of the following, by U.S. first-class mail, post-marked no later than \_\_\_\_\_, 2024 [30-days after "Notice Date"]:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
HON. Noel L. Hillman UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY 4 <sup>th</sup> & Cooper Streets, Room 1050 Camden, NJ 08101	RUSSEL D. PAUL, ESQ. BERGER MONTAGUE PC 1818 MARKET STREET, SUITE 3600 PHILADELPHIA, PA 19103	MICHAEL B. GALLUB, ESQ. SHOOK, HARDY & BACON LLP 1 ROCKEFELLER PLAZA, SUITE 2801 NEW YORK, NY 10020

Regardless of the above method you choose, your written objection must state clearly that you are objecting to the Settlement or the request for Class Counsel Fees and Expenses and/or Class Representative Service Awards in *Jeni Rieger, et al. v. Volkswagen Group of America, Inc., et al.*, United States District Court for the District of New Jersey, Civil Action No. 1:21-cv-10546-NLH-MJS, and must include your full name, current address and telephone number; the model, model year and VIN of your Settlement Class Vehicle, along with proof that you own(ed) or lease(d) the Settlement Class Vehicle (i.e., a true copy of a vehicle title, registration or license receipt); a written statement of all your factual and legal grounds for objecting; copies of any papers, briefs and/or other documents upon which the objection is based and which are pertinent to the objection; and the name, address, and telephone number of any counsel representing you. Any Settlement Class Member objecting to the Settlement must also provide a detailed list of any other objections submitted by the objector, or the objector's counsel, to any class action settlements in any court in the United States in the previous five (5) years, including the full case name with jurisdiction in which it was filed and the

**Questions? Call 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or visit www.\_\_\_\_\_.com**

docket number, or affirmatively state that the Settlement Class Member or his/her counsel has not objected to any other class action settlement in the United States in the previous five (5) years, in the written materials provided with the objection.

Subject to the approval of the Court, any Settlement Class Member may appear, in person or by counsel, at the Final Fairness Hearing. In order to appear, the Settlement Class Member must, by the objection deadline of \_\_\_\_\_, 2024 [30-days after “Notice Date”], file with the Clerk of the Court and serve upon all counsel designated in the Class Notice (see above), a Notice of Intention to Appear at the Fairness Hearing. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence and identity of witnesses that the Settlement Class Member (or his/her counsel) intends to present to the Court in connection with the Fairness Hearing.

Any Settlement Class Member who does not submit a written comment on, or objection to, the proposed Settlement or the application of Class Counsel for service awards or attorneys’ Fees and Expenses in accordance with the deadline and procedure set forth herein, shall waive his/her right to do so, and to appeal from any order or judgment of the Court concerning this Action.

Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other requirements set forth in this Settlement Agreement and Class Notice shall be deemed to have waived any right to appear, in person or by counsel, at the Final Fairness Hearing.

17. What is the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class and the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

**FINAL FAIRNESS HEARING**

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Fairness Hearing at \_\_\_\_ a.m. on \_\_\_\_\_, before the Honorable Noel H. Hillman, United States District Judge, United States District Court for the District of New Jersey, 4<sup>th</sup> & Cooper Street, Camden, New Jersey 08101, to determine whether the Settlement should be finally approved. At this Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider Class Counsel’s application for Fees and Expenses and service awards to the Settlement Class Representatives. The date of the Final Fairness Hearing may change without further notice to the Settlement Class. You should check the Settlement Website or the Court’s PACER site to confirm that the date has not changed.

19. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. You may also pay your own lawyer to attend. Your objection will be considered by the Court whether you or your lawyer attend or not.

20. May I speak at the Fairness Hearing?

If you do not exclude yourself, you may ask the Court’s permission to speak at the Fairness Hearing concerning the proposed Settlement or the application of Class Counsel for Fees and Expenses and Settlement Class Representative service awards. To do so, you must file with the Clerk of the Court, and serve upon all counsel identified in Section 16 of this Class Notice, a Notice of Intention to Appear at the Fairness Hearing, saying that it is your intention to appear at the Fairness Hearing in *Jeni Rieger, et al. v. Volkswagen Group of America, Inc., et al.*, United States District Court for the District of New Jersey, Civil Action No. 1:21-cv-10546-NLH-MJS. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence and the identity of witnesses that the objecting Settlement Class Member (or the objecting Settlement Class Member’s counsel) intends to present to the Court in connection with the Fairness Hearing.

**You must file your Notice of Intention to Appear with the Clerk of the Court and serve upon all counsel designated in the Class Notice, by the objection deadline of \_\_\_\_\_, 2024 [30-days after “Notice Date”]. You cannot speak at the Fairness Hearing if you excluded yourself from the Settlement.**

**IF YOU DO NOTHING**

21. What happens if I do nothing at all?

If you do nothing, you will be bound by the Settlement if the Court approves it, including all orders, judgements and the release of claims set forth in the Settlement.

**MORE INFORMATION**

22. Where can I get more information?

Visit the website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) where you can look up your vehicle’s VIN to determine if it is Settlement Class Vehicle, find extra Claim Forms, a copy of the Settlement Agreement and other pertinent documents, and more information on this Litigation and Settlement. Updates regarding the Action, including important dates and deadlines, will also be available on the website. You may also call the Claim Administrator at 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or email [INSERT EMAIL ADDRESS].

# **EXHIBIT 3**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JENI RIEGER, ALOHA DAVIS,  
JODIE CHAPMAN, CARRIE VASEL,  
KAREN BURNAUGH, TOM  
GARDEN, ADA and ANGELI  
GOZON, HERNAN A. GONZALEZ,  
PATRICIA A. HENSLEY, CLYDIENE  
FRANCIS, PETER LOWEGARD, and  
GRANT BRADLEY, on behalf of  
herself and all  
others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., a New Jersey  
corporation, d/b/a AUDI OF  
AMERICA, INC.,

Defendant.

Civil Action No. 1:21-cv-10546-NHL-  
MJS

**[PROPOSED] ORDER  
GRANTING PRELIMINARY  
APPROVAL OF CLASS  
ACTION SETTLEMENT**

WHEREAS, pursuant to Fed. R. Civ. P. (“Rule”) 23(a), 23(b)(3), and 23(e), the parties seek entry of an order, *inter alia*, preliminarily approving the nationwide class Settlement of this Action (“Settlement”) pursuant to the terms and provisions of the Settlement Agreement dated October 10, 2023, with attached exhibits (“Settlement Agreement”); preliminarily certifying the Settlement Class for settlement purposes only; directing Notice to the Settlement Class pursuant to the parties’ proposed Notice Plan; preliminarily appointing the Settlement Class Representatives, Settlement Class Counsel and the Claims Administrator; directing the timing and procedures for any objections to, and requests for exclusion from, the Settlement; setting forth other procedures, filings and deadlines; and scheduling the Final Fairness Hearing; and

WHEREAS, by Order dated May 4, 2023 (ECF 66), Settlement Class Counsel were previously been appointed by this Court as Interim Class Counsel for the putative nationwide class in this action pursuant to Rule 23(g); and

WHEREAS, this Court has read and considered the Settlement Agreement and its exhibits, Plaintiffs' Unopposed Motion for Preliminary Approval, and the applicable law;

NOW, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

2. The Court preliminarily approves the Settlement Agreement, and its Settlement terms, as fair, reasonable and adequate under Rule 23, subject to further consideration at the Final Fairness Hearing.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, the following Settlement Class:

All persons and entities who purchased or leased, in the United States or Puerto Rico, certain specific model year 2012, 2013 and 2014 Audi A4, A5, A6 and Q5 vehicles, certain model year 2012, 2013, 2014, 2016 and 2017 Audi TT vehicles and certain model year 2015, 2016 and 2017 Audi A3 vehicles, which are specifically designated by Vehicle Identification Number (VIN) in Exhibit 4 to the Settlement Agreement and were imported and distributed by Defendant Volkswagen Group of America, Inc. for sale or lease in the United States and Puerto Rico (hereinafter, "Settlement Class").

Excluded from the Settlement Class are: (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents and representatives of Defendants, and their family members; (c) any affiliate, parent

or subsidiary of Defendants and any entity in which Defendants have a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company who acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of the Settlement Agreement, settled with and released Defendants or any Released Parties from any Released Claims; and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class.

4. The Court preliminarily appoints the law firms of Berger Montague, PC, Capstone Law APC and the Ladah Law Firm as Class Counsel for the Settlement Class.

5. The Court preliminarily appoints Plaintiffs Tom Garden, Carrie Vassel, Karen Burnaugh, Grant Bradley, Clydiene Francis, Ada and Angeli Gozon, Peter Lowegard and Patricia Hensley as Settlement Class Representatives.

6. The Court preliminarily appoints JND Legal Administration as the Settlement Claim Administrator (“Claim Administrator”).

7. The Court preliminarily finds, solely for purposes of the Settlement, that the Rule 23 criteria for certification of the Settlement Class exists in that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members in the Action is impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over any individual questions; (c) the claims of the Settlement Class Representatives are typical of the claims of the Settlement Class; (d) the Settlement Class Representatives and Settlement Class Counsel have and will continue to fairly and adequately represent and protect the interests of the

Settlement Class; and (e) a class action is superior to all other available methods for the fair and efficient adjudication of the controversy.

8. In addition, the Court preliminarily finds that certification of the Settlement Class is appropriate when balanced against the risks and delays of further litigation. The proceedings that occurred before the Parties entered into the Settlement Agreement afforded counsel the opportunity to adequately assess the claims and defenses in the Action, the positions, strengths, weaknesses, risks and benefits to each Party, and as such, to negotiate a Settlement Agreement that is fair, reasonable and adequate and reflects those considerations.

9. The Court also preliminarily finds that the Settlement Agreement has been reached as a result of intensive, arm's-length negotiations of disputed claims, including through the use and assistance of an experienced third-party neutral mediator, and that the proposed Settlement is not the result of any collusion.

10. The Court approves the form and content of the Settlement Class Notice (Exhibit 2 to the Settlement Agreement) and the Claim Form (Exhibit 1 to the Settlement Agreement). The Court further finds that the mailing of the Settlement Class Notice, in the manner set forth in the Settlement Agreement, as well as the establishment of a settlement website, (the Parties' "Notice Plan"), satisfies Rule 23, due process, and constitutes the best notice practicable under the circumstances. The Notice Plan set forth in the Settlement Agreement is reasonably calculated to apprise the Settlement Class of the pendency of the Action, the certification of the Settlement Class for settlement purposes only, the terms of the Settlement, its benefits and the Release of Claims, the Settlement Class Members' rights including the right to, and the deadlines and procedures for, requesting exclusion from the Settlement or objecting to the Settlement, Class Counsel's application for Fees and Expenses and/or the application for Settlement Class representative Service Awards, the deadline, procedure and requirements for submitting a Claim for Reimbursement

pursuant to the Settlement terms, Class Counsel's application for Fees and Expenses and service awards for the Settlement Class Representatives, the time, place, and right to appear at the Final Fairness Hearing, and other pertinent information about the Settlement and the Settlement Class Members' rights. The Court authorizes the Parties to make non-material modifications to the Settlement Class Notice and Claim Form prior to mailing if they jointly agree that any such changes are appropriate.

11. Accordingly, the Court approves, and directs the implementation of, the Notice Plan pursuant to the terms of the Settlement Agreement.

12. The Claim Administrator is directed to perform all settlement administration duties set forth in, and pursuant to the terms and time periods of, the Settlement Agreement, including mailing of the CAFA Notice, implementing and maintaining the Settlement website, disseminating the Class Notice to the Settlement Class, the processing, review and determination of timely submitted and proper Claims for Reimbursement under the Settlement terms, and the submission of any declarations and other materials to counsel and the Court, as well as any other duties required under the Settlement Agreement.

11. The Departments of Motor Vehicles within the United States and its territories are ordered to provide approval to Polk/IHS Markit, or any other company so retained by the parties and/or the Claim Administrator, to release the names and addresses of Settlement Class Members in the Action associated with the titles of the Vehicle Identification Numbers at issue in the Action for the purposes of disseminating the Settlement Class Notice to the Settlement Class Members. Polk/IHS Markit, or any other company so retained by the parties, is ordered to license, pursuant to agreement between Defendant and Polk/IHS Markit or such other company, and/or the Claim Administrator and Polk/IHS Markit or such other company, the Settlement Class Members' contact information to the Claim

Administrator and/or Defendant solely for the use of providing Settlement Class Notice in the Action and for no other purpose.

12. Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail, by first-class mail postmarked no later than thirty (30) days after the Notice Date, a written request for exclusion (“Request for Exclusion”) to (a) the Claim Administrator at the address specified in the Class Notice; (b) Russel Paul, Esq., Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103 on behalf of Class Counsel; and (c) Michael B. Gallub, Esq., Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, NY 10020 on behalf of Defendant. To be effective, the Request for Exclusion must:

- a. Include the Settlement Class Member’s full name, address and telephone number, and identify the model, model year and VIN of the Settlement Class Vehicle;
- b. State that he/she/it is or was a present or former owner or lessee of a Settlement Class Vehicle; and
- c. Specifically and unambiguously state his/her/its desire to be excluded from the Settlement Class.

13. Any Settlement Class Member who fails to mail a timely and complete Request for Exclusion to the proper addresses shall remain in the Settlement Class and shall be subject to and bound by all determinations, orders and judgments in the Action concerning the Settlement, including but not limited to the Released Claims set forth in the Settlement Agreement.

14. Any Settlement Class Member who has not submitted a Request for Exclusion may object to the fairness of the Settlement Agreement and/or the requested amount of Class Counsel Fees and Expenses and/or Settlement Class Representative service awards.

- a. To object, a Settlement Class Member must either: (i) file the objection, together with any supporting briefs and/or documents, with the Court in person or via the Court's electronic filing system within thirty (30) days of the Notice Date; or (ii) mail, via first-class mail postmarked within thirty (30) days of the Notice Date, the objection, together with any supporting briefs and/or documents, to each of the following: the Clerk's Office of the United States District Court, District of New Jersey, 4<sup>th</sup> & Cooper Streets, Room 1050, Camden, New Jersey 08101; Berger Montague, PC, 1818 Market Street, Suite 3600, Philadelphia PA 19103 on behalf of Class Counsel; and Michael B. Gallub, Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, New York 10020 on behalf of Defendant.
- b. Any objecting Settlement Class Member must include the following with his/her/its objection: (i) the objector's full name, address, and telephone number; (ii) the model, model year and Vehicle Identification Number of the Settlement Class Vehicle, along with proof that the objector has owned or leased the Settlement Class Vehicle (i.e., a true copy of a vehicle title, registration, or license receipt); (iii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iv) copies of any papers, briefs, or other documents upon which the objection is based and are pertinent to the objection; (v) the name, address and telephone number of any counsel representing said objector; (vi) a statement of whether the objecting Settlement Class Member intends to appear at the Final Fairness Hearing, either with or without counsel, and the identity(ies) of any counsel who will appear on behalf of the Settlement Class Member's objection at the Final Fairness Hearing; and (vii) a list of all other

objections submitted by the objector, or the objector's counsel, to any class action settlements submitted in any court in the United States in the previous five (5) years, including the full case name, the jurisdiction in which it was filed and the docket number. If the Settlement Class Member or his/her/its counsel has not objected to any other class action settlement in the United States in the previous five (5) years, he/she/it shall affirmatively so state in the objection.

- c. Subject to the approval of the Court, any Settlement Class Member may appear, in person or by counsel, at the Final Fairness Hearing to explain why the proposed Settlement should not be approved as fair, reasonable and adequate, or to object to any motion for Class Counsel Fees and Expenses or Settlement Class Representative service awards. Also subject to the approval of the Court, any non-objecting Settlement Class Member may also appear at the Final Fairness Hearing to make any statement in favor of the settlement. In order to appear, any Settlement Class Member must, no later than the objection deadline, file with the Clerk of the Court and serve upon all counsel designated in the Class Notice, a Notice of Intention to Appear at the Final Fairness Hearing. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence and the identity of all witnesses that the objecting Settlement Class Member (or the objecting Settlement Class Member's counsel) intends to present to the Court in connection with the Final Fairness Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other requirements set forth in this Order and the Class Notice shall be deemed to have waived any right to appear, in person or by counsel, at the Final Fairness Hearing.

- d. Any Settlement Class Member who has not properly filed a timely objection in accordance with the deadline and requirements set forth in this Order and the Class Notice shall be deemed to have waived any objections to the Settlement and any adjudication or review of the Settlement Agreement by appeal or otherwise.

15. In the event the Settlement is not granted final approval by the Court, or for any reason the parties fail to obtain a Final Order and Judgment as contemplated in the Settlement Agreement, or the Settlement is terminated pursuant to its terms for any reason, then the following shall apply:

- a. All orders and findings entered in connection with the Settlement shall become null and void and have no further force and effect, shall not be used or referred to for any purposes whatsoever, and shall not be admissible or discoverable in this or any other proceeding, judicial or otherwise;
- b. All of the Parties' respective pre-Settlement claims, defenses and procedural rights will be preserved, and the parties will be restored to their positions *status quo ante*;
- c. Nothing contained in this Order is, or may be construed as, any admission or concession by or against Defendant, Released Parties or Plaintiffs on any allegation, claim, defense, or point of fact or law in connection with this Action;
- d. Neither the Settlement terms nor any publicly disseminated information regarding the Settlement, including, without limitation, the Class Notice, court filings, orders and public statements, may be used as evidence in this or any other proceeding, judicial or otherwise; and

- e. The preliminary certification of the Settlement Class pursuant to this Order shall be vacated automatically, and the Action shall proceed as though the Settlement Class had never been preliminarily certified.

16. Pending the Final Fairness Hearing and the Court's decision whether to grant final approval of the Settlement, no Settlement Class Member, either directly, representatively, or in any other capacity (including those Settlement Class Members who filed Requests for Exclusion from the Settlement which have not yet been reviewed and approved by the Court at the Final Fairness Hearing), shall commence, prosecute, continue to prosecute, or participate in, against Defendant and/or any of the Released Parties, any action or proceeding in any court or tribunal (judicial, administrative or otherwise) asserting any of the matters, claims or causes of action that are to be released in the Settlement Agreement. Pursuant to 28 U.S.C. § 1651(a) and 2283, the Court finds that issuance of this preliminary injunction is necessary and appropriate in aid of the Court's continuing jurisdiction and authority over the Action.

17. Pending the Final Fairness Hearing and any further determination thereof, this Court shall maintain continuing jurisdiction over these Settlement proceedings.

18. Based on the foregoing, the Court sets the following schedule, below, for the Final Fairness Hearing and the actions which must precede it. If any deadline set forth in this Order falls on a weekend or federal holiday, then such deadline shall extend to the next business day. These deadlines may be extended by order of the Court, for good cause shown, without further notice to the Class. Settlement Class Members must check the Settlement website regularly for updates and further details regarding this Settlement and any pertinent dates and deadlines:

<b>Event</b>	<b>Deadline Pursuant to Settlement Agreement</b>
Notice shall be mailed in accordance with the Notice Plan and this Order	_____ [100-days after issuance of Preliminary Approval Order]
Class Counsel's Fee and Expense Application and request for service awards for Plaintiffs-Settlement Class Representatives	_____ [124-days after issuance of Preliminary Approval Order]
Objections to the Settlement, Class Counsel's Fee and Expense Application, and/or the request for Settlement Class Representative service awards	_____ [130-days after issuance of Preliminary Approval Order; 30-days after the Notice Date]
Requests for Exclusion from the Settlement	_____ [130-days after issuance of Preliminary Approval Order; 30-days after the Notice Date]
Plaintiffs' Motion for Final Approval of the Settlement	_____ [150-days after issuance of Preliminary Approval Order; 50-days after the Notice Date]

<p>Claim Administrator shall submit a declaration to the Court (i) reporting the names of all persons and entities that submitted timely and proper Requests for Exclusion; and (ii) attesting that Notice was disseminated in accordance with the Settlement Agreement and this Preliminary Approval Order.</p>	<p>_____ [150-days after issuance of Preliminary Approval Order; 50-days after the Notice Date]</p>
<p>Responses of Any Party to timely filed Objections to the Settlement and/or to the Application for Class Counsel Fees and Expense and/or Class Representative service awards, and to any Requests for Exclusion</p>	<p>_____ [165-days after issuance of Preliminary Approval Order; 65-days after the Notice Date]</p>
<p>Any submissions by Defendant concerning Final Approval of Settlement</p>	<p>_____ [165-days after issuance of Preliminary Approval Order; 65-days after the Notice Date]</p>
<p>Final Fairness Hearing will be held at 4th &amp; Cooper Streets, Courtroom 3A, Camden, NJ 08101 or by video conference as determined by the Court</p>	<p>_____ [180-days after issuance of Preliminary Approval Order; 30-days after Plaintiffs' filing of Final Approval Motion]</p>

SO ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
Honorable Noel Hillman  
United States District Judge

# EXHIBIT 4

The VIN list is approximately 4,100 pages long and the Parties will make a copy available to the Court at the Court's request. Class Members will be able to use a VIN lookup tool on the class settlement website.

**EXHIBIT B**



## FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining hundreds of millions for employees and consumers:

- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions. Both decisions were awarded a "Top Appellate Reversal" in California by *Daily Journal* for their respective years.
- In February 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has an established practice in automotive defect class actions, recently securing over \$100 million in direct monetary relief to class members in the highly publicized *Vargas v. Ford Motor Co.*, No. CV12-08388-AB (C.D. Cal. Mar. 6, 2020). Capstone has also negotiated numerous class action settlements providing valuable relief to owners/lessees the last five years. See *Weckworth v. Nissan N.A.*, No. 3:18-cv-00588 (M.D. Tenn. Mar. 10, 2020); *Wylie v. Hyundai Motors America*, 8:16-cv-02102-DOC (C.D. Cal. Mar. 2, 2020); *Granillo v. FCA US LLC*, No. 16-00153-FLW (D. N.J. Feb. 12, 2019); *Morishige v. Mazda Motor of Am., Inc.*, No. BC595280 (Los Angeles Sup. Ct. Aug. 20, 2019); *Falco v. Nissan N. Am. Inc.*, No. 13-00686-DDP (C.D. Cal. July 16, 2018), Dkt. No. 341 (finally approving settlement after certifying class alleging timing chain defect on contested motion); *Batista v. Nissan N. Am., Inc.*, No. 14-24728-RNS (S.D. Fla. June 29, 2017), Dkt. 191 (finally approving class action settlement alleging CVT defect); *Chan v. Porsche Cars N.A., Inc.*, No. No. 15-02106-CCC (D. N.J. Oct. 6, 2017), Dkt. 65 (finally approving class action settlement involving alleged windshield glare defect); *Klee v. Nissan N. Am., Inc.*, No. 12-08238-AWT, 2015 WL 4538426, at \*1 (C.D. Cal. July 7, 2015) (settlement involving allegations that Nissan Leaf's driving range, based on the battery capacity, was lower than was represented by Nissan); *Asghari v. Volkswagen Group of America, Inc.*, Case No. 13-cv-02529-MMM-VBK, 2015 WL 12732462 (C.D. Cal. May 29, 2015) (class action settlement providing repairs and reimbursement for oil consumption problem in certain Audi vehicles); *Aarons v. BMW of N. Am., LLC*, No. CV 11-7667 PSG, 2014 WL 4090564 (C.D. Cal. Apr. 29, 2014), objections



overruled, No. CV 11-7667 PSG CWX, 2014 WL 4090512 (C.D. Cal. June 20, 2014) (C.D. Cal.) (class action settlement providing up to \$4,100 for repairs and reimbursement of transmission defect in certain BMW vehicles). Capstone is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

- Capstone has served as class counsel in a number of significant consumer class actions, providing relief and protection to consumers from deceptive and unlawful business practices, data breaches, and deceptive and false advertising by large corporations and manufacturers. These cases include *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.); *Fernandez v. Home Depot U.S.A.*, No. 13-648 (C.D. Cal.); *Livingston v. MiTAC*, No. 18-05993 (N.D. Cal.).

### SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Vargas v. Ford Motor Co.*, No. 12-08388-AB (C.D. Cal.): direct monetary benefits of over \$100 million to class members in highly-publicized class action involving alleged transmission problem.
- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;



- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

## PROFESSIONAL BIOGRAPHIES

### Partners

**Rebecca Labat.** Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

**Raul Perez.** Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000



hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

**Melissa Grant.** Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

**Ryan H. Wu.** Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in



*Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of “benefit of the bargain” damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of “*Williams v. Superior Court: Employees’ Perspective*” and “*Iskanian v. CLS Transportation: Employees’ Perspective*,” both published in the *California Labor & Employment Law Review*.

**Robert Drexler**. Robert Drexler is a partner with Capstone Law where he leads one of the firm’s litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California’s “Super Lawyers” every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the *Case Western Reserve Law Review* and authored *Defective Prosthetic Devices: Strict Tort Liability for the Hospital?* 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC’s *Forum Magazine* and *The Daily Journal*.

**Jamie Greene**. Jamie Greene is a partner with Capstone Law, where she leads the firm’s business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm’s client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor’s degree from Scripps College in Claremont, California.

**Bevin Allen Pike**. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike’s experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs’ firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the *International and Comparative Law*



Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

### Senior Counsel

**Theresa Carroll.** Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

**Liana Carter.** Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

**Anthony Castillo.** Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

**Molly DeSario.** Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and



settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

**Helga Hakimi.** Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

**Daniel Jonathan.** Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

**Jonathan Lee.** A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has



contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

**Mark A. Ozzello.** Mark A. Ozzello is a senior counsel with Capstone Law. He is a nationally recognized and respected consumer and employment attorney who has litigated those issues throughout the country. He has always been at the forefront of consumer rights, sitting on the Board of Governors for the Consumer Attorneys of California and regularly appearing as a featured speaker on consumer rights issues nationwide.

Mr. Ozzello is a former partner of Arias Ozzello & Gignac and, most recently, was Of Counsel to Markun Zusman Freniere & Compton, LLP. In his capacity as a litigator, he has obtained results for his clients in excess of \$200 million dollars. Mark has also achieved consistent success in the California Courts of Appeal, and several judicial opinions regularly cite to his matters as authority for class certification issues. He has also argued appellate issues in several Circuit Courts of Appeals with great success. Mr. Ozzello attended Pepperdine University School of Law where he was an Editor to the Law Review, publishing several articles during his tenure in that capacity. He received his undergraduate degree from Georgetown University.

Mr. Ozzello has always strived to be an integral part of local communities. He has established educational scholarship programs at several charitable organizations, including El Centro De Amistad in Los Angeles and St. Bonaventure Indian Mission and School in Thoreau, New Mexico, and presides over a legal clinic in Los Angeles which provides pro bono legal assistance to non-English speaking individuals.

**Cody Padgett.** A senior counsel at Capstone Law, Cody Padgett's practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. He handles consumer cases at all stages of litigation, and has contributed to major settlements of automobile defect actions valued in the tens of millions. Prior to joining Capstone Law, Mr. Padgett was a certified legal intern with the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*.

**Eduardo Santos.** Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court



of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

**Mao Shiokura**. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

**John Stobart**. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

**Roxanna Tabatabaeepour**. Roxanna Tabatabaeepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaeepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaeepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

**Ryan Tish**. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both



employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

**Orlando Villalba.** Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

**Tarek Zohdy.** A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as "Lemon Law." He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

### **Associates**

**Tyler Anderson.** Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action ("LACCLA"), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several "Dean's Scholar" prizes for receiving top grades in his constitutional law courses.



**Sairah Budhwani.** Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

**Laura Goolsby.** Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean's List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

**Ninel Kocharyan.** Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

**Alexander Lima.** Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

**Trisha Monesi.** Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

**Joey Parsons.** Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he



represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

**Jezette Ron.** Jezette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

**Alexander Wallin.** Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

## **OUTREACH AND EDUCATION**

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal ([www.impactlitigation.com](http://www.impactlitigation.com)). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

JENI RIEGER, ALOHA DAVIS, JODIE  
CHAPMAN, CARRIE VASEL, KAREN  
BURNAUGH, TOM GARDEN, ADA and  
ANGELI GOZON, HERNAN A.  
GONZALEZ, PATRICIA A. HENSLEY,  
CLYDIENE FRANCIS, PETER  
LOWEGARD, and GRANT BRADLEY,  
individually and on behalf of a class of  
similarly situated individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., a New Jersey  
corporation, d/b/a AUDI OF AMERICA,  
INC.,

Defendant.

Case No. 1:21-cv-10546-NHL-EAP

**DECLARATION OF RUSSELL PAUL IN SUPPORT OF PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

I, Russell Paul, hereby declare as follows:

1. I am an attorney duly licensed to practice law before all of the courts of the Commonwealth of Pennsylvania, State of New York, State of New Jersey and State of Delaware as well as before the United States Court of Appeals for the Third, Seventh and Ninth Circuits, the United States District Courts of the Eastern District of Pennsylvania, District Court of Delaware, District Court of the Eastern District of Michigan, District Court of New Jersey, District Court of the Southern District of New York and District Court of the Eastern District of New York.

2. I am a shareholder at Berger Montague PC (“Berger Montague”). I make this declaration in support of the Motion for Preliminary Approval of Class Action Settlement. I have personal knowledge of the facts stated below and, if called upon, could competently testify thereto.

3. The accompanying Declaration of Tarek H. Zohdy, which is being filed contemporaneously herewith, accurately summarizes the overview of the litigation, the settlement negotiations and mediation, the procedural history, the work undertaken by Plaintiffs and Class Counsel to initiate this litigation and for the benefit of the Class, the substantial contingent risks in and the complexity of this litigation, and the benefits of the Settlement.

4. My firm, Berger Montague, has been engaged in complex and class action litigation since 1970. While our firm has offices in Philadelphia, Pennsylvania; San Diego, California; Washington, D.C.; San Francisco, California; Chicago, Illinois; and Minneapolis, Minnesota, we litigate nationwide. Our firm’s practice areas include Antitrust, Commercial Litigation, Commodities & Options, Consumer Protection, Corporate Governance & Shareholder Rights, Employment Law, Environmental & Mass Tort, ERISA & Employee Benefits, Insurance and Financial Products & Services, Lending Practices & Borrowers’ Rights, Securities Fraud, and Whistleblowers, Qui Tam & False Claims Acts. Our compensation is almost exclusively from court-awarded fees, court-approved settlements, and contingent fee agreements. Berger Montague’s Consumer Protection Group, of which I am a member, represents consumers when they are injured by false or

misleading advertising, defective products, including automobiles, and various other unfair trade practices.

5. Berger Montague's successful class action settlements providing relief to automobile owners and lessees include: *Parrish v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-01148 (C.D. Cal. Jan. 27, 2022), ECF 81 (preliminarily approving class action settlement for owners and lessees of certain 2019 Volkswagen Jetta or 2018, 2019, and/or 2019 Volkswagen Tiguan vehicles equipped with 8-speed transmissions susceptible to possible oil leaks, rattling, hesitation, or jerking); *Patrick v. Volkswagen Grp. of Am., Inc.*, No. 8:19-cv-01908 (C.D. Cal. Sept. 28, 2021), ECF 72 (final approval of class action settlement for owners and lessees of certain 2019 and 2020 Volkswagen Golf GTI or Jetta GLI vehicles equipped with manual transmissions suffering from an alleged engine stalling defect); *Weckwerth v. Nissan N.A.*, No. 3:18-cv-00588 (M.D. Tenn. Mar. 10, 2020) (as co-lead counsel, obtained a settlement covering over 2 million class vehicles of an extended warranty and reimbursement of 100% of out-of-pocket costs); *Stringer v. Nissan N.A.*, 3:21-cv-00099 (M.D. Tenn. Sept. 7, 2021); *Norman v. Nissan N. Am., Inc.*, No. 18-cv-00588-EJR (M.D. Tenn. July, 16, 2019); ECF 102 *Batista v. Nissan N. Am., Inc.*, No. 14-24728-RNS (S.D. Fla. June 29, 2017), ECF 191 (approving class action settlement for an alleged CVT defect, including a two-year warranty extension); *Soto v. American Honda Motor Co., Inc.*, No. 3:12-cv-01377 (N.D. Cal. 2012) (as co-counsel, obtained a warranty extension and out-of-pocket expense reimbursements for consumers who purchased defective Hondas); *Vargas v. Ford Motor Co.*, No. CV12-08388 AB (FFMX), 2017 WL 4766677 (C.D. Cal. Oct. 18, 2017) (finally

approving class action settlement involving transmission defects for 1.8 million class vehicles); *Davis v. General Motors LLC*, No. 8:17-cv-2431 (M.D. Fla. 2017) (as co-lead counsel, obtained settlement for defects in Cadillac SRX headlights); *Yeager v. Subaru of America, Inc.*, No. 1:14-cv-04490 (D.N.J. Aug. 31, 2016) (approving class action settlement for damages from defect causing cars to burn excessive amounts of oil); *Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.*, No. ATL-1461-03 (N.J. Sup. Ct. 2007) (as co-lead counsel, obtained settlement for nationwide class alleging damages from defectively designed timing belt tensioners); *In Re Volkswagen and Audi Warranty Extension Litigation*, No. 07-md-1790-JLT (D. Mass. 2007) (obtained settlement valued at \$222 million for nationwide class, alleging engines were predisposed to formation of harmful sludge and deposits leading to engine damage).

6. Other consumer class action settlements in which our firm was co-lead counsel include: *Cole v. NIBCO, Inc.*, No. 3:13-cv-07871-FLW-TJB (D.N.J. 2013) (obtaining a \$43.5 million settlement on behalf of nationwide class of consumers who purchased defective tubing manufactured by NIBCO and certain fittings and clamps used with the tubing); *In re: Certain Teed Fiber Cement Siding Litigation*, MDL No. 2270 (E.D. Pa.) (obtained a settlement of more than \$103 million in a multidistrict products liability litigation concerning CertainTeed Corporation's fiber cement siding, on behalf of a nationwide class); and *Tim George v. Uponor, Inc., et al.*, No. 12-CV-249 (D. Minn.) (achieving a \$21 million settlement on behalf of a nationwide class of consumers who purchased defective plumbing parts).

7. Class Counsel in this case have received the following appointments in automobile defect class actions: *Francis v. General Motors, LLC*, No. 2:19-cv-11044-DML-DRG (E.D. Mich.), ECF 40 (appointed as member of Plaintiffs' Steering Committee); *Weston v. Subaru of America, Inc.*, No. 1:20-cv-05876 (D.N.J.), ECF 49 (appointed as Interim Co-Lead Counsel); *Miller v. Ford Motor Co.*, No. 2:20-cv-01796 (E.D. Cal.) ECF 60 (appointed to Interim Class Counsel Executive Committee); *Powell v. Subaru of America, Inc.*, No. 1:19-cv-19114 (D.N.J.), ECF 26 (appointed as Interim Co-Lead Counsel); *Rieger v. Volkswagen Group of America, Inc.*, No. 1:21-cv-10546-NLH-EAP (D.N.J.), ECF 65 (appointed as Interim Lead Counsel); and *Harrison v. General Motors, LLC*, No. 2:21-cv-12927-LJM-APP (E.D. Mich.), ECF 35 (appointed as Interim Co-Lead Counsel). A profile of our firm's experience in complex class actions, and specifically in consumer protection and products liability cases, is attached as Exhibit A.

8. Throughout the course of investigation, pleadings, mediation, and filing of the Settlement Agreement with the Court, Berger Montague's attorneys have devoted significant time and resources to the investigation, development, and resolution of this case.

9. Berger Montague is not representing clients with interests at odds with the interests of the Class Members.

10. Based on my experience, the Settlement provides substantial relief to the Settlement Class, is fair, reasonable, and adequate and the Settlement treats all Settlement Class Members equitably. I ask that the Court preliminarily approve the Settlement and authorize notice of the settlement to go out to the class.

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

Dated: October 11, 2023

By: /s/Russell D. Paul  
Russell D. Paul

**EXHIBIT A**



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## About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal* selected Berger Montague in 12 out of 14 years (2003-2005, 2007-2013, 2015-2016) for its "Hot List" of top plaintiffs-oriented litigation firms in the United States. The select group of law firms recognized each year had done "exemplary, cutting-edge work on the plaintiffs' side." The *National Law Journal* ended its "Hot List" award in 2017 and replaced it with "Elite Trial Lawyers," which Berger Montague has won from 2018-2021. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2021 "Best Law Firm" by *U.S. News - Best Lawyers*.

Currently, the firm consists of over 90 lawyers; 20 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

## History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm's complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for

plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead class counsel and lead trial counsel in the *Cook v. Rockwell International Corporation* litigation arising out of a serious incident at the Rocky Flats nuclear weapons facility in Colorado.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

### **Diversity, Equity and Inclusion Initiatives**

Berger Montague not only supports the idea of its Diversity, Equity and Inclusion (“DEI”) initiatives, it is a part of the DNA and fabric of the firm—internally amongst the Berger Montague family and in the way we practice law with co-counsel, opposing counsel, the courts, and with our clients. Through our DEI initiatives, Berger Montague actively works to increase diversity at all levels of our firm and to ensure that professionals of all races, religions, national origins, gender identities, ethnicities, sexual orientations, and physical abilities feel supported and respected in the workplace.

Berger Montague has a DEI Task Force with the leadership of the DEI Coordinator, Camille Fundora Rodriguez, and including, Candice J. Enders, Caitlin G. Coslett, Sophia Rios. Berger Montague has enacted a broad range of diversity and inclusion projects, including successful efforts to hire and retain attorneys and non-attorneys from diverse backgrounds and to foster an inclusive work environment, including through firmwide trainings on implicit bias issues that may impact the workplace.

Additionally, at Berger Montague women lead. Women comprise over 30% of Berger Montague's shareholders, well above the national average as reported by the National Association of Women Lawyers. Moreover, women at the firm are encouraged and have taken advantage of professional development support to bolster their trajectories into key participation and leadership roles, both within and outside the firm, including mentoring, networking, and educational opportunities for women across all career levels. As a result of these intentional policies and initiatives, women attorneys at Berger Montague are managing departments, running offices, overseeing major

administrative programs, generating new business, serving as first chair in trials, handling large matters, and holding numerous other leadership positions firmwide.

Berger Montague's commitment to DEI activities extends beyond our firm. For example, DEI Task Force members are involved in numerous community and professional activities outside of the firm. Representative activities include membership in and/or board or leadership positions with the Hispanic Bar Association, the Barristers' Association of Philadelphia, the Philadelphia Public School Board of Education, Court Appointed Special Advocates (CASA) of Philadelphia, Philadelphia Bar Association's Business Law Section's Antitrust Committee, Community Legal Services of Philadelphia, the Greater Philadelphia Chapter of the Pennsylvania ACLU, AccessMatters, After School Activities Partnerships, and Leadership Council on Legal Diversity. As such, Berger Montague's commitment to DEI has created an atmosphere in which the attorneys can share their gifts with the legal and greater communities from which they come.

### **Commitment to *Pro Bono***

Berger Montague attorneys commit their most valuable resource, their time, to charities, nonprofit organizations, and *pro bono* legal work. For over 50 years, Berger Montague has encouraged its attorneys to support charitable causes and volunteer in the community. Our lawyers understand that participating in *pro bono* representation is an essential component of their professional and ethical responsibilities.

Berger Montague is strongly committed to numerous charitable causes. Over his lengthy career, David Berger, the firm's founding partner, was prominent in a great many philanthropic and charitable enterprises, including serving as Honorary Chairman of the American Heart Association; a Trustee of the American Cancer Society; and a member of the Board of Directors of the American Red Cross. This tradition continues to the present.

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

In prior years, Berger Montague received the Chancellor's Award presented by the Philadelphia Volunteers for the Indigent Program ("VIP"), which provides crucial legal services to more than 1,000 low-income Philadelphia residents each year. VIP relies on volunteer attorneys to provide *pro bono* representation for families and individuals. In 2009 and 2010, Berger Montague also received an award for our volunteer work with the VIP Mortgage Foreclosure Program.

Today, Berger Montague attorneys engage in *pro bono* work for many organizations, including:

- Public Interest Law Center of Philadelphia ("PILCOP")
- Community Legal Services of Philadelphia ("CLS")
- Philadelphia Legal Assistance
- Education Law Center

- Legal Clinic for the Disabled
- Support Center for Child Advocates
- Veterans Pro Bono Consortium
- AIDS Law Project of Philadelphia
- Center for Literacy
- National Liberty Museum
- Philadelphia Volunteers for the Indigent Program
- Philadelphia Mortgage Foreclosure Program

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

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

The firm also has held numerous clothing drives, toy drives, food drives, and blood drives. Through these efforts, Berger Montague professional and support staff have donated thousands of items of clothing, toys, and food to local charities including the Salvation Army, Toys for Tots, and Philabundance, a local food bank. Blood donations are made to the American Red Cross. Berger Montague attorneys also volunteer on an annual basis at MANNA, which prepares and delivers nourishing meals to those suffering with serious illnesses.

## **Practice Areas and Case Profiles**

### **Antitrust**

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 50 years, including *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (settlement of approximately \$5.6 billion), *In re Namenda Direct Purchaser Antitrust Litigation* (recovery of \$750 million), *In re Loestrin 24 Fe Antitrust Litigation* (recovery of \$120 million), and *In re Domestic Drywall Antitrust Litigation* (settlements totaling \$190.7 million).

Once again, Berger Montague has been selected by *Chambers and Partners* for its 2021 *Chambers USA* Guide as one of Pennsylvania's top antitrust firms. *Chambers USA 2021* states that Berger Montague's antitrust practice group is "a preeminent force in the Pennsylvania antitrust market, offering expert counsel to clients from a broad range of industries."

*The Legal 500*, a guide to worldwide legal services providers, ranked Berger Montague as a Top Tier Law Firm for Antitrust: Civil Litigation/Class Actions: Plaintiff in the United States in its 2021 guide and states that Berger Montague's antitrust department "has a flair for handling high-stakes plaintiff-side cases, regularly winning high-value settlements for clients following antitrust law violations."

- ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation:*** Berger Montague served as co-lead counsel for a national class including millions of merchants in the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* against Visa, MasterCard, and several of the largest banks in the U.S. (e.g., Chase, Bank of America, and Citi). The lawsuit alleged that merchants paid excessive fees to accept Visa and MasterCard cards because the payment cards, individually and together with their respective member banks, violated the antitrust laws. The challenged conduct included, *inter alia*, the collective fixing of interchange fees and adoption of rules that hindered any competitive pressure by merchants to reduce those fees. The lawsuit further alleged that defendants maintained their conspiracy even after both Visa and MasterCard changed their corporate forms from joint ventures owned by member banks to publicly-owned corporations following commencement of this litigation. On September 18, 2018, after thirteen years of hard-fought litigation, Visa and MasterCard agreed to pay as much as approximately \$6.26 billion, but no less than approximately \$5.56 billion, to settle the case. This result is the largest-ever class action settlement of an antitrust case. The settlement received preliminary approval on January 24, 2019. The settlement received final approval on December 16, 2019, for approximately \$5.6 billion.
- ***Contant, et al. v. Bank of America Corp., et al.:*** Berger Montague served as lead class counsel in the multistate indirect purchaser antitrust class action *Contant, et al. v. Bank of America Corp., et al.*, against 16 of the world's largest dealer banks. Plaintiffs alleged that the defendants colluded to manipulate prices on foreign currency ("FX") instruments, using a number of methods to carry out their conspiracies, including sharing confidential price and order information through electronic chat rooms, thereby enabling the defendants to coordinate pricing and eliminate price competition. As with prior bank rigging scandals involving conspiracies to manipulate prices on other financial instruments, the defendants' alleged conspiracy to manipulate FX prices was the subject of numerous governmental investigations as well as direct purchaser class actions brought under antitrust federal law. However, the *Contant* action was the first of such cases to bring claims under state indirect purchaser antitrust laws on behalf of state-wide classes of retail investors of those financial instruments and whose claims have never been redressed. On July 29, 2019, U.S. District Judge Lorna G. Schofield granted preliminary approval of a \$10 million settlement with Citigroup and a \$985,000 settlement with MUFG Bank Ltd. On July 17, 2020, the Court granted preliminary approval of three settlements with all remaining defendants for a combined \$12.695 million. Each of the five settlements, totaling \$23.63 million, received final approval on November 19, 2020.
- ***In re Dental Supplies Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of dental practices and dental laboratories in *In re Dental Supplies Antitrust Litigation*, a suit brought against Henry Schein, Inc., Patterson Companies, Inc., and Benco Dental Supply Company, the three largest distributors of dental supplies in the United States. On September 7, 2018, co-lead counsel announced that they agreed with defendants to settle on a classwide basis for \$80 million. The settlement received final

approval on June 24, 2019. The suit alleged that the defendants, who collectively control close to 90 percent of the dental supplies and equipment distribution market, conspired to restrain trade and fix prices at anticompetitive levels, in violation of the Sherman Act. In furtherance of the alleged conspiracy, plaintiffs claimed that the defendants colluded to boycott and pressure dental manufacturers, dental distributors, and state dental associations that did business with or considered doing business with the defendants' lower-priced rivals. The suit claimed that, because of the defendants' anticompetitive conduct, members of the class were overcharged on dental supplies and equipment. In the 2019 Fairness Hearing, Judge Brian M. Cogan of the U.S. District Court for the Eastern District of New York said: "This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

- ***In re Domestic Drywall Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of a class of direct purchasers of drywall, in a case alleging that the dominant manufacturers of drywall engaged in a conspiracy to fix drywall prices in the U.S. and to abolish the industry's long-standing practice of limiting price increases for the duration of a construction project through "job quotes." Berger Montague represented a class of direct purchasers of drywall from defendants for the period from January 1, 2012 to January 31, 2013. USG Corporation and United States Gypsum Company (collectively, "USG"), New NGC, Inc., Lafarge North America Inc., Eagle Materials, Inc., American Gypsum Company LLC, TIN Inc. d/b/a Temple-Inland Inc., and PABCO Building Products, LLC were named as defendants in this action. On August 20, 2015, the district court granted final approval of two settlements—one with USG and the other with TIN Inc.—totaling \$44.5 million. On December 8, 2016, the district court granted final approval of a \$21.2 million settlement with Lafarge North America, Inc. On February 18, 2016, the district court denied the motions for summary judgment filed by American Gypsum Company, New NGC, Inc., Lafarge North America, Inc., and PABCO Building Products. On August 23, 2017, the district court granted direct purchaser plaintiffs' motion for class certification. On January 29, 2018, the district court granted preliminary approval of a joint settlement with the remaining defendants, New NGC, Inc., Eagle Materials, Inc., American Gypsum Company LLC, and PABCO Building Products, LLC, for \$125 million. The settlement received final approval on July 17, 2018, bringing the total amount of settlements for the class to \$190.7 million.
- ***In re Currency Conversion Fee Antitrust Litigation:*** Berger Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October 2009, with a Final Judgment entered in November 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. A subsequent settlement with American Express increased the settlement amount to \$386 million. (MDL No. 1409 (S.D.N.Y)).

- ***In re Marchbanks Truck Service Inc., et al. v. Comdata Network, Inc.***: Berger Montague was co-lead counsel in this antitrust class action brought on behalf of a class of thousands of Independent Truck Stops. The lawsuit alleged that defendant Comdata Network, Inc. had monopolized the market for specialized Fleet Cards used by long-haul truckers. Comdata imposed anticompetitive provisions in its agreements with Independent Truck Stops that artificially inflated the fees Independents paid when accepting the Comdata's Fleet Card for payment. These contractual provisions, commonly referred to as anti-steering provisions or merchant restraints, barred Independents from taking various competitive steps that could have been used to steer fleets to rival payment cards. The settlement for \$130 million and valuable prospective relief was preliminary approved on March 17, 2014, and finally approved on July 14, 2014. In its July 14, 2014 order approving Class Counsel's fee request, entered contemporaneously with its order finally approving the settlement, the Court described this outcome as "substantial, both in absolute terms, and when assessed in light of the risks of establishing liability and damages in this case."
- ***Ross, et al. v. Bank of America (USA) N.A., et al.***: Berger Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called "cardholder agreements" for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. In June 2009, the National Arbitration Forum (or "NAF") was added as a defendant. Berger Montague also reached a settlement with NAF. Under that agreement, NAF ceased administering arbitration proceedings involving business cards for a period of three and one-half (3.5) years, which relief is in addition to the requirements of a Consent Judgment with the State of Minnesota, entered into by the NAF on July 24, 2009.
- ***Johnson, et al. v AzHHA, et al.***: Berger Montague was co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved \$24 million in settlements on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic competition, having achieved over \$2 billion in settlements in such cases over the past decade, including:

- ***In re: Namenda Direct Purchaser Antitrust Litigation:*** Berger Montague is co-lead counsel for the class in this antitrust action brought on behalf of a class of direct purchasers of branded and/or generic Namenda IR and/or branded Namenda XR. It settled for \$750 million on the very eve of trial. The \$750 million settlement received final approval on May 27, 2020, and is the largest single-defendant settlement ever for a case alleging delayed generic competition. (Case No. 15-cv-7488 (S.D.N.Y.)).
- ***King Drug Co. v. Cephalon, Inc.:*** Berger Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of the prescription drug Provigil (modafinil). After nine years of hard-fought litigation, the court approved a \$512 million partial settlement, then the largest settlement ever for a case alleging delayed generic competition. (Case No. 2:06-cv-01797 (E.D. Pa.)). Subsequent non-class settlements pushed the total settlement figure even higher.
- ***In re Aggrenox Antitrust Litigation:*** Berger Montague represented a class of direct purchasers of Aggrenox in an action alleging that defendants delayed the availability of less expensive generic Aggrenox through, *inter alia*, unlawful reverse payment agreements. The case settled for \$146 million. (Case No. 14-02516 (D. Conn.)).
- ***In re Asacol Antitrust Litigation:*** The firm served as class counsel for direct purchasers of Asacol HS and Delzicol in a case alleging that defendants participated in a scheme to block generic competition for the ulcerative colitis drug Asacol. The case settled for \$15 million. (Case No. 15-cv-12730-DJC (D. Mass.)).
- ***In re Celebrex (Celecoxib) Antitrust Litigation:*** The firm represented a class of direct purchasers of brand and generic Celebrex (celecoxib) in an action alleging that Pfizer, in violation of the Sherman Act, improperly obtained a patent for Celebrex from the U.S. Patent and Trademark Office in a scheme to unlawfully extend patent protection and delay market entry of generic versions of Celebrex. The case settled for \$94 million. (Case No. 14-cv-00361 (E.D. VA.)).
- ***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).
- ***In re K-Dur Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class in this long-running antitrust litigation. Berger Montague litigated the case before the Court of Appeals and won a precedent-setting victory and continued the fight before the Supreme Court. On remand, the case settled for \$60.2 million. (Case No. 01-1652 (D.N.J.)).

- ***In re Loestrin 24 Fe Antitrust Litigation:*** Berger Montague served as co-lead counsel for the class of direct purchasers of brand Loestrin, generic Loestrin, and/or brand Minastrin. The direct purchaser class alleged that defendants violated federal antitrust laws by unlawfully impairing the introduction of generic versions of the prescription drug Loestrin 24 Fe. The case settled shortly before trial for \$120 million (Case No. 13-md-2472) (D.R.I.).
- ***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).
- ***Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.:*** Berger Montague served as co-lead counsel in a case challenging Warner Chilcott's alleged anticompetitive practices with respect to the branded drug Doryx. The case settled for \$15 million. (Case No. 2:12-cv-03824 (E.D. Pa.)).
- ***In re Oxycontin Antitrust Litigation:*** Berger Montague served as co-lead counsel on behalf of direct purchasers of the prescription drug Oxycontin. The case settled in 2011 for \$16 million. (Case No. 1:04-md-01603 (S.D.N.Y)).
- ***In re Prandin Direct Purchaser Antitrust Litigation:*** Berger Montague served as co-lead counsel and recovered \$19 million on behalf of direct purchasers of the diabetes medication Prandin. (Case No. 2:10-cv-12141 (E.D. Mich.)).
- ***Rochester Drug Co-Operative, Inc. v. Braintree Labs., Inc.:*** Berger Montague served as co-lead counsel on behalf of direct purchasers alleging sham litigation led to the delay of generic forms of the brand drug Miralax. The case settled for \$17.25 million. (Case No. 07-142 (D. Del.)).
- ***In re Skelaxin Antitrust Litigation:*** Berger Montague was among a small group of firms litigating on behalf of direct purchasers of the drug Skelaxin. The case settled for \$73 million. (Case No. 2:12-cv-83 / 1:12-md-02343) (E.D. Tenn.)).
- ***In re Solodyn Antitrust Litigation:*** Berger Montague served as co-lead counsel representing a class of direct purchasers of brand and generic Solodyn (extended-release minocycline hydrochloride tablets) alleging that defendants entered into agreements not to compete in the market for extended-release minocycline hydrochloride tablets in violation of the Sherman Act. With a final settlement on the eve of trial, the case settled for a total of more than \$76 million. (Case No. 14-MD-2503-DJC (D. Mass.)).

- ***In re Tricor Antitrust Litigation:*** Berger Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).
- ***In re Wellbutrin XL Antitrust Litigation:*** Berger Montague served as co-lead counsel for a class of direct purchasers of the antidepressant Wellbutrin XL. A settlement of \$37.5 million was reached with Valeant Pharmaceuticals (formerly Biovail), one of two defendants in the case. (Case No. 08-cv-2431 (E.D. Pa.)).

### **Commercial Litigation**

Berger Montague helps business clients achieve extraordinary successes in a wide variety of complex commercial litigation matters. Our attorneys appear regularly on behalf of clients in high stakes federal and state court commercial litigation across the United States. We work with our clients to develop a comprehensive and detailed litigation plan, and then organize, allocate and deploy whatever resources are necessary to successfully prosecute or defend the case.

- ***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.:*** Berger Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).
- ***Forbes v. GMH:*** Berger Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

### **Commodities & Financial Instruments**

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

- ***In re Peregrine Financial Group Customer Litigation:*** Berger Montague served as co-lead counsel in a class action which helped deliver settlements worth more than \$75 million on behalf of former customers of Peregrine Financial Group, Inc., in litigation against U.S. Bank, N.A., and JPMorgan Chase Bank, N.A., arising from Peregrine's collapse in July 2012. The lawsuit alleges that both banks breached legal duties by allowing Peregrine's owner to withdraw and put millions of dollars in customer funds to non-customer use. (No. 1:12-cv-5546)

- ***In re MF Global Holdings Ltd. Investment Litigation:*** Berger Montague is one of two co-lead counsel that represented thousands of commodities account holders who fell victim to the alleged massive theft and misappropriation of client funds at the former major global commodities brokerage firm MF Global. Berger Montague reached a variety of settlements, including with JPMorgan Chase Bank, the MF Global SIPA Trustee, and the CME Group, that collectively helped to return approximately \$1.6 billion to the class. Ultimately, class members received more than 100% of the funds allegedly misappropriated by MF Global even after all fees and expenses. (No. 11-cv-07866 (S.D.N.Y.)).
- ***In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation:*** Berger Montague is one of two co-lead counsel representing traders of gold-based derivative contracts, physical gold, and gold-based securities against The Bank of Nova Scotia, Barclays Bank plc, Deutsche Bank AG, HSBC Bank plc, Société Générale and the London Gold Market Fixing Limited. Plaintiffs allege that the defendants, members of the London Gold Market Fixing Limited, which sets an important benchmark price for gold, conspired to manipulate this benchmark for their collective benefit. (1:14-md-02548 (S.D.N.Y.)).
- ***In re Libor-Based Financial Instruments Antitrust Litigation:*** Berger Montague represents exchange-based investors in this sprawling litigation alleging a conspiracy among many of the world's largest banks to manipulate the key LIBOR benchmark rate. LIBOR plays an important role in valuing trillions of dollars of financial instruments worldwide. The case, filed in 2011, alleges that the banks colluded to misreport and manipulate LIBOR rates for their own benefit. The banks' conduct damaged, among others, exchange-based investors who transacted in Eurodollar futures and options on the CME between 2005 and 2010. Eurodollar futures and options are keyed to LIBOR and are the world's most heavily traded short-term interest rate contracts. Following years of hotly contested litigation on behalf of these exchange-based investors, Berger Montague and its co-counsel achieved settlements with seven banks totaling more than \$180 million. In September 2019, the Court granted preliminary approval of a plan of distribution for these settlement funds. A final approval hearing on the settlement is scheduled in September 2020. (No. 1:11-md-02262-NRB (S.D.N.Y.)).

### **Consumer Protection**

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

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

on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).

- ***In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. (No. 4:09-MD-2046 (S.D. Tex. 2009)).
- ***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rogue employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).
- ***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation:*** The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).
- ***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

### **Corporate Governance and Shareholder Rights**

Berger Montague protects the interests of individual and institutional investors in shareholder derivative actions in state and federal courts across the United States. Our attorneys help individual and institutional investors reform poor corporate governance, as well as represent them in litigation against directors of a company for violating their fiduciary duty or provide guidance on shareholder rights.

- ***Emil Roszdeutscher and Dennis Kelly v. Viacom:*** The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).

- ***Fox v. Riverview Realty Partners, f/k/a Prime Group Realty Trust, et al.***: The firm, as lead counsel, obtained a settlement resulting in a fund of \$8.25 million for the class.

### **Employee Benefits & ERISA**

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

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

### **Employment & Unpaid Wages**

The Berger Montague Employment & Unpaid Wages Department works tirelessly to safeguard the rights of employees and devotes all of their energies to helping the firm's clients achieve their goals. Our attorneys' understanding of federal and state wage and hour laws, federal and state civil rights and discrimination laws, ERISA, the WARN Act, laws protecting whistleblowers, such

as federal and state False Claims Acts, and other employment laws, allows us to develop creative strategies to vindicate our clients' rights and help them secure the compensation to which they are entitled.

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

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

Representative cases include the following:

- ***Fenley v. Wood Group Mustang, Inc.***: The firm served as lead counsel and obtained a settlement of \$6.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-326 (S.D. Ohio)).
- ***Sanders v. The CJS Solutions Group, LLC***: The firm served as co-lead counsel and obtained a settlement of \$3.24 million on behalf of a class of IT healthcare consultants who allegedly did not receive overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 17-3809 (S.D.N.Y.)).
- ***Gundrum v. Cleveland Integrity Services, Inc.***: The firm served as lead counsel and obtained a settlement of \$4.5 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 4:17-cv-55 (N.D. Okl.)).
- ***Fenley v. Applied Consultants, Inc.***: The firm served as lead counsel and obtained a settlement of \$9.25 million on behalf of a class of oil and gas inspectors who allegedly did not receive overtime compensation for hours worked in excess of 40 per week. (Civil Action No. 2:15-cv-259 (W.D. Pa.)).
- ***Acevedo v. Brightview Landscapes, LLC***: The firm served as co-lead counsel and obtained a settlement of \$6.95 million on behalf of a class of landscaping crew members who allegedly did not receive proper overtime premiums for hours worked in excess of 40 per week. (Civil Action No. 3:13-cv-02529 (M.D. Pa.)).
- ***Jantz v. Social Security Administration***: The firm served as co-lead counsel and obtained a settlement on behalf of employees with targeted disabilities ("TDEs") alleged

that SSA discriminated against TDEs by denying them promotional and other career advancement opportunities. The settlement was reached after more than ten years of litigation, and the Class withstood challenges to class certification on four separate occasions. The settlement includes a monetary fund of \$9.98 million and an unprecedented package of extensive programmatic changes valued at approximately \$20 million. (EEOC No. 531-2006-00276X (2015)).

- ***Ciamillo v. Baker Hughes, Incorporated***: The firm served as lead counsel and obtained a settlement of \$5 million on behalf of a class of oil and gas workers who allegedly did not receive any overtime compensation for working hours in excess of 40 per week. (Civil Action No. 14-cv-81 (D. Alaska)).
- ***Salcido v. Cargill Meat Solutions Corp.***: The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).
- ***Chabrier v. Wilmington Finance, Inc.***: The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class). (No. 06-4176 (E.D. Pa.)).
- ***Bonnette v. Rochester Gas & Electric Co.***: The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

### **Environment & Public Health**

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016, Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by *The National Law Journal*.

- ***Cook v. Rockwell International Corporation***: In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with

interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their “long and hard-fought” victory against “formidable corporate and government defendants.” (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.

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

### **Insurance Fraud**

When insurance companies and affiliated financial services entities engage in fraudulent, deceptive or unfair practices, Berger Montague helps injured parties recover their losses. We focus on fraudulent, deceptive and unfair business practices across all lines of insurance and financial products and services sold by insurers and their affiliates, which include annuities, securities and other investment vehicles.

- ***Spencer v. Hartford Financial Services Group, Inc.:*** The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer*

*v. Hartford Financial Services Group, Inc.*, Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.

- ***Nationwide Mutual Insurance Company v. O'Dell***: The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

### **Predatory Lending and Borrowers' Rights**

Berger Montague's attorneys fight vigorously to protect the rights of borrowers when they are injured by the practices of banks and other financial institutions that lend money or service borrowers' loans. Berger Montague has successfully obtained multi-million-dollar class action settlements for nationwide classes of borrowers against banks and financial institutions and works tirelessly to protect the rights of borrowers suffering from these and other deceptive and unfair lending practices.

- ***Coonan v. Citibank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Citibank and its affiliates in the United States District Court for the Northern District of New York concerning alleged kickbacks Citibank received in connection with its force-placed insurance programs. The firm obtained a settlement of \$122 million on behalf of a class of hundreds of thousands of borrowers.

- ***Arnett v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the District of Oregon concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$31 million on behalf of a class of hundreds of thousands of borrowers.
- ***Clements v. JPMorgan Chase Bank, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against JPMorgan Chase and its affiliates in the United States District Court for the Northern District of California concerning alleged kickbacks received in connection with its force-placed flood insurance program. The firm obtained a settlement of \$22,125,000 on behalf of a class of thousands of borrowers.
- ***Holmes v. Bank of America, N.A.***: The firm, as Co-Lead Counsel, prosecuted this national class action against Bank of America and its affiliates in the United States District Court for the Western District of North Carolina concerning alleged kickbacks received in connection with its force-placed wind insurance program. The firm obtained a settlement of \$5.05 million on behalf of a class of thousands of borrowers.

### **Securities & Investor Protection**

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

- ***In re Merrill Lynch Securities Litigation***: Berger Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).
- ***In re: Oppenheimer Rochester Funds Group Securities Litigation***: The firm, as co-lead counsel, obtained a \$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc. (No. 09-md-02063-JLK (D. Col.)).
- ***In re KLA Tencor Securities Litigation***: The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).
- ***In re NetBank, Inc. Securities Litigation***: The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5

million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

- ***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.***: The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).
- ***In re Alcatel Alsthom Securities Litigation***: The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).
- ***Qwest Securities Action***: The firm represented New Jersey in an opt-out case against Qwest and certain officers, which was settled for \$45 million. (C.A. No. L-3838-02 (Superior Court New Jersey, Law Division)).

### **Whistleblower, *Qui Tam*, and False Claims Act**

Berger Montague has represented whistleblowers in matters involving healthcare fraud, defense contracting fraud, IRS fraud, securities fraud, and commodities fraud, helping to return more than \$3 billion to federal and state governments. In return, whistleblower clients retaining Berger Montague to represent them in state and federal courts have received more than \$500 million in rewards. Berger Montague's time-tested approach in whistleblower/*qui tam* representation involves cultivating close, productive attorney-client relationships with the maximum degree of confidentiality for our clients.

### **Judicial Praise for Berger Montague Attorneys**

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

### **Antitrust Cases**

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

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

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

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

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

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

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

“Class counsel has without question done a tremendous job in litigating this case. They represent some of the best plaintiff-side antitrust groups in the country, and the size and skill of the defense they litigated against cannot be overstated. They have also demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required...”

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Securities & Investor Protection Cases**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

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

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

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

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

\* \* \*

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

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

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

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

\* \* \*

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

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

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

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

\* \* \*

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

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

### **Consumer Protection Cases**

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

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

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

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

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

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

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

“You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys’ fees. And I congratulate you on your excellent work.”

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

### **Civil/Human Rights Cases**

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

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

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

### **Insurance Litigation**

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

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

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

### **Customer/Broker Arbitrations**

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

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

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

### **Employment & Unpaid Wages Cases**

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

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

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

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

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

\* \* \*

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

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

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

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

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

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

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

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

and

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

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

#### **Other Cases**

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

“On behalf of the Supreme Court of Pennsylvania and AOPC’s Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years.”

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

## **Our Founding Partner and Attorneys**

### **Founding Partner**

#### **David Berger – 1912-2007**

David Berger was the founder and the Chairman of Berger Montague. He received his A.B. *cum laude* in 1932 and his LL.B. *cum laude* in 1936, both from the University of Pennsylvania. He was a member of The Order of the Coif and was an editor of the *University of Pennsylvania Law Review*. He had a distinguished scholastic career including being Assistant to Professor Francis H. Bohlen and Dr. William Draper Lewis, Director of the American Law Institute, participating in the drafting of the first Restatement of Torts. He also served as a Special Assistant Dean of the University of Pennsylvania Law School. He was a member of the Board of Overseers of the Law School and Associate Trustee of the University of Pennsylvania. In honor of his many contributions, the Law School established the David Berger Chair of Law for the Improvement of the Administration of Justice.

David Berger was a law clerk for the Pennsylvania Supreme Court. He served as a deputy assistant to Director of Enemy Alien Identification Program of the United States Justice Department during World War II.

Thereafter he was appointed Lt.j.g. in the U.S. Naval Reserve and he served in the South Pacific aboard three aircraft carriers during World War II. He was a survivor of the sinking of the U.S.S. Hornet in the Battle of Santa Cruz, October 26, 1942. After the sinking of the Hornet, Admiral Halsey appointed him a member of his personal staff when the Admiral became Commander of the South Pacific. Mr. Berger was ultimately promoted to Commander. He was awarded the Silver Star and Presidential Unit Citation.

After World War II, he was a law clerk in the United States Court of Appeals. The United States Supreme Court appointed David Berger a member of the committee to draft the Federal Rules of Evidence, the basic evidentiary rules employed in federal courts throughout the United States.

David Berger was a fellow of the American College of Trial Lawyers, the International Society of Barristers, and the International Academy of Trial Lawyers, of which he was a former Dean. He was a Life Member of the Judicial Conference of the Third Circuit and the American Law Institute.

A former Chancellor (President) of the Philadelphia Bar Association, he served on numerous committees of the American Bar Association and was a lecturer and author on various legal subjects, particularly in the areas of antitrust, securities litigation, and evidence.

David Berger served as a member of President John F. Kennedy's committee which designed high speed rail lines between Washington and Boston. He drafted and activated legislation in the Congress of the United States which resulted in the use of federal funds to assure the continuance of freight and passenger lines throughout the United States. When the merger of the Pennsylvania Railroad and the New York Central Railroad, which created the Penn Central Transportation Company, crashed into Chapter 11, David Berger was counsel for Penn Central and a proponent of its reorganization. Through this work, Mr. Berger ensured the survival of the major railroads in the Northeastern section of the United States including Penn Central, New Jersey Central, and others.

Mr. Berger's private practice included clients in London, Paris, Dusseldorf, as well as in Philadelphia, Washington, New York City, Florida, and other parts of the United States. David Berger instituted the first class action in the antitrust field, and for over 30 years he and the Berger firm were lead counsel and/or co-lead counsel in countless class actions brought to successful conclusions, including antitrust, securities, toxic tort and other cases. He served as one of the chief counsel in the litigation surrounding the demise of Drexel Burnham Lambert, in which over \$2.6 billion was recovered for various violations of the securities laws during the 1980s. The recoveries benefitted such federal entities as the FDIC and RTC, as well as thousands of victimized investors.

In addition, Mr. Berger was principal counsel in a case regarding the Three Mile Island accident near Harrisburg, Pennsylvania, achieving the first legal recovery of millions of dollars for economic harm caused by the nation's most serious nuclear accident. As part of the award in the case, David Berger established a committee of internationally renowned scientists to determine the effects on human beings of emissions of low-level radiation.

In addition, as lead counsel in *In re Asbestos School Litigation*, he brought about settlement of this long and vigorously fought action spanning over 13 years for an amount in excess of \$200 million.

David Berger was active in Democratic politics. President Clinton appointed David Berger a member of the United States Holocaust Memorial Council, in which capacity he served from 1994-2004. In addition to his having served for seven years as the chief legal officer of Philadelphia, he was a candidate for District Attorney of Philadelphia, and was a Carter delegate in the Convention which nominated President Carter.

Over his lengthy career David Berger was prominent in a great many philanthropic and charitable enterprises some of which are as follows: He was the Chairman of the David Berger Foundation and a long time honorary member of the National Commission of the Anti-Defamation League. He was on the Board of the Jewish Federation of Philadelphia and, at his last place of residence, Palm Beach, as Honorary Chairman of the American Heart Association, Trustee of the American Cancer Society, a member of the Board of Directors of the American Red Cross, and active in the Jewish Federation of Palm Beach County.

David Berger's principal hobby was tennis, a sport in which he competed for over 60 years. He was a member of the Board of Directors of the International Tennis Hall of Fame and other related organizations for assisting young people in tennis on a world-wide basis.

## **Firm Chair**

### **Eric L. Cramer – Chairman**

Eric L. Cramer is Chairman of Berger Montague and Co-Chair of its antitrust department. He has a national practice in the field of complex litigation, primarily in the area of antitrust class actions. He is currently co-lead counsel in multiple significant antitrust class actions across the country in a variety of industries and is responsible for winning numerous significant settlements for his clients totaling well over \$3 billion. Most recently, he has focused on representing workers claiming that anticompetitive practices have suppressed their pay, including cases on behalf of mixed-martial-arts fighters, healthcare and luxury retail workers, and chicken growers. Further, in late 2021, Mr. Cramer served as one of the main trial counsel in an antitrust class action relating to an alleged international cartel of capacitors' suppliers, which was tried to a jury and settled after nearly three weeks of trial.

In 2020, Law360 named Mr. Cramer a Titan of the Plaintiffs Bar, and Who's Who Legal identified him as a Global Elite Thought Leader, stating that he "comes recommended by peers as a top name for antitrust class action proceedings." In 2019, The National Law Journal awarded Mr. Cramer the Keith Givens Visionary Award, which was developed to honor an outstanding trial lawyer who has moved the industry forward through his or her work within the legal industry ecosystem, demonstrating excellence in all aspects of work from client advocacy to peer education and mentoring. In 2018, he was named Philadelphia antitrust "Lawyer of the Year" by Best Lawyers, and in 2017, he won the American Antitrust Institute's Antitrust Enforcement Award for Outstanding Antitrust Litigation Achievement in Private Law Practice for his work in *Castro v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.). In that case, Mr. Cramer represented a national class of physicians challenging Sanofi Pasteur with anticompetitive conduct in the market for meningitis vaccines, resulting in a settlement of more than \$60 million for the class. He has also been identified as a top tier antitrust lawyer by Chambers & Partners in Pennsylvania and nationally. In 2020, Chambers & Partners observed that Mr. Cramer is "a fantastic lawyer...He has real trial experience and is very capable and super smart." He has been highlighted annually since 2011 by The Legal 500 as one of the country's top lawyers in the field of complex antitrust litigation and repeatedly deemed one of the "Best Lawyers in America," including for 2021.

Mr. Cramer is also a frequent speaker at antitrust and litigation related conferences and a leader of multiple non-profit advocacy groups. He is a past President of the Board of Directors of Public Justice, a national public interest advocacy group and law firm; a former Vice President of the Board of Directors of the American Antitrust Institute; a past President of COSAL (Committee to

Support the Antitrust Laws), a leading industry group; and a member of the Advisory Board of the Institute of Consumer Antitrust Studies of the Loyola University Chicago School of Law.

He has written widely in the fields of class certification and antitrust law. Among other writings, Mr. Cramer has co-authored *Antitrust as Antiracism: Antitrust as a Partial Cure for Systemic Racism (and Other Systemic "Isms")*, Vol. 66(3) *The Antitrust Bulletin* 359-393 (2021) and *Antitrust, Class Certification, and the Politics of Procedure*, 17 *George Mason Law Review* 4 (2010), the latter of which was cited by both the First Circuit in *In re Nexium Antitrust Litig.*, 777 F.3d 9, 27 (1st Cir. 2015), and the Third Circuit in *Behrend v. Comcast Corp.*, 655 F.3d 182, 200, n.10 (3d Cir. 2011), *rev'd on other grounds*, 133 S. Ct. 1426 (2013). He has also co-written a number of other pieces, including: *Of Vulnerable Monopolists?: Questionable Innovation in the Standard for Class Certification in Antitrust Cases*, 41 *Rutgers Law Journal* 355 (2009-2010); *A Questionable New Standard for Class Certification in Antitrust Cases*, published in the ABA's *Antitrust Magazine*, Vol. 26, No. 1 (Fall 2011); a Chapter of American Antitrust Institute's *Private International Enforcement Handbook* (2010), entitled "Who May Pursue a Private Claim?," and a chapter of the American Bar Association's *Pharmaceutical Industry Handbook* (July 2009), entitled "Assessing Market Power in the Prescription Pharmaceutical Industry."

Mr. Cramer is a *summa cum laude* graduate of Princeton University (1989), where he earned membership in Phi Beta Kappa. He graduated *cum laude* from Harvard Law School with a J.D. in 1993.

## Executive Shareholders

### **Sherrie R. Savett – Executive Shareholder, Chair *Emeritus***

Sherrie R. Savett, Chair *Emeritus* of the Firm, Co-Chair of the Securities Litigation Department and *Qui Tam*/False Claims Act Department, and member of the Firm's Management Committee, has practiced in the areas of securities litigation, class actions, and commercial litigation since 1975.

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

- ***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.));
- ***In re CIGNA Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.));
- ***In re Fleming Companies, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.));
- ***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of

investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.));

- **Medaphis/Deloitte & Touche** (class settlement of \$96.5 million) (No. 1:96-CV-2088-FMH (N.D. GA));
- **In re Rite Aid Corp. Securities Litigation:** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349) (E.D. Pa.);
- **In re Sotheby's Holding, Inc. Securities Litigation:** The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant (No. 00-cv-1041 (DLC) (S.D.N.Y.));
- **In re Waste Management, Inc. Securities Litigation:** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash, which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)); and
- **In re Xcel Inc. Securities, Derivative & "ERISA" Litigation:** The firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under § 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir. 1996).

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993).

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants' motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

Additionally, Ms. Savett has become increasingly well-known in the area of consumer litigation, achieving a groundbreaking \$24 million settlement in 2008 in the *Menu Foods* case brought by pet owners against manufacturers of allegedly contaminated pet food. (*In re Pet Food Products Liability Litigation*, MDL Docket No. 1850 (D.N.J. 2007).

In the data breach area, she was co-lead counsel in *In re TJX Retail Securities Breach Litigation*, MDL Docket No. 1838 (D. Mass.), the first very large data breach case where hackers stole personal information from 45 million consumers. The settlement, which became the template for future data breach cases, consisted of providing identity theft insurance to those whose social security or driver's license numbers were stolen, a cash fund for actual damages and time spent mitigating the situation, and injunctive relief.

Ms. Savett also litigated a case on behalf of the City of Philadelphia titled *City of Philadelphia v. Wells Fargo & Co.*, No. 17-cv-02203 (E.D. Pa.), involving alleged violations of the Fair Housing Act. The case was resolved in 2019 with a settlement providing \$10 million to go to citizens of Philadelphia for down payment assistance, to local agencies to assist homeowners in foreclosure, and for greening and cleaning foreclosed properties in Philadelphia which blight neighborhoods.

In the past decade, she has also actively worked in the False Claims Act arena. She was part of the team that litigated over more than a decade and settled the Average Wholesale Price *qui tam* cases, which collectively settled for more than \$1 billion.

Ms. Savett speaks and writes frequently on securities litigation, consumer class actions and False Claims Act litigation. She is a lecturer and panelist at the University of Pennsylvania Law School on the subjects of Securities Law and the False Claims Act/*Qui Tam* practice from the whistleblower's perspective. She has also lectured at the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions and on False Claims Act Litigation. She is frequently invited to present and serve as a panelist in American Bar Association, American Law Institute/American Bar Association and Practising Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI's Securities Litigation and Enforcement Institute annually from 1995 to 2010. She has also spoken at major institutional investor and insurance industry conferences, and DRI – the Voice of the Defense Bar. In February 2009, she was a member of a six-person panel who presented an analysis of the current state of securities litigation before more than 1,000 underwriters and insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009, as well as the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Most recently, in April 2019, she spoke as a panelist at PLI's Securities Litigation 2019: From Investigation to Trial program. Her panel was titled "Commencement of a Civil Action: Filing the Complaint, Preparing the Motion to Dismiss, Coordinating Multiple Securities Litigation Actions." Ms. Savett also co-authored an article for the program that was published in PLI's *Corporate Law and Practice Court Handbook Series*. The article is titled "After the Fall—A Plaintiff's Perspective."

In 2015 and 2016, she served as a panelist in American Law Institute programs held in New York City called "Securities and Shareholder Litigation: Cutting-Edge Developments, Planning and Strategy." Ms. Savett also spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled "The Good, The Bad,

and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs.” The other program focused on consumer class actions in the real estate area and was entitled “The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure.”

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

Ms. Savett has written numerous articles on securities and complex litigation issues in professional publications, including:

- "After the Fall – A Plaintiff's Perspective," with Phyllis M. Parker, *PLI Corporate Law and Practice Course Handbook Series No. B-2475*, pg. 73-105, April 2019
- "Plaintiffs' Vision of Securities Litigation: Current Trends and Strategies," 1762 *PLL* October 2009
- "Primary Liability of 'Secondary' Actors Under the PSLRA," I *Securities Litigation Report*, (Glasser) November 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," 1442 *PLI/Corp. 13*, September – October 2004
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SJ084 ALI-ABA 399, May 13-14, 2004
- "The 'Indispensable Tool' of Shareholder Suits," *Directors & Boards*, Vol. 28, February 18, 2004
- "Plaintiffs Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case," 679 *PLI*, August 2002
- "Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley From a Plaintiffs Perspective," 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SG091 ALI-ABA, May 2-3, 2002
- "Securities Class Actions Since the 1995 Reform Act: A Plaintiffs Perspective," SF86 ALI-ABA 1023, May 10, 2001
- "Greetings From the Plaintiffs' Class Action Bar: We'll be Watching," SE082 ALI-ABA739, May 11, 2000
- "Preventing Financial Fraud," B0-00E3 *PLJB0-00E3* April – May 1999
- "Shareholders Class Actions in the Post Reform Act Era," SD79 ALI-ABA 893, April 30, 1999
- "What to Plead and How to Plead the Defendant's State of Mind in a Federal Securities Class Action," with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998
- "The Merits Matter Most: Observations on a Changing Landscape Under the Private Securities Litigation Reform Act of 1995," 39 *Arizona Law Review* 525, 1997

- “Everything David Needs to Know to Battle Goliath,” ABA Tort & Insurance Practice Section, *The Brief*, Vol. 20, No.3, Spring 1991
- “The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy,” *PLIH4-0528*, September 1, 1987
- “Prosecution of Derivative Actions: A Plaintiffs Perspective,” *PLIH4-5003*, September 1, 1986

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

In 2019, *The Legal Intelligencer* named Ms. Savett a "Distinguished Leader," and in 2018 she was named to the *Philadelphia Business Journal's* 2018 Best of the Bar: Philadelphia's Top Lawyers.

*The Legal Intelligencer* and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005, 2007-2013, and 2015-2016, Berger Montague was named to the *National Law Journal's* “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” The firm is on the *National Law Journal's* “Hall of Fame,” and Ms. Savett’s achievements were mentioned in many of these awards.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and/or a “Pennsylvania Super Lawyer” from 2004 through 2021 by Thomson Reuters after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500 Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly*, which stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.” In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

Unquestionably, it is because of Ms. Savett, who for decades has been in the top leadership of the firm, that the firm has a remarkably high proportion of women lawyers and shareholders.

Ms. Savett has aggressively sought to hire women, without regard to age or whether they are “right out of law school.” Several of the women who have children are able to continue working at the firm because Ms. Savett has instituted a policy of flexible work time and fosters an atmosphere of cooperation, teamwork and mutual respect. As a result, the women attorneys stay on and have long and productive careers while still maintaining a balanced life. Ms. Savett has a personal understanding of the challenges and satisfactions that women experience in practicing law while

raising a family. Ms. Savett has three children and five grandchildren. One of her daughters and her daughter-in-law are lawyers.

Ms. Savett has taught those around her more than good lawyering. She places great emphasis in her own life on devotion to family, community service and involvement in charitable organizations. She teaches others by her example and her obvious interest in their efforts and achievements.

Ms. Savett is a well-known leader of the Philadelphia legal, business, cultural and Jewish community. She is an exemplary citizen who spends endless hours of her after-work time helping others in the community.

From 2011 – 2014, Ms. Savett served as President and Board Chair of the Jewish Federation of Greater Philadelphia (JFGP), a community of over 215,000 Jewish people. She is only the third woman to serve as the President, the top lay leader of the Federation, in the 117 years of its existence.

Ms. Savett also serves on the Board of the National Liberty Museum, The National Museum of American Jewish History, and the local and national boards of American Associates of Ben Gurion University of the Negev. She had previously served as Chairperson of the Southeastern Pennsylvania State of Israel Bonds Campaign and has served as a member of the National Cabinet of State of Israel Bonds. In 2005, Ms. Savett received The Spirit of Jerusalem Medallion, the State of Israel Bonds' highest honor.

Ms. Savett has used her positions of leadership in the community to identify and help promote women as volunteer leaders. Ms. Savett has selected a few worthy causes to which she tirelessly dedicates herself. According to leaders of The Jewish Federation of Greater Philadelphia, Ms. Savett is viewed by many women in the philanthropic world as a role model.

Ms. Savett earned her J.D. from the University of Pennsylvania Law School and a B.A. *summa cum laude* from the University of Pennsylvania. She is a member of Phi Beta Kappa.

Ms. Savett has three married children, four grandsons, and two granddaughters. She enjoys tennis, biking, physical training, travel, and collecting art, especially glass and sculpture.

### **Daniel Berger – Executive Shareholder**

Daniel Berger graduated with honors from Princeton University and Columbia Law School, where he was a Harlan Fiske Stone academic scholar. He is a senior member and Executive Shareholder. Over the last two decades, he has been involved in complicated commercial litigation including class action securities, antitrust, consumer protection and bankruptcy cases. In addition, he has prosecuted important environmental, mass tort and civil rights cases during this period. He has led the Firm's practice involving improprieties in the marketing of prescription drugs and the abuse of marketing exclusivities in the pharmaceutical industry, including handling

landmark cases involving the suppression of generic competition in the pharmaceutical industry. For this work, he has been recognized by the *Law360* publication as a "titan" of the plaintiffs' Bar ("Titan of the Plaintiffs Bar: Daniel Berger" *Law360*, September 23, 2014).

In the civil rights area, he has been counsel in informed consent cases involving biomedical research and human experimentation by federal and state governmental entities. He also leads the firm's representation of states and other public bodies and agencies.

Mr. Berger has frequently represented public institutional investors in securities litigation, including representing the state pension funds of Pennsylvania, Ohio and New Jersey in both individual and class action litigation. He also represents Pennsylvania and New Jersey on important environmental litigation involving contamination of groundwater by gasoline manufacturers and marketers.

Mr. Berger has a background in the study of economics, having done graduate level work in applied microeconomics and macroeconomic theory, the business cycle, and economic history. He has published law review articles in the *Yale Law Journal*, the *Duke University Journal of Law and Contemporary Problems*, the *University of San Francisco Law Review* and the *New York Law School Law Review*. Mr. Berger is also an author and journalist who has been published in *The Nation* magazine, reviewed books for *The Philadelphia Inquirer* and authored a number of political blogs, including in *The Huffington Post* and the Roosevelt Institute's *New Deal 2.0*. He has also appeared on MSNBC as a political commentator.

Mr. Berger has been active in city government in Philadelphia and was a member of the Mayor's Cultural Advisory Council, advising the Mayor of Philadelphia on arts policy, and the Philadelphia Cultural Fund, which was responsible for all City grants to arts organizations. Mr. Berger was also a member of the Pennsylvania Humanities Council, one of the State organizations through which the NEA makes grants. Mr. Berger also serves on the board of the Wilma Theater, Philadelphia's pre-eminent theater for new plays and playwrights.

#### **Shanon J. Carson – Executive Shareholder**

Shanon J. Carson is an Executive Shareholder of the firm. He Co-Chairs the Employment & Unpaid Wages, Consumer Protection, Defective Products, and Defective Drugs and Medical Devices Departments and is a member of the Firm's Commercial Litigation, Employee Benefits & ERISA, Environment & Public Health, Insurance Fraud, Predatory Lending and Borrowers' Rights, and Technology, Privacy & Data Breach Departments.

Mr. Carson has achieved the highest peer-review rating, "AV," in Martindale-Hubbell, and has received honors and awards from numerous publications. In 2009, Mr. Carson was selected as one of 30 "Lawyers on the Fast Track" in Pennsylvania under the age of 40. In both 2015 and 2016, Mr. Carson was selected as one of the top 100 lawyers in Pennsylvania, as reported by Thomson Reuters. In 2018, Mr. Carson was named to the *Philadelphia Business Journal's* "2018 Best of the Bar: Philadelphia's Top Lawyers."

Mr. Carson is often retained to represent plaintiffs in employment cases, wage and hour cases for minimum wage violations and unpaid overtime, ERISA cases, consumer cases, insurance cases, construction cases, automobile defect cases, defective drug and medical device cases, product liability cases, breach of contract cases, invasion of privacy cases, false advertising cases, excessive fee cases, and cases involving the violation of state and federal statutes. Mr. Carson represents plaintiffs in all types of litigation including class actions, collective actions, multiple plaintiff litigations, and single plaintiff litigation. Mr. Carson is regularly appointed by federal courts to serve as lead counsel and on executive committees in class actions and mass torts.

Mr. Carson is frequently asked to speak at continuing legal education seminars and other engagements and is active in nonprofit and professional organizations. Mr. Carson currently serves on the Board of Directors of the Philadelphia Trial Lawyers Association (PTLA) and as a Co-Chair of the PTLA Class Action/Mass Tort Committee. Mr. Carson is also a member of the American Association for Justice, the American Bar Foundation, Litigation Counsel of America, the National Trial Lawyers - Top 100, and the Pennsylvania Association for Justice.

While attending the Dickinson School of Law of the Pennsylvania State University, Mr. Carson was senior editor of the Dickinson Law Review and clerked for a U.S. District Court Judge. Mr. Carson currently serves on the Board of Trustees of the Dickinson School of Law of the Pennsylvania State University.

#### **Michael Dell'Angelo – Executive Shareholder**

Michael Dell'Angelo is an Executive Shareholder in the Antitrust, Commercial Litigation, Commodities & Financial Instruments practice groups, and Co-Chair of the Securities department. He serves as co-lead counsel in a variety of complex antitrust cases, including *Le, et al. v. Zuffa, LLC*, No. 15-1045 (D. Nev.) (alleging the Ultimate Fighting Championship (“UFC”) obtained illegal monopoly power of the market for Mixed Martial Arts promotions and suppressed the compensation of MMA fighters).

Mr. Dell'Angelo is responsible for winning numerous significant settlements for his clients and class members. Mr. Dell'Angelo helped to reach settlements totaling more than \$190 million in the multidistrict litigation *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437 (E.D. Pa.). There, in granting final approval to the last settlement, the court observed about Mr. Dell'Angelo and his colleagues that “Plaintiffs’ counsel are experienced antitrust lawyers who have been working in this field of law for many years and have brought with them a sophisticated and highly professional approach to gathering persuasive evidence on the topic of price-fixing.” *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, at \*18 (E.D. Pa. July 17, 2018). “[I]t bears repeating,” the court emphasized, “that the result attained is directly attributable to having highly skilled and experienced lawyers represent the class in these cases.” *Id.*

Mr. Dell'Angelo also serves or has recently served as co-lead counsel or class counsel in numerous cases alleging price-fixing or other wrongdoing affecting a variety of financial

instruments, including In re Commodity Exchange, Inc., Gold Futures and Options Trading Litig., 1:14-MD-2548-VEC (S.D.N.Y.) (\$152 million settlements); In re Platinum and Palladium Antitrust Litig., No. 14-cv-09391-GHW (S.D.N.Y.); Contant, et al. v. Bank of America Corp., et al., 1:17-cv-03139-LGS (S.D.N.Y.) (\$23.6 million in settlements); In re Libor-Based Financial Instruments Antitrust Litig., No. 11-md-2262 (S.D.N.Y.) (\$187 million in settlements pending final approval); Alaska Elec. Pension Fund, et al. v. Bank of Am. Corp., et al., No. 14 Civ. 7126-JMF (S.D.N.Y.) (\$504.5 million in settlements); In re Crude Oil Commodity Futures Litig., No. 11-cv-3600 (S.D.N.Y.); and In re London Silver Fixing, Ltd. Antitrust Litig., No. 14-md-2573 (S.D.N.Y.) (\$38 million partial settlement).

Mr. Dell'Angelo also serves as lead counsel in numerous individual antitrust cases on behalf of purchasers of rail freight services from the four major rail carriers in the United States.

The National Law Journal featured Mr. Dell'Angelo in its profile of Berger Montague for a special annual report entitled "Plaintiffs' Hot List." The National Law Journal's Hot List identifies the top plaintiff practices in the country. The Hot List profile focused on Mr. Dell'Angelo's role in the MF Global litigation (In re MF Global Holding Ltd. Inv. Litig., No. 12-MD-2338-VM (S.D.N.Y.)). In MF Global, Mr. Dell'Angelo represented former commodity account holders seeking to recover approximately \$1.6 billion of secured customer funds after the highly publicized collapse of MF Global, a major commodities brokerage. At the outset of this high-risk litigation, the odds appeared grim: MF Global had declared bankruptcy, leaving the corporate officers, a bank, and a commodity exchange as the only prospect for the recovery of class's misappropriated funds. Nonetheless, four years later, a result few would have believed possible was achieved. Through a series of settlements, the former commodity account holders recovered more than 100 percent of their missing funds, totaling over \$1.6 billion.

Mr. Dell'Angelo has been recognized consistently as a Pennsylvania Super Lawyer, a distinction conferred upon him annually since 2007. He is regularly invited to speak at Continuing Legal Education (CLE) and other seminars and conferences, both locally and abroad. In response to his recent CLE, "How to Deal with the Rambo Litigator," Mr. Dell'Angelo was singled out as "One of the best CLE speakers [attendees] have had the pleasure to see."

#### **E. Michelle Drake – Executive Shareholder**

E. Michelle Drake is an Executive Shareholder in the Firm's Minneapolis office. With career settlements and verdicts valued at more than \$150 million, Michelle has had great success in a wide variety of cases.

Michelle focuses her practice primarily on consumer protection, improper credit reporting, and financial services class actions. Michelle is empathetic towards her clients and unyielding in her desire to win. Possessing a rare combination of an elite academic pedigree and real-world trial skills, Michelle has successfully gone toe-to-toe with some of the world's most powerful companies.

Michelle helped achieve one of the largest class action settlements in a case involving improper mortgage servicing practices associated with force-placed insurance, resulting in a settlement valued at \$110 million for a nationwide class of borrowers who were improperly force-placed with overpriced insurance. Michelle also served as liaison counsel and part of the Plaintiffs' Steering Committee on behalf of consumers harmed in the Target data breach, a case she helped successfully resolve on behalf of over ninety million consumers whose data was affected by the breach. In 2015, Michelle resolved a federal class action on behalf of a group of adult entertainers in New York for \$15 million. Most recently, Michelle has been successful in litigating numerous cases protecting consumers' federal privacy rights under the Fair Credit Reporting Act, securing settlements valued at over \$10 million on behalf of tens of thousands of consumers harmed by improper background checks and inaccurate credit reports in the last two years alone.

Michelle was admitted to the bar in 2001 and has since served as lead class counsel in over fifty class and collective actions alleging violations of the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Fair Labor Standards Act, various states' unfair and deceptive trade practices acts, breach of contract and numerous other pro-consumer and pro-employee causes of action.

Michelle serves on the Board of the National Association of Consumer Advocates, is a member of the Partner's Council of the National Consumer Law Center, and is an At-Large Council Member for the Consumer Litigation Section for the Minnesota State Bar Association. She was named as a Super Lawyer in 2013-2018 and was named as a Rising Star prior to that. Michelle was also appointed to the Federal Practice Committee in 2010 by the United States District Court for the District of Minnesota. She has been quoted in the New York Times and the National Law Journal, and her cases were named as "Lawsuits of the Year" by Minnesota Law & Politics in both 2008 and 2009.

Michelle began her practice of law by defending high stakes criminal cases as a public defender in Atlanta. Michelle has never lost her desire to litigate on the side of the "little guy."

#### **David F. Sorensen – Executive Shareholder**

David Sorensen is an Executive Shareholder and Co-Chair of the Firm's antitrust department. He graduated from Duke University (A.B. 1983) and Yale Law School (J.D. 1989), and clerked for the Hon. Norma L. Shapiro (E.D. Pa.). He concentrates his practice on antitrust and environmental class actions.

Mr. Sorensen co-trieed *Cook v. Rockwell Int'l Corp.*, No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions,

the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Mr. Sorensen played a major role in the Firm's representation of the State of Connecticut in *State of Connecticut v. Philip Morris, Inc., et al.*, in which Connecticut recovered approximately \$3.6 billion (excluding interest) from certain manufacturers of tobacco products. And he served as co-lead class counsel in *Johnson v. AzHHA, et al.*, No. 07-1292 (D. Ariz.), representing a class of temporary nursing personnel who had been underpaid because of an alleged conspiracy among Arizona hospitals. The case settled for \$24 million.

Mr. Sorensen also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *King Drug Co. v. Cephalon, Inc.*, (E.D. Pa.) (\$512 million partial settlement); *In re: Aggrenox Antitrust Litigation* (\$146 million settlement); *In re Loestrin 24 Fe Antitrust Litigation* (\$120 million); *In re: K-Dur Antitrust Litigation* (\$60.2 million); *In re: Prandin Direct Purchaser Antitrust Litigation* (\$19 million); *In re: Doryx Antitrust Litigation* (\$15 million); *In re: Skelaxin Antitrust Litigation* (\$73 million); *In re: Wellbutrin XL Antitrust Litigation* (\$37.50 million); *In re: Oxycontin Antitrust Litigation* (\$16 million); *In re: DDAVP Direct Purchaser Antitrust Litigation* (\$20.25 million settlement following precedent-setting victory in the Second Circuit, which Mr. Sorensen argued, see 585 F.3d 677 (2d Cir. 2009)); *In re: Nifedipine Antitrust Litigation* (\$35 million); *In re: Terazosin Hydrochloride Antitrust Litigation*, MDL 1317 (S.D. Fla.) (\$74.5 million); and *In re: Remeron Antitrust Litigation* (\$75 million). Mr. Sorensen is serving as co-lead counsel or on the executive committee of numerous similar, pending cases.

In 2017, the American Antitrust Institute presented its Antitrust Enforcement Award to Mr. Sorensen and others for their work on the *K-Dur* case. In 2019, Mr. Sorensen and others were recognized again by the AAI for their work on the *King Drug* case, being awarded the Outstanding Antitrust Litigation Achievement in Private Law Practice. Mr. Sorensen and his team received the same award in 2020 for their work on the *Namenda* case. Also in 2020, *Law360* named Mr. Sorensen a Competition MVP of the Year.

## Shareholders

### John G. Albanese – Shareholder

John Albanese is a Shareholder in the Minneapolis office. Mr. Albanese concentrates his practice on consumer protection with a focus on Fair Credit Reporting Act violations related to criminal background checks. Mr. Albanese has also prosecuted class actions related to illegal online lending, unfair debt collection, privacy breaches, and other consumer law issues. Mr. Albanese is

regularly invited to speak on consumer law and litigation issues. Mr. Albanese has obtained favorable decisions for consumers in state and federal courts all over the country. He also frequently represents consumer advocacy groups as *amici curiae* at the appellate level.

Mr. Albanese is a graduate of Columbia Law School and Georgetown University. At Columbia, he was a managing editor of the Columbia Law Review and was elected to speak at graduation by his classmates. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois.

#### **Zachary Caplan – Shareholder**

Zach Caplan is a Shareholder at Berger Montague. Recently, Zach was in service with the U.S. Department of Justice Antitrust Division in Washington, DC. While at the Justice Department, he led teams investigating anticompetitive conduct in the healthcare space, engaged with senior Division leadership on a statement of interest arguing that the American Red Cross is subject to antitrust law, and assisted with fast-paced monopolization litigation against a major tech company. He also served on the Division-wide Discovery and Technology Working Group where he contributed to guidelines for all attorneys on cutting-edge issues such as technology assisted review and ephemeral messaging. Prior to his work at the Justice Department, Zach was an attorney in the Antitrust Department at Berger Montague for a decade.

#### **Joy P. Clairmont – Shareholder**

Joy Clairmont is a Shareholder in the Whistleblower, *Qui Tam* & False Claims Act Group, which has recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Ms. Clairmont also has experience practicing in the area of securities fraud litigation.

Ms. Clairmont has been investigating and litigating whistleblower cases for over fifteen years and has successfully represented whistleblower clients in federal and state courts throughout the United States. On behalf of her whistleblower clients, Ms. Clairmont has pursued fraud cases involving a diverse array of companies: behavioral health facilities, a national retail pharmacy chain, a research institution, pharmaceutical manufacturers, skilled nursing facilities, a national dental chain, mortgage lenders, hospitals and medical device manufacturers.

Most notably, Ms. Clairmont has participated in several significant and groundbreaking cases involving fraudulent drug pricing:

***United States ex rel. Streck v. AstraZeneca, LP, et al.*, C.A. No. 08-5135 (E.D. Pa.):** a Medicaid rebate fraud case which settled in 2015 for a total of \$55.5 million against three pharmaceutical manufacturers, AstraZeneca, Cephalon, and Biogen. The case alleged that the defendants did not properly account for millions of dollars of payments to wholesalers for drug distribution and other services. As a result, the defendants underpaid the government in rebates owed under the Medicaid Drug Rebate Program.

**United States ex rel. Kieff and LaCorte v. Wyeth and Pfizer, Inc., Nos. 03-12366 and 06-11724-DPW (D. Mass.):** a Medicaid rebate fraud case involving Wyeth's acid-reflux drug, Protonix, which settled for \$784.6 million in April 2016.

**"AWP" Cases:** a series of cases in federal and state courts against many of the largest pharmaceutical manufacturers, including Bristol-Myers Squibb, Boehringer Ingelheim, and GlaxoSmithKline, for defrauding the government through false and inflated price reports for their drugs, which resulted in more than \$2 billion in recoveries for the government.

Earlier in her career, Ms. Clairmont gained experience litigating securities fraud class actions including, most notably, *In Re Sunbeam Securities Litigation*, a class action which led to the recovery of over \$142 million for the class of plaintiffs in 2002.

Ms. Clairmont graduated in 1995 with a B.A. *cum laude* from George Washington University and in 1998 with a J.D. from George Washington University Law School.

#### **Caitlin G. Coslett – Shareholder**

Caitlin G. Coslett is a Shareholder and Co-Chair of the Firm's Antitrust Department. She also serves on the Firm's Diversity, Equity, and Inclusion Task Force and as the Work Assignment Coordinator. Ms. Coslett concentrates her practice on complex litigation, including antitrust and mass tort litigation.

Ms. Coslett represents classes of direct purchasers of pharmaceutical drugs who allege that drug manufacturers have violated federal antitrust law by wrongfully keeping less-expensive generic drugs off the market and/or by wrongfully impeding generic competition. Her work on generic suppression cases has contributed to significant settlements totaling hundreds of millions of dollars, including in the cases of *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation* (for which Ms. Coslett served as Co-Lead Counsel), *In re Lidoderm Antitrust Litigation*, and *In re Skelaxin (Metaxalone) Antitrust Litigation*. Ms. Coslett is currently litigating several similar antitrust pharmaceutical cases, such as *In re Effexor XR Antitrust Litigation*, *In re Bystolic Antitrust Litigation*, *In re Intuniv Antitrust Litigation*, *In re Lamictal Antitrust Litigation*, *In re Novartis and Par Antitrust Litigation*, *In re Opana ER Antitrust Litigation*, and *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*. She was honored for "Outstanding Antitrust Litigation Achievement by a Young Lawyer" for her work in *In re Lidoderm Antitrust Litigation*.

Ms. Coslett's experience litigating antitrust class actions also includes *In re CRT Antitrust Litigation*, *In re Domestic Drywall Antitrust Litigation*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, *In re Steel Antitrust Litigation*, and *In re Urethane [Polyether Polyols] Antitrust Litigation*.

Ms. Coslett also played a significant role in the post-trial litigation in *Cook v. Rockwell International Corporation*, a mass tort class action brought on behalf of thousands of property owners near the Rocky Flats nuclear plant in Colorado. The case settled for \$375 million following a successful appeal to the Tenth Circuit and, in ruling for the plaintiffs on appeal, then-Judge Neil Gorsuch

(who is now a Supreme Court Justice) praised Class Counsel's successful "judicial jiu jitsu" in litigating the case through the second appeal.

Ms. Coslett was named a "Next Generation Lawyer" by The Legal 500 United States 2019 in the Civil Litigation/Class Actions: Plaintiff category and was selected as a Rising Star by Super Lawyers every year from 2014 – 2021. She has served as pro bono counsel for clients referred by the AIDS Law Project of Pennsylvania and Philly VIP and is a member of the National LGBT Bar Association.

A Philadelphia native, Ms. Coslett graduated magna cum laude from Haverford College with a B.S. in mathematics and economics and graduated cum laude from New York University School of Law. At NYU Law, Ms. Coslett was a Lederman/Milbank Fellow in Law and Economics and an articles selection editor for the NYU Review of Law and Social Change. Prior to law school, she was an economics research assistant at the Federal Reserve Board in Washington, D.C. Ms. Coslett was formerly one of the top 75 rated female chess players in the U.S.

#### **Andrew C. Curley – Shareholder**

Andrew C. Curley is a Shareholder in the Antitrust practice group. He concentrates his practice in the area of complex antitrust litigation.

Mr. Curley served as Co-Lead Class Counsel on behalf of a class of independent truck stops and other retail merchants in *Marchbanks Truck Service, Inc. v. Comdata Network, Inc.*, Case No. 07-1078 (E.D. Pa.). The *Marchbanks* litigation settled in January 2014 for \$130 million and significant prospective relief in the form of, among other things, meaningful and enforceable commitments by the largest over-the-road trucker fleet card issuer in the United States to modify or not to enforce those portions of its merchant services agreements that plaintiffs challenged as anticompetitive, and that an expert economist has determined to be worth an additional \$260 million to \$491 million (bringing the total value of the settlement to between \$390 and \$621 million).

Mr. Curley is also involved in a number of antitrust cases representing direct purchasers of prescription drugs. These cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Those cases include: *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (\$76 million settlements); and *In re Aggrenox Antitrust Litig.*, No. 3:14-md-02516 (D. Conn.) (\$146 million settlement); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-MD-2343 (E.D. Tenn.) (\$73 million settlement); *In re Wellbutrin XL Antitrust Litig.*, No. 08-2431 (E.D. Pa.) (\$37.5 million settlement with one of two defendants); *In re Opana ER Antitrust Litig.*, No. 14-cv-10150 (N.D. Ill.) and *In re Niaspan Antitrust Litig.*, No. 12-MD-2460 (E.D. Pa.).

Prior to joining the firm, Mr. Curley practiced in the litigation department of a large Philadelphia law firm where he represented clients in a variety of industries in complex commercial litigation in both state and federal court.

**Josh P. Davis – Shareholder**

Josh supervises the Firm’s San Francisco Bay Area Office. He focuses his practice on antitrust, appeals, class certification, and class action and complex litigation ethics. He is one of the leading scholars in the nation on antitrust procedure, class certification, and ethics in class actions and complex litigation.

Josh is currently a Research Professor at the University of California, Hastings College of the Law, where he is associated with the Center for Litigation and Courts, and the Director of the Center for Law and Ethics at the University of San Francisco School of Law. He has also taught at the Willamette University College of Law and the Georgetown University Law Center. He has testified before Congress on matters related to civil procedure and presented on matters related to private antitrust enforcement before the U.S. Department of Justice and the Federal Trade Commission.

Josh received a CLAY California Attorney of the Year Award in Antitrust in 2016. His law review article, “Defying Conventional Wisdom: The Case for Private Antitrust Enforcement,” 48 Ga. L. Rev. 1 (2013), won the 2014 award for best academic article from George Washington University School of Law and Institute on Competition Law. His scholarship has been cited by multiple federal appellate and trial courts. He has published dozens of articles and book chapters on antitrust, civil procedure, class certification, legal ethics, and legal philosophy, among other topics. He regularly presents throughout the country and the world at scholarly and professional conferences and symposia on aggregate litigation, civil procedure, and ethics. Recently, he has written various articles and book chapters on artificial intelligence (AI) and the law and is completing his first book, “Unnatural Law: AI, Consciousness, Ethics, and Legal Theory” (forthcoming in Cambridge University Press 2022/23).

Josh graduated from N.Y.U. School of Law in 1993, where he won the Frank H. Sommer Memorial Award for top general scholarship and achievement in his class, served as the Articles Editor for the N.Y.U. Law Review, and was admitted to the Order of the Coif. After law school, he was a law clerk for Patrick E. Higginbotham of the U.S. Court of Appeals for the Fifth Circuit. He was a partner at Lief, Cabraser, Heimann & Bernstein, LLP, until 2000, when he entered full-time legal academia until joining the Firm in 2022.

**Lawrence Deutsch – Shareholder**

Mr. Deutsch has been involved in numerous major shareholder class action cases. He served as lead counsel in the Delaware Chancery Court on behalf of shareholders in a corporate governance litigation concerning the rights and valuation of their shareholdings. Defendants in the case were the Philadelphia Stock Exchange, the Exchange’s Board of Trustees, and six major Wall Street investment firms. The case settled for \$99 million and also included significant corporate governance provisions. Chancellor Chandler, when approving the settlement allocation and fee awards on July 2, 2008, complimented counsel’s effort and results, stating, “Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class.” The Chancellor had previously described the intensity of the litigation when he had approved the settlement, “All I can tell you, from someone who has only been doing this for roughly 22 years,

is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong like they have gone at it in this case.”

Mr. Deutsch was one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al.* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768) resulting in an \$8 million judgment against the directors and officers of the company for breach of fiduciary duty.

Over his 25 years working in securities litigation, Mr. Deutsch has been a lead attorney on many substantial matters. Mr. Deutsch served as one of lead counsel in the *In Re Sunbeam Securities Litigation* class action concerning “Chainsaw” Al Dunlap (recovery of over \$142 million for the class in 2002). As counsel on behalf of the City of Philadelphia he served on the Executive Committee for the securities litigation regarding *Frank A. Dusek, et al. v. Mattel Inc., et al.* (recovery of \$122 million for the class in 2006).

Mr. Deutsch served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide *Mutual Funds Market Timing* cases. Mr. Deutsch served on the Plaintiffs’ Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to “market time” and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

Mr. Deutsch has been court-appointed Lead or a primary attorney in numerous complex litigation cases: *NECA-IBEW Pension Trust Fund, et al. v. Precision Castparts Corp., et al.* (Civil Case No. 3:16-cv-01756-YY); *Fox et al. v. Prime Group Realty Trust, et al.* United States District Court Northern District of Illinois (Civil Case No. 1:12-cv-09350) (\$8.25 million settlement pending); served as court-appointed lead counsel in *In Re Inergy LP Unitholder Litigation* (Del. Ch. No. 5816-VCP ) (\$8 million settlement).

Mr. Deutsch served on a team of lead counsel in *In Re: CertainTeed Fiber Cement Siding Litigation*, E.D.Pa. MDL NO. 11-2270 (\$103.9 million settlement); *Tim George v. Uponor, Inc., et al.*, United States District Court, District of Minnesota, Case No. 12-CV-249 (ADM/JJK) (\$21 million settlement); *Batista, et al. v. Nissan North America, Inc.*, United States District Court, Southern District of Florida, Miami Division, Case No 1;14-cv-24728 (settlement valued at \$65,335,970.00).

In addition to his litigation work, Mr. Deutsch has been a member of the firm’s Executive Committee and also manages the firm’s paralegals. He has also regularly represented indigent parties through the Bar Association’s VIP Program, including the Bar’s highly acclaimed representation of homeowners facing mortgage foreclosure.

Prior to joining the firm, Mr. Deutsch served in the Peace Corps from 1973-1976, serving in Costa Rica, the Dominican Republic, and Belize. He then worked for ten years at the United States General Services Administration.

Mr. Deutsch is a graduate of Boston University (B.A. 1973), George Washington University's School of Government and Business Administration (M.S.A. 1979), and Temple University's School of Law (J.D. 1985). He became a member of the Pennsylvania Bar in 1986 and the New Jersey Bar in 1987. He has also been admitted to practice in Eastern District of Pennsylvania, the First Circuit Court of Appeals, the Second Circuit Court of Appeals, the Third Circuit Court of Appeals, the Fourth Circuit Court of Appeals, Eleventh Circuit Court of Appeals and the U.S. Court of Federal Claims as well as various jurisdictions across the country for specific cases.

**William H. Ellerbe – Shareholder**

William H. Ellerbe is a Shareholder in the Philadelphia office and practices in the firm's Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm's whistleblower clients. Mr. Ellerbe represents whistleblowers in litigation across the country and also actively assists in investigating and evaluating potential whistleblower claims before a lawsuit is filed.

Mr. Ellerbe received an A.B. in English from Princeton University. He graduated *magna cum laude* from the University of Michigan Law School and also received a certificate in Science, Technology, and Public Policy from the Ford School of Public Policy. During law school, Mr. Ellerbe was an Associate Editor of the *Michigan Telecommunications and Technology Law Review* and an active member of both the Environmental Law Society and the Native American Law Students Association.

Prior to joining the firm, Mr. Ellerbe clerked for the Honorable Anne E. Thompson of the United States District Court for the District of New Jersey. He also worked as a white collar and commercial litigation associate at two large corporate defense firms.

Mr. Ellerbe is admitted to practice in the state courts of Pennsylvania, New Jersey, and New York, as well as the Third and Fourth Circuit Courts of Appeals and the United State District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, the Southern District of New York, and the Eastern District of New York.

**Candice J. Enders – Shareholder**

Candice J. Enders is a Shareholder in the Antitrust practice group. She concentrates her practice in complex antitrust litigation.

Ms. Enders has significant experience investigating and developing antitrust cases, navigating complex legal and factual issues, negotiating discovery, designing large-scale document reviews, synthesizing and distilling conspiracy evidence, and working with economic experts to develop models of antitrust impact and damages. Her work on antitrust conspiracy cases has contributed to significant settlements totaling hundreds of millions of dollars, including in *In re Domestic Drywall Antitrust Litigation*, No. 13-2437 (E.D. Pa.) (\$190 million in total settlements); *In re Commodity Exchange, Inc. Gold Futures & Options Trading Litigation*, No. 14-2548 (S.D.N.Y.) (\$60 million settlement with Deutsche Bank preliminarily approved; preliminary approval of \$42

million settlement with Defendant HSBC pending; litigation continuing against remaining defendants); *In re Microcrystalline Cellulose Antitrust Litigation, No. 01-111* (E.D. Pa.) (\$50 million settlement achieved shortly before trial).

In addition to her case work, Ms. Enders contributes to the administration of the firm by serving as the firm's Attorney Recruitment Coordinator, Paralegal Coordinator, and a member of the Diversity, Equity & Inclusion Task Force.

### **Michael T. Fantini – Shareholder**

Michael T. Fantini is a Shareholder in the Consumer Protection and Commercial Litigation practice groups. Mr. Fantini concentrates his practice on consumer class action litigation.

Mr. Fantini has considerable experience in notable consumer cases such as: *In re TJX Companies Retail Security Breach Litigation*, Master Docket No. 07-10162 (D. Mass) (class action brought on behalf of persons whose personal and financial data were compromised in the largest computer theft of personal data in history - settled for various benefits valued at over \$200 million); *In re Educational Testing Service Praxis Principles of Learning and Teaching: Grade 7-12 Litigation*, MDL No. 1643 (E.D. La. 2006) (settlement of \$11.1 million on behalf of persons who were incorrectly scored on a teachers' licensing exam); *Block v. McDonald's Corporation*, No: 01CH9137 (Cir. Ct. Of Cook County, Ill.) (settlement of \$12.5 million where McDonald's failed to disclose beef fat in french fries); *Fitz, Inc. v. Ralph Wilson Plastics Co.*, No. 1-94-CV-06017 (D. N.J.) (claims-made settlement whereby fabricators fully recovered their losses resulting from defective contact adhesives); *Parker v. American Isuzu Motors, Inc.*; No: 3476 (CCP, Philadelphia County) (claims-made settlement whereby class members recovered \$500 each for their economic damages caused by faulty brakes); *Crawford v. Philadelphia Hotel Operating Co.*, No: 04030070 (CCP Phila. Cty. 2005) (claims-made settlement whereby persons with food poisoning recovered \$1,500 each); *Melfi v. The Coca-Cola Company* (settlement reached in case involving alleged misleading advertising of Enviga drink); *Vaughn v. L.A. Fitness International LLC*, No. 10-cv-2326 (E.D. Pa.) (claims made settlement in class action relating to failure to cancel gym memberships and improper billing); *In re Chickie's & Pete's Wage and Hour Litigation*, Master File No. 12-cv-6820 (E.D. Pa.) (settled class action relating to failure to pay proper wage and overtime under FLSA).

Notable security fraud cases in which Mr. Fantini was principally involved include: *In re PSINet Securities Litigation*, No: 00-1850-A (E.D. Va.) (settlement in excess of \$17 million); *Ahearn v. Credit Suisse First Boston, LLC*, No: 03-10956 (D. Mass.) (settlement of \$8 million); and *In re Nesco Securities Litigation*, 4:01-CV-0827 (N.D. Okla.).

Mr. Fantini has represented the City of Chicago in an action against certain online travel companies, such as Expedia, Hotels.com, and others, for their alleged failure to pay hotel taxes. He also represented the City of Philadelphia in a similar matter.

Prior to joining the firm, Mr. Fantini was a litigation associate with Dechert LLP. At George Washington University Law School, he was a member of the Moot Court Board. From 2017 - 2021, Mr. Fantini was named a Pennsylvania Super Lawyer by Thomson Reuters.

### **Michael J. Kane – Shareholder**

Michael J. Kane, a Shareholder of the firm, is a graduate of Rutgers University and Ohio Northern University School of Law, with distinction, where he was a member of the Law Review. Mr. Kane is admitted to practice in Pennsylvania and various federal courts.

Mr. Kane joined the antitrust practice in 2005. Prior to joining the firm, Mr. Kane was affiliated with Mager, White & Goldstein, LLP where he represented clients in complex commercial litigation involving alleged unlawful business practices including: violations of federal and state antitrust and securities laws, breach of contract and other unfair and deceptive trade practices. Mr. Kane has extensive experience working with experts on economic issues in antitrust cases, including impact and damages. Mr. Kane has served in prominent roles in high profile antitrust, securities, and unfair trade practice cases filed in courts around the country.

Currently, Mr. Kane is one the lead attorneys actively litigating and participating in all aspects of the *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) alleging, *inter alia*, that certain of Visa and MasterCard rules, including anti-steering restraints and default interchange fees, working in tandem have caused artificially inflated interchange fees paid by Merchants on credit and debit card transactions. After over a decade of litigation, a settlement of as much as \$6.24 billion and no less than \$5.54 billion was preliminary approved in January 2019. He is also one of the lead counsel in *Contant, et al. v. Bank of America Corp., et al.*, 1:17-cv-03139-LGS (S.D.N.Y.) alleging a conspiracy among horizontal competitors to fix the prices of foreign currencies and certain foreign currency instruments to recover damages caused by defendants on behalf of plaintiffs and members of a proposed class of indirect purchasers of FX instruments from defendants.

Mr. Kane was also one of the lead lawyers in *Castro v. Sanofi Pasteur, Inc.*, No. 2:11-cv-07178-JMV-MAH (D.N.J.), a certified class action of over 26,000 physician practices, other healthcare providers, and vaccine distributors direct purchasers, alleging that defendant Sanofi engaged in anticompetitive conduct to maintain its monopoly in the market for MCV4 vaccines resulting in artificially inflated prices for Sanofi's MCV4 vaccine Menactra and the MCV4 vaccine Menveo. In October 2017 the court granted final approval the \$61.5 million settlement.

Mr. Kane also had a leading role in *Ross v. American Express Company* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied). In the related matter *Ross v. Bank of America* (S.D.N.Y.) involving claims that the defendant banks and American Express unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions, Mr. Kane was one of the primary trial counsel in the five week bench trial. Mr. Kane also has had a prominent role in several antitrust cases against pharmaceutical companies challenging so-called pay for delay agreements wherein the brand drug company allegedly seeks

to delay competition from generic equivalents to the brand drug through payments by the brand drug company to the generic drug company. Mr. Kane served as co-lead counsel in *In re Microsoft Corporation Massachusetts Consumer Protection Litigation* (Mass. Super. Ct., Middlesex Cty.), in which plaintiffs alleged that as a result of Microsoft Corporation's anticompetitive practices, Massachusetts consumers paid more than they should have for Microsoft's operating systems and software. The case was settled for \$34 million. Other cases in which Mr. Kane has had a prominent role include: *In re Currency Conversion Fee Antitrust Litig.* (S.D.N.Y.) (settlement for \$336 million and injunctive relief); *In re Nasdaq Market Makers Antitrust Litig.* (S.D.N.Y.); *In re Compact Disc Antitrust Litig.* (C.D. Cal.); *In re WorldCom, Inc. Securities Litig.* (S.D.N.Y.); *In re Lucent Technologies, Inc. Securities Litig.* (D.N.J.); *City Closets LLC v. Self Storage Assoc., Inc.* (S.D.N.Y.); *Rolite, Inc. v. Wheelabrator Environmental Sys. Inc.*, (E.D. Pa.); and *Amin v. Warren Hospital* (N.J. Super.).

### **Robert Litan – Shareholder**

Robert Litan is a Shareholder in the Antitrust practice group. Litan is one of the few practicing lawyers (in any field, including antitrust) with a PhD in economics and an extensive research and testimonial career in economics. During his legal career, Litan has specialized in administrative and antitrust litigation, concentrating on economic issues, working closely with economic experts (having been a testimonial witness in more than 20 legal and administrative proceedings himself). He previously was a partner with Powell, Goldstein, Frazier and Murphy (Washington, D.C and Atlanta) and Korein Tillery (St. Louis Chicago). He began his legal career as an Associate at Arnold & Porter (Washington, D.C.)

Litan has directed economic research at three leading national organizations: the Brookings Institution, the Kauffman Foundation and Bloomberg Government.

Litan has held several appointed positions in the federal government. In 1993, he was appointed Principal Deputy Assistant Attorney General in the Antitrust Division of the Justice Department, where he oversaw civil non-merger litigation and the Department's positions on regulatory matters, primarily in telecommunications. During his tenure, he settled the Department's antitrust lawsuit against the Ivy League and MIT for fixing financial aid awards, oversaw the Department's first monopolization case against Microsoft (resulting in 1994 consent decree) and the initial stages of the Antitrust Division's price fixing case against Nasdaq (also resulting in a consent decree). In 1995, Litan was appointed Associate Director of the Office of Management and Budget, where he oversaw the budgets of five cabinet level agencies.

Litan has co- chaired two panels of studies for the National Academy of Sciences (Measuring Innovation and Disaster Loan Estimation), has served on one other NAS Committee (Use of Scientific Evidence), and consulted for NAS (on energy modeling). He has also been a member of the Presidential-Congressional Commission on the Causes of the Savings and Loan Crisis (1991-93).

Litan has consulted for a broad range of private and governmental organizations, including the U.S. Justice Department (antitrust division), the U.S. Treasury Department, the Federal Reserve

Bank of New York, the Federal Home Loan Bank of San Francisco, and the Financial Institutions Subcommittee of the House Banking Committee, the Monetary Authority of Singapore and the World Bank.

Litan has been adjunct professor teaching banking law at the Yale Law School and a Lecturer in Economics at Yale University. He also has taught economics and counter-insurgency at the U.S. Army Command General Staff College, Ft. Leavenworth

### **Hans Lodge – Shareholder**

Hans Lodge is a zealous advocate and is dedicated to protecting the rights of consumers in and out of court. Hans assists consumers who have been denied jobs or housing due to inaccurate criminal history information reporting in their employment/tenant background check reports. Hans also assists consumers who have been denied credit due to inaccurate information reporting in their credit reports and have suffered harm due to unlawful debt collection behavior.

Hans is an aggressive and strategic litigator who has a reputation of working tirelessly to get favorable outcomes for his clients. Hans understands how frustrating it can be trying to deal with background check companies, credit reporting agencies, credit bureaus, and debt collectors, and has a passion for helping clients navigate these areas of the law during their times of need.

Prior to joining the firm, Hans combined his passions for fighting for the little guy and oral advocacy by representing consumers in individual and class action litigation where he held businesses, banks, background check companies, credit bureaus, and debt collectors accountable for illegal practices. As an Associate Attorney at a consumer rights law firm, Hans represented consumers who had trouble paying their bills and were abused and harassed by debt collection agencies, some of whom had their motor vehicles wrongfully repossessed, bringing numerous individual and class action claims under the Fair Debt Collection Practices Act (FDCPA).

Hans also represented consumers who had trouble obtaining credit, employment, and housing due to inaccuracies in their credit reports and background check reports, bringing numerous individual and class action claims under the Fair Credit Reporting Act (FCRA). As an Associate Attorney at a national employment and consumer protection law firm, Hans represented consumers who purchased defective products and employees misclassified as independent contractors, bringing class action claims under consumer protection statutes and the Fair Labor Standards Act (FLSA).

Hans grew up in the Twin Cities and received his Bachelor's Degree from Gustavus Adolphus College in St. Peter, Minnesota, where he double-majored in Political Science and Communication Studies and graduated with honors. His first experience resolving quasi-legal disputes began as a Student Representative on the Campus Judicial Board, where he served for three years and resolved numerous complex disputes between students and the College. His interests in sports and ethics took him to New Zealand, Australia, and Fiji, where he studied Sports Ethics.

During his time at Marquette University Law School, Hans concentrated his legal studies on civil litigation and sports law. As a second-year law student, Hans gained valuable experience working as a law clerk for the Honorable Joan F. Kessler at the Wisconsin Court of Appeals. He also served as a member of the Marquette Sports Law Review where he wrote and edited articles about legal issues impacting the sports industry.

As a member of Marquette Law's moot court team, his brief writing and oral advocacy skills earned him a regional championship and an appearance in the national competition at the New York City Bar Association. Hans was also a member of Marquette's mock trial team, finishing in third place at the regional competition at the Daley Center in Chicago, Illinois.

Mr. Lodge is admitted to practice law in the United States District Court, District of Minnesota; United States District Court, Western District of Wisconsin; and both Minnesota and Wisconsin state courts.

In addition to practicing law, Hans is an Adjunct Professor at Concordia University, St. Paul, where he teaches a sports law course in the Master of Arts in Sports Management program.

**Patrick F. Madden – Shareholder**

Patrick F. Madden is a Shareholder in the Antitrust, Consumer Protection, Insurance Fraud, and Predatory Lending and Borrowers' Rights practice groups. His practice principally focuses on class actions concerning antitrust violations, financial practices, and insurance products.

Mr. Madden has served in key roles in multiple nationwide consumer class actions. For example, he represented homeowners whose mortgage loan servicers force-placed extraordinarily high-priced insurance on them and allegedly received a kickback from the insurer in exchange. Collectively, Mr. Madden's force-placed insurance settlements have made more than \$175 million in recoveries available to class members.

He has also represented plaintiffs in antitrust class actions. For example, Mr. Madden represents a proposed class of elite mixed martial arts fighters in an antitrust lawsuit against the Ultimate Fighting Championship. *Le, et al. v. Zuffa, LLC*, No. 15-cv-1045 (D. Nev.). Mr. Madden also represents a proposed class of broiler chicken farmers in an antitrust suit against the major chicken processing companies for colluding to suppress compensation to the farmers.

Prior to attending law school, Mr. Madden worked at the United States Department of Labor, Office of Labor-Management Standards as an investigator during which time he investigated allegations of officer election fraud and financial crimes by union officers and employees.

While at Temple Law School, Mr. Madden was the Executive Editor of Publications for the Temple Journal of Science, Technology & Environmental Law.

**Ellen T. Noteware – Shareholder**

Ms. Noteware has successfully represented investors, retirement plan participants, employees, consumers, and direct purchasers of prescription drug products in a variety of class action cases. She currently chairs the firm's Pro Bono Committee.

Ms. Noteware served on the trial team for *Cook v. Rockwell Int'l Corp.* No. 90-181 (D. Colo.) and received, along with the entire trial team, the "Trial Lawyer of the Year" award in 2009 from the Public Justice Foundation for their work on the case, which resulted in a jury verdict of \$554 million in February 2006, after a four-month trial, on behalf of thousands of property owners near the former Rocky Flats nuclear weapons plant located outside Denver, Colorado. The jury verdict was then the largest in Colorado history, and was the first time a jury has awarded damages to property owners living near one of the nation's nuclear weapons sites. In 2008, after extensive post-trial motions, the District Court entered a \$926 million judgment for the plaintiffs. The jury verdict in the case was vacated on appeal in 2010. In 2015, on a second trip to the Tenth Circuit Court of Appeals, Plaintiffs secured a victory with the case being sent back to the district court. In 2016, the parties reached a \$375 million settlement, which received final approval in 2017.

Ms. Noteware also has played a leading role in numerous antitrust cases representing direct purchasers of prescription drugs. Many of these cases have alleged that pharmaceutical manufacturers have wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws. Many of these cases have resulted in substantial cash settlements, including *In re: Namenda Direct Purchaser Antitrust Litigation*, (S.D.N.Y.) (\$750 million settlement – largest single-defendant settlement ever for a case alleging delayed generic competition); *In re Loestrin 24 Fe Antitrust Litigation*, (D.R.I.) (\$120 million settlement 3 weeks before trial was set to begin); *In re Ovcon Antitrust Litigation*, (D.D.C.) (\$22 million settlement); *In re Tricor Direct Purchaser Antitrust Litigation*, (D. Del.) (\$250 million settlement); *Meijer, Inc. v. Abbott Laboratories*, (N.D. Cal.) (Norvir) (\$52 million); and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.) (\$95 million).

Ms. Noteware is also extensively involved in litigating breach of fiduciary duty class action cases under the Employee Retirement Income Securities Act ("ERISA"). Her ERISA settlements include: *In re Nortel Networks Corp. ERISA Litigation* (M.D. Tenn.) (\$21 million settlement); *In re Lucent Technologies, Inc. ERISA Litigation* (D.N.J.) (\$69 million settlement); *In re SPX Corporation ERISA Litigation* (W.D.N.C.) (\$3.6 million settlement); *Short v. Brown University*, (D.R.I.) (\$3.5M settlement plus requirement that independent adviser for ERISA plans be retained); *Dougherty v. The University of Chicago*, No. 1:17-cv-03736 (N.D. Ill.) (\$6.5M settlement); and *Nicolas v. The Trustees of Princeton University*, No. 3:17-cv-03695 (D.N.J.) (settlement announced).

Ms. Noteware is a graduate of Cornell University (B.S. 1989) and the University of Wisconsin-Madison Law School (J.D. *cum laude* 1993) where she won the Daniel H. Grady Prize for the highest grade point average in her class, served as Managing Editor of the Law Review, and earned Order of the Coif honors. She is currently a member of the Pennsylvania, New York, and District of Columbia bars.

**Russell D. Paul – Shareholder**

Russell Paul is a Shareholder in the Consumer Protection, Qui Tam/Whistleblower, and Securities/Governance/Shareholder Rights practice groups and heads the Automobile Defect practice area. He concentrates his practice on consumer class actions, securities class actions and derivative suits, complex securities, and commercial litigation matters, and False Claims Act suits.

Mr. Paul has successfully litigated and led consumer protection and product defect actions in the automotive, pet food, soft drink, and home products industries. He has been appointed to a leadership position in several automotive defect cases. See *Francis v. General Motors, LLC*, No. 2:19-cv-11044-DML-DRG (E.D. Mich.), ECF No. 40 (appointed as member of Plaintiffs' Steering Committee); *Weston v. Subaru of America, Inc.*, No. 1:20-cv-05876 (D.N.J.), ECF No. 49 (appointed as Interim Co-Lead Counsel); *Miller v. Ford Motor Co.*, No. 2:20-cv-01796 (E.D. Cal.) ECF No. 60 (appointed to Interim Class Counsel Executive Committee) and *Powell v. Subaru of America, Inc.*, No. 1:19-cv-19114 (D.N.J.), ECF No. 26 (appointed as Interim Co-Lead Counsel). Mr. Paul has litigated securities class actions against Tyco International Ltd., Baxter Healthcare Corp., ALSTOM S.A., Able Laboratories, Inc., Refco Inc., Toll Brothers and the Federal National Mortgage Association (Fannie Mae). He has also litigated derivative actions in various state courts around the country, including in the Delaware Court of Chancery. Mr. Paul has also briefed and argued several federal appeals, including in the Third, Sixth and Ninth Circuits.

In addition to securities litigation, Mr. Paul has broad corporate law experience, including mergers and acquisitions, venture capital financing, proxy contests, and general corporate matters. He began his legal career in the New York office of Skadden, Arps, Slate, Meagher & Flom.

Mr. Paul has been designated a "Pennsylvania Super Lawyer" and a "Top Attorney in Pennsylvania."

Mr. Paul graduated from the Columbia University School of Law (J.D. 1989) where he was a Harlan Fiske Stone Scholar, served on the Moot Court Review Board, was an editor of Pegasus (the law school's catalog) and interned at the United States Attorneys' Office for the Southern District of New York. He completed his undergraduate studies at the University of Pennsylvania, earning a B.S. in Economics from the Wharton School (1986) and a B.A. in History from the College of Arts and Sciences (1986). He was elected to the Beta Gamma Sigma Honors Society.

**Barbara A. Podell – Shareholder**

Barbara A. Podell is a Shareholder in the Securities practice group at the firm. She concentrates her practice on securities class action litigation.

Ms. Podell graduated from the University of Pennsylvania (*cum laude*) and the Temple University School of Law (*magna cum laude*), where she was Editor-in-Chief of the Temple Law Quarterly.

Ms. Podell was one of the firm's senior attorneys representing the Pennsylvania State Employees' Retirement System ("SERS") as the lead plaintiff in the *In re CIGNA Corp. Sec. Litig.*, No. 02-CV-

8088 (E.D. Pa.), a federal securities fraud class action in which SERS moved for, and was appointed, lead plaintiff. CIGNA allegedly concealed crucial operational problems, which, once revealed, caused the company's stock price to fall precipitously. The firm obtained a \$93 million settlement. This was a remarkable recovery because there were no accounting restatements, government investigations, typical indicators of financial fraud, or insider trading. Moreover, the case was settled on the eve of trial (22.7% of losses recovered).

Before joining the firm, Ms. Podell was a founding member of Savett Frutkin Podell & Ryan, P.C., and before that, a shareholder at Kohn, Savett, Klein & Graf and an associate at Dechert LLP, all in Philadelphia.

#### **Camille Fundora Rodriguez – Shareholder**

Ms. Rodriguez is a Shareholder in the firm's Employment & Unpaid Wages, Consumer Protection, and Lending Practices & Borrowers' Rights practice groups. Ms. Rodriguez primarily focuses on wage and hour class and collective actions arising under the Fair Labor Standards Act and state laws. She is also the Diversity, Equity, and Inclusion Coordinator and leads the Firm's DEI Task Force, which enacts a broad range of diversity efforts, including efforts to hire and retain attorneys and non-attorneys from diverse backgrounds and to foster an inclusive work environment, including through Firmwide trainings on implicit bias issues that may impact the workplace.

Prior to joining the firm, Ms. Rodriguez practiced in the litigation department at a boutique Philadelphia law firm where she represented clients in a variety of personal injury, disability, and employment discrimination matters. Ms. Rodriguez is a graduate of Widener University School of Law.

Ms. Rodriguez was recently named a 2023 The Best Lawyers in America: Ones to Watch. She was also a Pennsylvania Super Lawyer "Rising Star" in 2022. In 2021, Ms. Rodriguez was named a "Rising Star" by *Law360*, a "Rising Star of the Plaintiffs Bar" by the *National Law Journal*, and "Lawyer on the Fast Track" by *The Legal Intelligencer*. She also has been a Pennsylvania Super Lawyer "Rising Star" between 2017 and 2021.

Ms. Rodriguez is an active member of the Pennsylvania, Philadelphia, and Hispanic Bar Associations.

#### **Daniel J. Walker – Shareholder**

Dan Walker is a Shareholder of the firm, which he rejoined in July 2017 after serving three years in the Health Care Division at the Federal Trade Commission. Mr. Walker practices in the firm's Washington, D.C. office.

While at the Federal Trade Commission, Mr. Walker investigated and litigated antitrust matters in the health care industry. In addition to leading various nonpublic investigations in the pharmaceutical and health information technology sectors, Mr. Walker litigated *Federal Trade Commission v. AbbVie Inc., et al.*, a case alleging that a brand pharmaceutical manufacturer engaged in sham patent litigation to delay generic competition, and *Federal Trade Commission*

*v. Cephalon Inc.*, a "pay-for-delay" lawsuit over a brand pharmaceutical manufacturer's payment to four generic competitors in return for the generics' agreement to delay entry into the market. The Cephalon case settled shortly before trial for \$1.2 billion-the largest equitable monetary relief ever secured by the Federal Trade Commission-as well as significant injunctive relief.

During his time in private practice, Mr. Walker has litigated cases on behalf of plaintiffs and defendants in many areas of law, including antitrust, financial fraud, breach of contract, bankruptcy, and intellectual property. Mr. Walker has helped recover hundreds of millions of dollars on behalf of plaintiffs, including in *In re Titanium Dioxide Antitrust Litigation* (with settlements totaling \$163.5 million for purchasers of titanium dioxide), *In re High Tech Employee Antitrust Litigation* (with settlements totaling \$435 million for workers in the high tech industry), and *Adriana Castro, M.D., P.A., et al. v. Sanofi Pasteur Inc.*, No. 11-cv-07178 (D.N.J.) (with a \$61.5 million settlement pending court approval for purchasers of pediatric vaccines). Mr. Walker was also a member of the team that recovered the funds lost by account holders during MF Global's collapse and a member of the trial team that successfully represented the Washington Mutual stockholders seeking to recover investments lost in the bankruptcy.

In addition, Mr. Walker has spoken frequently on antitrust issues, including on the intersection of antitrust and intellectual property in the health care industry.

Mr. Walker is a *magna cum laude* graduate of Amherst College and Cornell University Law School, where he was an Articles Editor for the Cornell Law Review. Before entering private practice, Mr. Walker clerked for the Honorable Richard C. Wesley of the United States Court of Appeals for the Second Circuit.

**Michaela Wallin – Shareholder**

Michaela Wallin is a Shareholder in the Antitrust and Employment Law practice groups. Ms. Wallin's work in the Antitrust group involves complex class actions, including those alleging that pharmaceutical manufacturers have wrongfully kept less expensive drugs off the market, in violation of the antitrust laws. In the Employment Law Group, Ms. Wallin focuses on wage and hour class and collective actions arising under federal and state law.

Prior to joining the firm, Ms. Wallin served as a law clerk for the Honorable James L. Cott of the United States District Court of the Southern District of New York. She also completed an Equal Justice Works Fellowship at the ACLU Women's Rights Project, where she worked to challenge local laws that target domestic violence survivors for eviction and impede tenants' ability to call the police.

Ms. Wallin is a graduate of Columbia Law School, where she was a Harlan Fiske Stone Scholar. Ms. Wallin graduated *magna cum laude* from Bowdoin College, where she was Phi Beta Kappa and a Sarah and James Bowdoin Scholar.

**Alfred W. Zaher – Shareholder**

Alfred Zaher is a Shareholder with the firm's Intellectual Property Department and he focuses his practice on patent, trademark, and trade secret litigation, licensing, and counseling. He has experience representing clients before the U.S. Patent and Trademark Office and the U.S. Copyright Office. He counsels companies in the biotechnology, pharmaceuticals, medical devices, electronics, and software industries. Having close relationships with Chinese officials and law firms, Alfred has a particular focus on managing clients' patent and trademark portfolios in China, including securing and prosecuting infringers in the Chinese court system. In his role as the firm's Chief Diversity & Inclusion Officer, Alfred is responsible for overseeing, implementing, and providing leadership to Montgomery McCracken's diversity initiatives. Prior to his legal career, Alfred was a research engineer and electrical engineer with more than 10 years of technical experience with companies like The Boeing Company and Litton Industries.

## Senior Counsel

### Andrew Abramowitz – Senior Counsel

Andrew Abramowitz, Senior Counsel in the Securities Department, concentrates his practice in shareholder litigation, representing investors in matters under the federal securities laws and state law governing breach of fiduciary duty. Prior to joining the firm, Mr. Abramowitz was a partner with a prominent Philadelphia law firm where he practiced for more than twenty years.

Mr. Abramowitz has served as one of the lead counsel in numerous cases, including, of note, *In re Parmalat Securities Litigation* (S.D.N.Y.), often referred to as “the Enron of Europe,” which was a worldwide securities fraud involving an international dairy conglomerate; *In re SCOR Holding (Switzerland) AG Litigation* (S.D.N.Y.), the first case ever to secure recovery for investors in both a U.S. jurisdiction and a foreign forum; and *In re Abbott Depakote Shareholder Derivative Litigation* (N.D. Ill.), involving the off-label marketing of an anti-seizure drug.

Other notable cases in which Mr. Abramowitz played a significant role include: *Howard v. Liquidity Services, Inc.* (D.D.C.); *In re The Bancorp, Inc. Securities Litigation* (D. Del.); *In re Life Partners Holdings, Inc. Derivative Litigation* (W.D. Tex.); *In re Synthes Inc. Shareholder Litigation* (Del. Ch.); *In re Atheros Communications, Inc. Shareholder Litigation* (Del. Ch.); *Utah Retirement Systems v. Strauss* (American Home Mortgage) (E.D.N.Y.); *In re PSINet, Inc. Securities Litigation* (E.D. Va.); *Penn Federation BMW v. Norfolk Southern Corp.* (E.D. Pa.); *Inter-Local Pension Fund of the Graphic Communications Conference of the International Brotherhood of Teamsters v. Cybersource Corp.* (Del. Ch.).

He previously served as Legal Counsel to Tradeoffs, a popular health policy podcast launched by a prominent Philadelphia journalist.

Mr. Abramowitz graduated *cum laude* from Franklin & Marshall College (1993) where he earned membership in Phi Beta Kappa. He earned a J.D. from the University of Maryland School of Law (1996), where he was Assistant Editor for *The Business Lawyer*, published jointly with the American Bar Association.

He was a long-standing member of the Corporate Advisory Board of the Pennsylvania Association of Public Employee Retirement Systems (PAPERS), an organization dedicated to educating trustees and fiduciaries of public pension funds throughout Pennsylvania. He has also participated for more than fifteen years in the University of Pennsylvania School of Law's Mentoring Program, in which he mentors international students in the L.L.M. program about the practice of law in the U.S. He has written and spoken extensively on matters relating to securities litigation and corporate governance.

Mr. Abramowitz is also the author of two novels, *A Beginner's Guide to Free Fall* (Lake Union Publishing, 2019), and *Thank You, Goodnight* (Touchstone/Simon & Schuster, 2015).

**Natisha Aviles – Senior Counsel**

Natisha Aviles is Senior Counsel in the firm's Antitrust practice group. She concentrates her practice on complex antitrust litigation.

**Stephanie K. Benecchi – Senior Counsel**

Stephanie K. Benecchi is Senior Counsel with the firm's Intellectual Property Department in Philadelphia. Prior to joining Berger Montague, Stephanie was a partner at Montgomery McCracken Walker & Rhoads in their Philadelphia and Cherry Hill, NJ offices, where she focused her practice on commercial litigation, including class action defense, as well as white collar defense and government investigations. Prior to her time at MMWR, Stephanie was an associate at Kasowitz Benson Torres in New York.

Stephanie manages an interdisciplinary litigation team representing a medical device manufacturer in multiple patent infringement suits. Stephanie's experience focuses on health care, where she represents both entities and individuals from health systems, medical practices, and medical device and pharmaceutical manufacturers in conjunction with government investigations including billing, labeling and monitoring of medical devices, and pharmaceutical sales practices.

Stephanie is a member of the Legal Ethics and Professional Responsibility committee for the Pennsylvania Bar Association, and has devoted time to speaking and writing on legal ethics issues. Her presentations have yielded "wow" reviews from attendees impressed with her ability to tackle difficult issues like mental health services on campus. Her publications regarding the ethics of representing clients at risk of suicide provided valuable guidance to the bar. Stephanie co-wrote articles on the merits of removing "zeal" from the ABA model rules of professional conduct, published by the ABA Section of Litigation Ethics and Professionalism ("Exploring the Bounds of Professionalism: Is it Time to Remove 'Zeal' from the ABA Model Rules of Professional Conduct?") and the Pennsylvania Lawyer ("The Pennsylvania Supreme Court Should Remove the 'Z' Words from the Rules of Professional Conduct").

Stephanie is a graduate of Fordham Law School, where she served as a staff member on the Fordham Journal of Corporate & Financial Law, and received the Archibald R. Murray Public

Service Award for externing at the NYSE. Stephanie also graduated from Columbia University with a B.A. in Psychology, where she was a member of the Varsity Women's Swim Team.

**Mark DeSanto – Senior Counsel**

Mark B. DeSanto is Senior Counsel in the Firm's Consumer Protection department in Philadelphia. Prior to joining Berger Montague, Mark was an associate at Sauder Schelkopf where he litigated various consumer class actions with a particular emphasis on automotive defect cases, Chimicles Schwartz Kriner & Donaldson-Smith where he litigated various consumer, data breach, and ERISA class actions that helped recover over \$82 million for aggrieved class members and was a member of the firm's securities financial institution marketing committee, and Kessler Topaz Meltzer & Check where he worked as an associate in the securities department and helped secure over \$220 million for investors in securities fraud class actions. In April 2023, Mark was selected by the Legal Intelligencer as a "Lawyer on the Fast Track."

Mark graduated from the University of Miami School of Law, cum laude, in 2013, where he was a member of the National Security and Armed Conflict Law Review and earned President's Honor Roll and Dean's List distinction in multiple semesters. Mark also earned his Bachelor of Business Administration in Finance from the University of Miami in 2009. Mark is admitted to practice law in Florida, Pennsylvania, and New Jersey.

**Jennifer Elwell – Senior Counsel**

Jennifer Elwell is Senior Counsel in the firm's Consumer Protection group. She concentrates her practice in complex civil litigation involving actions brought on behalf of consumers for corporate wrongdoing and consumer fraud.

**Patrick J. Farley – Senior Counsel**

Patrick J. Farley is Senior Counsel in the firm's Intellectual Property Department. Mr. Farley has over 20 years of international experience in intellectual property law and concentrates his practice on all aspects of intellectual property, including patent drafting, patent prosecution, patent litigation, patent and trademark portfolio management, and licensing. Patrick counsels companies in the biotechnology and pharmaceuticals industries with a particular focus on patent and trademark portfolios, agreements, and due diligence. Prior to joining Berger Montague, Patrick was a partner at a Philadelphia law firm.

**Abigail J. Gertner – Senior Counsel**

Abigail J. Gertner is an attorney in the firm's Philadelphia office and practices in the firm's Consumer Protection and ERISA Litigation practice groups.

Before joining the firm, Ms. Gertner worked at both plaintiff and defense firms, where she gained experience in complex litigation, including consumer fraud, ERISA, toxic tort, and antitrust matters. She concentrates her current practice on automotive defect, consumer fraud, and ERISA class actions.

Ms. Gertner graduated from Santa Clara University School of Law in 2003, where she interned for the Santa Clara County District Attorney's Office in the Child and Elder Abuse Unit. She completed her undergraduate studies at Tulane University in 2000, earning a B.S. in Psychology and a B.A. in Classics.

She is also active in her community, formerly serving as a Youth Aid Panel chairperson for Upland in Delaware County. She now serves on the Upland Borough Council, beginning her four-year term in January 2020.

Ms. Gertner is admitted to practice in state courts in Pennsylvania and New Jersey; and the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan.

**Aaron Haleva – Senior Counsel**

Aaron Haleva is Senior Counsel in the firm's Intellectual Property Department where he focuses his practice on intellectual property litigation, trademarks, and patent preparation and prosecution in various industries including healthcare, pharmaceuticals and immunology, chemical preparations and manufacture, computing systems and architectures, digital technology and coding, memory devices and interfaces, large data mining and artificial intelligence. Aaron has developed on-board interactive vision systems for mobile autonomous robots, created big data analytical tools for immunology-based patient data to predict onset of disease and severity of conditions, and has navigated the patent procurement process both as an inventor and as an attorney. Prior to joining Berger Montague, Aaron was an attorney at a national law firm.

**Karen L. Handorf – Senior Counsel**

Karen L. Handorf is Senior Counsel at Berger Montague and a member of the firm's Employee Benefits & ERISA practice group, where she represents the interests of employees, retirees, plan sponsors, plan participants and beneficiaries in employee benefit and ERISA cases in the district court and on appeal. Ms. Handorf brings four decades of ERISA knowledge to Berger Montague's practice, where she will focus on emergent issues in health care, with a particular focus on the actions of insurance carrier TPAs that exercise fiduciary duties under ERISA-covered health plans. Ms. Handorf also advises employers and other plan sponsors on the provisions in their administrative service agreements that might cause them to unwittingly violate ERISA or other employee benefit laws. Ms. Handorf is also focused on other legal violations related to patient health care under other (non-ERISA) federal statutes and state consumer statutes in her efforts to address the exorbitant health care costs facing most Americans.

Prior to joining Berger Montague, Ms. Handorf was a partner at another prominent plaintiffs' class action firm and the immediate-past chair and then co-chair of that firm's Employee Benefits/ERISA practice group, where she led efforts in identifying, litigating, and when necessary, appealing often novel employee benefits issues. In that role, Ms. Handorf was one of the pioneers of the church plan litigation against organizations claiming to be exempt from ERISA due to their affiliation with or status as religious organizations.

Prior to that, Ms. Handorf had a distinguished career in government service. She spent 25 years at the Department of Labor, where, among other senior positions, she was the Deputy Associate Solicitor in the Plan Benefits Security Division. During her tenure at the Department of Labor, Ms. Handorf played a major role in formulating and litigating the Government's position on a wide variety of ERISA issues, from conception through expression in amicus briefs filed by the United States Solicitor General in the United States Supreme Court.

**Matthew Hartman – Senior Counsel**

Matthew Hartman is Senior Counsel in the firm's San Diego office. He primarily practices in complex litigation.

**Joseph C. Hashmall – Senior Counsel**

Joe Hashmall, Senior Counsel, is a member of the firm's Consumer Protection practice group. In that practice group, Mr. Hashmall primarily focuses on consumer class actions concerning financial and credit reporting practices.

Mr. Hashmall is a graduate of the Grinnell College and the Cornell University School of Law. During law school, Mr. Hashmall served as the Executive Editor of the Cornell Legal Information Institute's Supreme Court Bulletin and as an Editor for the Cornell International Law Journal. Mr. Hashmall has also worked as law clerk for President Judge Bonnie B. Leadbetter of the Pennsylvania Commonwealth Court and for the Honorable David J. Ten Eyck of the Minnesota District Court.

**Mariyam Hussain – Senior Counsel**

Mariyam Hussain is Senior Counsel with the Firm's Employment department. Before joining Berger Montague, Mariyam was counsel at Justice Catalyst Law, where she developed interdisciplinary impact litigation cases and legal strategies to advance economic and social justice. Prior to that, Mariyam served as a supervising attorney with Legal Aid Chicago's Immigrant and Workers' Rights Practice Group, managing a team of attorneys and paralegals in complex multi-plaintiff litigation on behalf of migrant farmworkers in Illinois. During her time with Legal Aid Chicago, Mariyam played a leading role in the filing of a federal complaint in U.S. Bankruptcy Court alleging racketeering, human trafficking, forced labor, and FLSA violations and other wrongful conduct against H-2A employers doing business under various names. Mariyam also previously worked as a senior associate doing class-action and wage-and-hour litigation at a plaintiff side law firm in New York, and as staff attorney with the New York City Commission on Human Rights.

Mariyam received her Juris Doctorate and undergraduate degrees from DePaul University and a Masters in Comparative Literature from the University of London.

**J. Quinn Kerrigan – Senior Counsel**

J. Quinn Kerrigan is Senior Counsel in the firm's Consumer Protection practice group. He concentrates his practice in the area of complex consumer litigation, prosecuting actions against

corporate defendants and other institutions for violations of state and federal law, including state causes of action challenging unfair and deceptive practices.

Before joining the firm, Mr. Kerrigan gained notable experience litigating antitrust and consumer class actions, corporate mergers, derivative claims, and insurance coverage disputes.

Mr. Kerrigan is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey.

Mr. Kerrigan is a graduate of Temple University's Beasley School of Law and John Hopkins University.

**Joseph P. Klein – Senior Counsel**

Joseph Klein is Senior Counsel in the Antitrust practice group and focuses his work on complex antitrust litigation.

**David A. Langer – Senior Counsel**

David A. Langer is Senior Counsel in the Antitrust practice group. He concentrates his practice in complex antitrust litigation.

Mr. Langer has had a primary role in the prosecution of the following antitrust class actions: *In re Currency Conversion Fee Antitrust Litigation* (S.D.N.Y.) (after 5½ years of litigation, through the close of fact and expert discovery, achieved a settlement consisting of \$336 million and injunctive relief for a class of U.S. Visa and MasterCard cardholders; extraordinary settlement participation from class members drawing more than 10 million claimants in one of the largest consumer antitrust class actions); *Ross and Wachsmuth v. American Express Co., et al.* (S.D.N.Y.) (\$49.5 million settlement achieved after more than 7 years of litigation and after summary judgment was denied); *Ross, et al. v. Bank of America, N.A. (USA), et al.* (S.D.N.Y.) (obtained settlements with four of the nations' largest card issuers (Bank of America, Capital One, Chase and HSBC) to drop their arbitration clauses for their credit cards for 3.5 years, and a settlement with the non-bank defendant arbitration provider (NAF), who agreed to cease administering arbitration proceedings involving business cards for 3.5 years); and *In re Linerboard Antitrust Litigation* (E.D. Pa.) (helped obtain settlements of more than \$200 million dollars).

Mr. Langer was one of the trial team chairs in the 5-week consolidated bench trial of arbitration antitrust claims in *Ross v. American Express* and *Ross v. Bank of America*, where the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, commended the "extraordinary talents of Plaintiffs' counsel."

Mr. Langer has also had a primary role in appellate proceedings, obtaining relief for his clients in a number of matters, including *Ross, et al. v. American Express Co., et al.*, 547 F.3d 137 (S.D.N.Y. 2008) (precluding an alleged co-conspirator from relying on the doctrine of equitable estoppel to invoke arbitration clauses imposed by its competitor co-conspirators); *Ross, et al. v.*

*Bank of America, N.A. (USA), et al.*, 524 F.3d 217 (S.D.N.Y. 2008) (holding that antitrust plaintiffs possess Article III standing to challenge the defendants' collusive imposition of arbitration clauses barring participation in class actions); *In re Pharmacy Benefit Managers Antitrust Litig.*, 700 F.3d 109 (3d Cir. 2012) (finding opposing party waived the right to compel arbitration and reversing district court).

While at Vermont Law School, Mr. Langer was Managing Editor and a member of the Vermont Law Review.

**Natalie Lesser – Senior Counsel**

Natalie Lesser is Senior Counsel in the firm's Consumer Protection and Employee Benefits & ERISA practice groups. She concentrates her practice on automotive defect, consumer fraud, and ERISA class actions.

Before joining the firm, Ms. Lesser gained experience at both plaintiff and defense firms, litigating complex matters involving consumer fraud, securities fraud, and managed care disputes.

Ms. Lesser is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the District of New Jersey, and the Eastern District of Michigan, and the United States Courts of Appeals for the Third Circuit and the Ninth Circuit.

Ms. Lesser received her law degree from the University of Pittsburgh School of Law in 2010 and her undergraduate degree in English from the State University of New York at Albany in 2007. While attending the University of Pittsburgh School of Law, Ms. Lesser was Editor in Chief of the University of Pittsburgh Law Review.

**Shawn S. Li – Senior Counsel**

Dr. Shawn Li is Senior Counsel in the firm's Intellectual Property Department. Dr. Li has developed global protection strategies, drafted, and prosecuted U.S. and international patent applications, prosecuted patent reexaminations, and negotiated and prepared complex licenses and related agreements. Relying on his education in the medical sciences, he provides counsel to clients in biotechnology, pharmaceutical, chemical, medical device, and other technology related industries. He also advises U.S. and multinational clients on issues related to protecting intellectual property in China, including patent, trademark, and trade secret enforcement actions, as well as cross border technology transfers and joint ventures. Prior to joining Berger Montague, Shawn gained experience working for nationally recognized law firms in Philadelphia. He has conducted patent infringement, validity, and inequitable conduct analysis and assisted in preparation for expert reports and prepared expert witnesses. Shawn worked as a postdoctoral research fellow in the department of physiology at the University of Pennsylvania School of Medicine and as a graduate research assistant at the Skirball Institute of Biomolecular Medicine at the New York University School of Medicine.

**James Maro – Senior Counsel**

James Maro is Senior Counsel with the Firm's Securities department in Philadelphia. Prior to joining Berger Montague, Jim was a partner at Kessler Topaz Meltzer & Check, LLP, where he focused his practice on securities fraud and consumer protection class action litigation. Jim also represented investors in derivative, as well as mergers and acquisitions litigation. Most recently, Jim managed Kessler Topaz's "startup" department where he developed policies and practices regarding the firm's marketing efforts, potential investor and client communications, and client retention.

Jim graduated from Villanova University School of Law and received his undergraduate degree from the Johns Hopkins University.

**Richard L. Moss – Senior Counsel**

Richard L. Moss is Senior Counsel in the firm's Intellectual Property Department. He focuses his practice on U.S. and foreign patent prosecution matters in electrical, electromechanical, general mechanical, medical device, computer software, and process technology areas. Richard also represents and counsels clients in intellectual property litigation matters and post-grant proceedings before the U.S. Patent and Trademark Office Patent Trial and Appeal Board, as well as in business transactions involving intellectual property assets, including licensing and corporate due diligence matters.

Prior to joining Berger Montague, Richard was a Partner at a Philadelphia law firm and, before that, a Special Counsel at a prominent New York City based international law firm.

**Eric Moura – Senior Counsel**

Eric Moura is Senior Counsel with the Firm's Antitrust department. Prior to his current role, Eric was a partner at a Big Law firm in Brazil representing large Brazilian corporations in sophisticated litigation and assisting institutional investors and litigation funders in making and maintaining investments in Brazil.

Eric led diligence teams analyzing Brazilian legal claims for institutional investors interested in emerging markets and monitored investors' legal claims portfolios. Eric has also led due diligence procedures for litigation funders that utilized his assessment to determine the strength of the claims being considered for acquisition, providing the necessary risk analysis to guide investors through the Brazilian market.

Academically, during Eric's LL.M in Political and Economic Law at Mackenzie University in Brazil, he acted as the Executive Secretary for ASAP: Academics Stand Against Poverty – Chapter Brazil, obtaining a full scholarship. He has also participated in Columbia's Business Law Academy and Temple's Excelling in Evidence Law programs. In addition to his role at Ever Corp., Eric researches legal developments connecting the Brazilian and American legal systems focusing on opportunities for companies and institutional investors as a Visiting Scholar at Columbia University.

**Jeffrey L. Osterwise – Senior Counsel**

Mr. Osterwise pursues relief for consumers and businesses in a broad array of matters.

Mr. Osterwise litigates class actions on behalf of consumers who have been damaged by automobile manufacturers that conceal known defects in their vehicles and refuse to fulfill their warranty obligations. His experience includes actions against General Motors, Nissan North America, American Honda Motor Company, among others.

Mr. Osterwise also has substantial experience advising consumers and businesses of their rights with respect to a variety of other defective products. He has helped injured parties pursue their claims arising from defects in pharmaceuticals, solar panels, riding lawn tractors, and HVAC and plumbing products.

In addition to defective product claims, Mr. Osterwise has fought to protect consumers from unfair business practices. For example, he has represented clients deceived by their auto insurance carriers and consumers improperly billed by a national health club chain.

Mr. Osterwise also has significant experience representing the interests of shareholders in securities fraud and corporate governance matters. And, he represented the City of Philadelphia and the City of Chicago in separate actions against certain online travel companies for their failure to pay hotel taxes.

**Kerri Petty – Senior Counsel**

Kerri Petty is Senior Counsel for the firm and concentrates her practice on complex litigation.

**Alexandra Koropey Piazza – Senior Counsel**

Alexandra Koropey Piazza, Senior Counsel, is a member of the firm's Employment Law, Consumer Protection and Lending Practices & Borrowers' Rights practice groups. In the Employment Law practice group, Ms. Piazza primarily focuses on wage and hour class and collective actions arising under state and federal law. Ms. Piazza's work in the Consumer Protection and Lending Practices & Borrowers' Rights practice groups involves consumer class actions concerning financial practices.

Ms. Piazza is a graduate of the University of Pennsylvania and Villanova University School of Law. During law school, Ms. Piazza served as a managing editor of the Villanova Sports and Entertainment Law Journal and as president of the Labor and Employment Law Society. Ms. Piazza also interned at the United States Attorney's Office and served as a summer law clerk for the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania.

**Jacob M. Polakoff – Senior Counsel**

Since joining the firm in 2006, Mr. Polakoff has concentrated his practice on the prosecution of class actions and other complex litigation, including the representation of plaintiffs in consumer protection, securities, and commercial cases.

Mr. Polakoff currently represents homeowners throughout the country in various product liability actions concerning defective construction products, including plumbing and roofing. He served on the teams of co-lead counsel in two nationwide class action plumbing lawsuits: (i) against NIBCO, Inc., claiming that NIBCO's cross-linked polyethylene (PEX) plumbing tubes and component parts

were defective and prematurely failed (\$43.5 million settlement), and (ii) in *George v. Uponor, Inc., et al.*, a class action about Uponor's high zinc yellow brass PEX plumbing fittings (\$21 million settlement).

He represented the shareholders of the Philadelphia Stock Exchange in *Ginsburg v. Philadelphia Stock Exchange, Inc., et al.*, in the Delaware Court of Chancery, which settled for in excess of \$99 million in addition to significant corporate governance provisions. He also is on the team of co-lead counsel representing the shareholders of Patriot National, Inc., and helped secure a \$6.5 million settlement with the bankrupt company's directors and officers.

Mr. Polakoff's experience also includes representing entrepreneurs and small businesses in actions against Fortune 500 companies.

Mr. Polakoff was selected as a Pennsylvania Super Lawyer in 2021, an honor conferred upon only the top 5% of attorneys in Pennsylvania. He was previously selected as a Pennsylvania Super Lawyer – Rising Star in 2010 and 2013-2019.

Mr. Polakoff is a 2006 graduate of the joint J.D./M.B.A. program at the University of Miami, where he was the recipient of the Dean's Certificate of Achievement in Legal Research & Writing, was awarded a Graduate Assistantship and was honored with the Award for Academic Excellence in Graduate Studies.

He holds a 2002 B.S.B.A. from Boston University's School of Management, where he concentrated in finance.

Mr. Polakoff is the Judge of Election for Philadelphia's 30th Ward, 1st Division. He was also a member of the planning committee and the sponsorship sub-committee for the Justice for All 5K from its inception. The event benefited Community Legal Services of Philadelphia, which provides free legal services, in civil matters, to low-income Philadelphians.

#### **Geoffrey C. Price – Senior Counsel**

Geoffrey C. Price is Senior Counsel in the firm's antitrust division, specializing in complex litigation related to pharmaceuticals, investment fraud, and general anti-competitive business practices.

#### **Richard Schwartz – Senior Counsel**

Richard Schwartz is Senior Counsel in the Antitrust practice group. Mr. Schwartz concentrates his practice in the area of complex antitrust litigation with a focus on representation of direct purchasers of prescription drugs.

Prior to joining the firm, Mr. Schwartz was an attorney in the New York and Philadelphia offices of a firm where he represented plaintiffs in a variety of matters before trial and appellate courts with a focus on antitrust and shareholder class actions.

Mr. Schwartz is a member of the teams prosecuting a number of antitrust class actions on behalf of direct purchasers of prescription drugs in which the purchasers allege that generic drugs have

been illegally kept off the market. Those cases include *In re Opana ER Antitrust Litigation*, No. 14-cv-10151 (N.D. Ill.); *In re Suboxone*, No. 13-MD-2445 (E.D. Pa.); *In re Solodyn*, No. 14-MD-2503 (D. Mass.) and *In re Celebrex*, No. 14-cv-00361 (E.D. Va.).

Mr. Schwartz is admitted to practice in New York, Pennsylvania, and Illinois.

### **Julie Selesnick – Senior Counsel**

Julie S. Selesnick is Senior Counsel at Berger Montague and a member of the firm's Employee Benefits & ERISA practice group, where she represents the interests of employees, retirees, plan sponsors, plan participants and beneficiaries in employee benefit and ERISA cases in the district court and on appeal. Ms. Selesnick's practice is focused on health care, where she brings more than a decade of insurance coverage experience to good use focusing on the behaviors of insurance carrier TPAs that exercise fiduciary duties under ERISA-covered health plans and counseling employers and other plan sponsors on provisions in their administrative service agreements that might cause them to unwittingly violate ERISA or other employee benefit laws. Ms. Selesnick is also focused on other legal violations related to patient health care under various federal statutes and state consumer statutes to help everyday American's bring down the out-of-control health care costs they face.

Prior to joining Berger Montague, Ms. Selesnick was of counsel at another prominent plaintiffs' class action firm, where she practiced primarily in the ERISA group representing plaintiffs in class cases related to 401K excessive fee disputes, actuarial equivalence pension issues, church plan litigation, and cases against third-party administrators for breach of fiduciary duty in connection with their administration of ERISA-covered group health plans. Ms. Selesnick also worked in that firm's Consumer Protection group litigating consumer class action lawsuits and policyholder insurance coverage actions on behalf of individual and class plaintiffs.

Prior to that, Ms. Selesnick was a partner at a Washington D.C. law firm in both the insurance coverage and employment law groups, where she represented carriers in insurance coverage litigation and subrogation litigation in state and federal courts throughout the United States, and represented both employers and employees in employment litigation, as well as negotiating severance agreements and reviewing and updating employee handbooks. Ms. Selesnick has first chair trial experience in jury and bench trials and has experience with arbitration and mediation of complex disputes.

Ms. Selesnick is an accomplished writer and has written numerous legal and non-legal articles and blog posts. She has also contributed to ERISA Litigation textbooks and cumulative supplements, and written materials for use in health-care litigation conferences.

Ms. Selesnick graduated with a B.A., cum laude, from the San Diego State University and was elected Phi Beta Kappa and Pi Sigma Alpha, and she received her J.D., from the

George Washington University School of Law, where she was a member of the George Washington University Law Review and was inducted into the Order of the Coif.

**John Timmer – Senior Counsel**

John Timmer is senior counsel in the Firm's Commercial Litigation Department. Prior to joining Berger Montague, John was a partner at Schnader Harrison Segal & Lewis LLP where he focused on commercial litigation matters. John represented a manufacturer of roofing shingles and a truck manufacturer in numerous matters involving product defect claims, and also represented the School District of Philadelphia in various matters alleging breaches of contract. John also successfully represented the Philadelphia District Attorney's Office in litigation relating to an alleged "Do Not Call" list that went to trial in June 2023 in which a nonsuit was entered at the close of plaintiff's case.

Prior to working at Schnader Harrison, John worked at the Hoyle Law Firm, where he represented defendants in class actions involving defective roofing shingles and violations of the Driver's Privacy Protection Act, and where he was counsel for a receiver charged with recovering money for defrauded investors in a Ponzi scheme. John started his career at Pepper Hamilton (now Troutman Pepper) where he represented pharmaceutical and medical device companies.

John has represented numerous pro bono clients, including on behalf of incarcerated individuals asserting civil rights claims and on behalf of tenants in landlord-tenant court. John graduated from Wake Forest University and Vanderbilt Law School.

**Zachary M. Vaughan – Senior Counsel**

Zach Vaughan is Senior Counsel who works with the Firm's consumer department remotely from New York. Prior to joining Berger Montague, Zach was an associate at Scott+Scott Attorneys at Law LLP in New York, where he represented institutional and retail investors in securities class actions under the '33 and '34 Acts. Prior to that, Zach was a general commercial litigator at Patterson Belknap Webb & Tyler LLP, also in New York.

Zach graduated from the Georgetown University Law Center in 2011. Before beginning his career as a litigator, he served as a law clerk to Judge D. Michael Fisher of the U.S. Court of Appeals for the Third Circuit in Pittsburgh and to Judge Colleen McMahon of the U.S. District Court for the Southern District of New York.

**Lane L. Vines – Senior Counsel**

Lane L. Vines's practice is concentrated in the areas of securities/investor fraud, consumer and *qui tam* litigation. For more than 17 years, Mr. Vines has prosecuted both class action and individual opt-out securities cases for state government entities, public pension funds, and other large investors. Mr. Vines also represents consumers in class actions involving unlawful and deceptive practices, as well as relators in *qui tam*, whistleblower and False

Claims Act litigations. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and numerous federal courts.

Mr. Vines also has experience in the defense of securities and commercial cases. For example, he was one of the firm's principal attorneys defending a public company which obtained a pre-trial dismissal in full of a proposed securities fraud class action against a gold mining company based in South Africa. See *In re DRDGold Ltd. Securities Litigation*, 05-cv-5542 (VM), 2007 U.S. Dist. LEXIS 7180 (S.D.N.Y. Jan. 31, 2007).

During law school, Mr. Vines was a member of the Villanova Law Review and served as a Managing Editor of *Outside Works*. In that role, he selected outside academic articles for publication and oversaw the editorial process through publication.

Prior to law school, Mr. Vines worked as an auditor for a Big 4 public accounting firm and a property controller for a commercial real estate development firm, and served as the Legislative Assistant to the Minority Leader of the Philadelphia City Council.

Mr. Vines has achieved the highest peer rating, "AV Preeminent" in Martindale-Hubbell for legal abilities and ethical standards. Mr. Vines is admitted to practice law in Pennsylvania, New Jersey and several federal courts.

#### **William Walsh – Senior Counsel**

William Walsh is Senior Counsel within the Environmental Department. Prior to joining Berger Montague, he was part of the environmental team at Weitz & Luxenberg for 16 years. There, Will played a significant role representing several states and municipal water providers in actions against polluters for groundwater contamination. He was also directly involved in PFOA/PFOS litigation and the Roundup litigation, representing individuals who developed non-Hodgkin's lymphoma from their exposure to glyphosate.

Will graduated from Haverford College with a degree in political science and worked as a legislative assistant on a Senate staff for two years before attending law school. At the University of Minnesota Law School, Will assisted in the rewriting of the law school's Honor Code and was a member of the Minnesota Law Review and served as a moot court director.

#### **Dena Young – Senior Counsel**

Dena Young is Senior Counsel in the firm's Consumer Protection practice group. She concentrates her practice in the area of complex consumer litigation, prosecuting actions against pharmaceutical and product manufacturers for violations of state and federal law.

Before joining the firm, Dena worked for prominent law firms in the Philadelphia region where she worked on personal injury and mass tort cases involving dangerous and defective medical devices, pharmaceutical, and consumer products including Talcum Powder, Transvaginal Mesh, Roundup, Risperdal, Viagra, Zofran, and Xarelto. She also assisted in the prosecution of cases

on behalf of the U.S. Government and other government entities for violations of federal and state false claims acts and anti-kickback statutes.

Recently, the Honorable Brian R. Martinotti appointed Dena to serve on the plaintiffs' steering committee (PSC) of MDL 2921 in the *Allergan BIOCELL Textured Breast Implant Products Liability Litigation*, situated in the United States District Court for the District of New Jersey. In this case, Dena represents plaintiffs diagnosed with breast implant associated anaplastic large cell lymphoma (BIA-ALCL), a deadly form of cancer caused by Allergan's textured breast implants.

Early in her legal career, Dena represented clients diagnosed with devastating asbestos-related diseases, including mesothelioma and lung cancer. Cases she handled resulted in millions of dollars in settlements for her clients.

During law school, Dena represented defendants in preliminary hearings and misdemeanor trials while working for the Defender Association of Philadelphia. She also clerked for the Animal Protection Litigation section of the United States Humane Society. In 2008-2009, Young worked for the Honorable Renee Cardwell Hughes of Philadelphia's Court of Common Pleas.

In 2010, she received her Juris Doctor degree, with honors, from Drexel University's Thomas R. Kline School of Law where she founded the School's Student Animal Legal Defense Fund chapter.

Dena is admitted to practice in state courts in Pennsylvania and New Jersey, the U.S. District Court for the Eastern District of Pennsylvania, and the U.S. District Court for the District of New Jersey.

## **Associates**

### **Michael Anderson – Associate**

Michael Anderson is an Associate in the Wage and Hour department based out of the Firm's Philadelphia office. Michael graduated cum laude from William & Mary Law School and was recognized for his work in public service. Michael represented his third-year class on the Student Bar Association, participated in the Leadership Institute, and served as a member of the William & Mary Journal of Race, Gender, and Social Justice.

During law school, Michael completed two federal judicial externships with the Hon. Raymond A. Jackson and the Hon. John A. Gibney in the Eastern District of Virginia. In his final year, Michael spent much of his time advocating for students with disabilities through William & Mary's Special Education Advocacy Clinic. In the clinic, Michael counseled families, represented clients at special education meetings, and negotiated with school districts to provide appropriate special education services under the Individuals with Disabilities Education Act (IDEA). Michael also worked as a law clerk at Victor M. Glasberg & Associates, where he assisted the firm with litigating complex civil rights cases involving law enforcement misconduct, police brutality, and employment discrimination under federal laws.

Prior to law school, Michael worked as the Director of Auxiliary Programs and taught a high school philosophy course at a nationally recognized charter school in southern Arizona.

**Robert Berry – Associate\***

*\*not yet admitted, pending admission*

Robert Berry is with the Firm's Antitrust department in Philadelphia. Robert graduated Magna Cum Laude from the University of Pennsylvania Carey Law School in May 2022. At Penn, Robert served on the editorial board of the University of Pennsylvania Journal of Law and Public Affairs as Research Editor. Robert was heavily engaged in clinic programs, directly representing clients in landlord-tenant disputes, social security matters, and asylum-seeking matters with the Civil Practice Clinic and the Transnational Legal Clinic. Robert also worked heavily with Professor Herbert Hovenkamp on antitrust matters, taking two separate antitrust classes from the professor, serving as the professor's antitrust TA during the summer of 2021, and working with the professor on an independent study project examining the current state of horizontal merger law.

Prior to law school, Robert graduated from Cornell University with a bachelor's degree in history with a minor in classical civilizations. While at Cornell Robert was inducted into the Phi Beta Kappa honor society for academic excellence.

**Grace Ann Brew – Associate**

Grace Ann Brew is an Associate in the Antitrust group at the Firm's Philadelphia office. Before joining the Firm, Grace Ann clerked for the Honorable Maryellen Noreika in the United States District Court for the District of Delaware. Grace Ann is a graduate of Stanford Law School, where she received high pro bono distinction for her work with various organizations including Legal Aid at Work and the ACLU of Pennsylvania. She earned the Judge Thelton E. Henderson Prize for Outstanding Performance for her work in Stanford's Juelsgaard Intellectual Property and Innovation Clinic. While in law school, Grace Ann worked as a summer associate at a civil rights litigation firm specializing in prisoners' rights class actions and interned for the Los Angeles City Attorney's Civil Litigation Branch. Grace Ann served as a member of the Stanford Law Review and a managing editor of the Stanford Journal of Civil Rights & Civil Liberties.

Grace Ann completed her undergraduate degree at Pomona College, where she studied English and Classics.

**Hope Brinn – Associate**

Hope Brinn is an Associate in the firm's Antitrust group. Prior to joining the firm, Ms. Brinn clerked for the Honorable Janet Bond Arterton in the District of Connecticut. Ms. Brinn graduated from the University of Michigan Law School, where she was a senior editor for the Michigan Law Review, and the executive notes editor for the Michigan Journal of Race & the Law.

Prior to law school, Ms. Brinn worked at The Philadelphia School and Breakthrough of Greater Philadelphia.

**William H. Fedullo – Associate**

William H. Fedullo is an Associate in the firm’s Philadelphia office, practicing in the Whistleblower, *Qui Tam* & False Claims Act group, which has collectively recovered more than \$3 billion for federal and state governments, as well as over \$500 million for the firm’s whistleblower clients. Mr. Fedullo represents whistleblowers in active litigation throughout the country. He also assists in the pre-litigation investigation and evaluation of potential whistleblower claims.

Prior to joining the firm, Mr. Fedullo was a commercial litigation associate at a large full-service Philadelphia law firm. His practice there focused on protecting small businesses that had been the victims of usurious “merchant cash advance” lending practices. He also took an active role in franchisee rights litigation in the hospitality industry. He served as lead associate in numerous state and federal litigations as well as AAA and JAMS arbitrations. His accomplishments included primarily authoring briefs that obtained critical injunctive relief in bet-the-business arbitration; primarily authoring dispositive and appellate briefs in parallel state and federal actions against one of the largest debt collection companies in the world, resulting in a federal court denying a motion to dismiss a consumer’s Fair Debt Collections Practices Act claims; and authoring a complaint brought by over ninety hotel franchisees against a prominent international hotel franchisor. Additionally, Mr. Fedullo played key roles in several other cases that resulted in favorable verdicts or settlements for his clients.

Mr. Fedullo received a Bachelor of Arts from Swarthmore College with High Honors, with a major in Philosophy and minor in English Literature. He graduated from the University of Pennsylvania Law School *cum laude*. In law school, he was an executive editor of the Penn Law Journal of Constitutional Law, where he published a Comment, “Classless and Uncivil.” He also worked as a research assistant for the reporter for the forthcoming Restatement (Third) of Conflicts of Law, and as a teaching assistant at the Wharton School of Business for the undergraduate class “Constitutional Law and Free Enterprise.” He was the recipient of the 2019 Penn Law Fred G. Leebron Memorial Prize for Best Paper in Constitutional Law for his paper “Original Public Meaning Originalism and Women Presidents.” Finally, he received honors from both the Philadelphia Bar Association and Penn Law for his involvement in pro bono activities, which included serving as a board member for the Custody and Support Assistance Clinic, a student-run organization that provides legal assistance to low-income Philadelphians facing family law issues; working on low-income housing and utility issues at Community Legal Services; and working as a certified legal intern in the Civil Practice Clinic, litigating several cases for low-income Philadelphians before the Philadelphia Court of Common Pleas.

Mr. Fedullo is admitted to practice law in the state courts of the Commonwealth of Pennsylvania as well as the United States District Court for the Eastern District of Pennsylvania.

**Taylor Hollinger – Associate\***

*\*not yet admitted, pending admission*

Taylor is in the Firm's Antitrust group in the Philadelphia office. Taylor is a recent graduate of Georgetown Law. There, Taylor was an Articles Editor with The Georgetown Law Journal and Treasurer for the First Generation Student Union. During her time as a law student in D.C., Taylor externed with the Division of Enforcement of the CFTC, the Bureau of Competition of the FTC, and the Antitrust Division of the DOJ. Taylor received her undergraduate degree from Pitzer College in Claremont, California, with a major in Creative Writing.

**Najah Jacobs – Associate**

Ms. Jacobs is an Associate in the firm's Consumer Protection & ERISA Departments.

Prior to joining Berger Montague, Najah Jacobs was an associate at Stevens & Lee, P.C., where she focused her practice on commercial litigation matters with an emphasis on litigation involving financial products and representation of broker-dealers in FINRA arbitration matters related to the purchase and sale of securities and insurance products. Prior to that, Najah was an associate at a large New Jersey law firm, where she defended large oil companies in complex statewide environmental litigation. During her time there, Najah played a major role in formulating a defense strategy and obtaining a favorable disposition for the City of Philadelphia in a constitutional rights case brought by the Fraternal Order of Police over an alleged "do not call list."

Najah graduated from Drexel University Thomas R. Kline School of Law, where she was an active leader. Najah served as the President of the Black Law Students Association, a Law School Ambassador, a Diversity and Inclusion Fellow, and as a Marshall Brennan Constitutional Literacy Fellow, where she taught high school students about their constitutional rights. Najah was also the Executive Symposium Editor of the Drexel Law Review and a competitor on Drexel's nationally recognized Trial Team, leading the group to back-to-back victories in national mock trial competitions against some of the nation's top law schools. During law school, Najah served as a judicial extern for the Honorable Robert B. Kugler of the United States District Court for the District of New Jersey and also served as an intern for the Philadelphia District Attorney's Office. At graduation, Najah received the Faculty Award for Contributions to the Intellectual Life of the Law School and the Thomas R. Kline School of Law Trial Team Award for Outstanding Advocacy.

Najah is currently an adjunct faculty member at the Kline School of Law, serving as a coach and mentor for teams competing in national trial advocacy competitions. In her spare time, Najah enjoys playing basketball, mentoring high school and college students, and hosting events for her non-profit organization, which focuses on giving back to underserved communities.

**Ariana B. Kiener – Associate**

Ariana B. Kiener is an Associate in the firm's Minneapolis office and practices in the firm's Consumer Protection group.

Before joining the firm, Ms. Kiener worked for several years in education, first as a classroom teacher (through a Fulbright Scholarship in Northeastern Thailand) and eventually as the communications director for an education advocacy nonprofit organization. While in law school,

she clerked at the Firm and served as a Certified Student Attorney and Student Director with the Mitchell Hamline Employment Discrimination Mediation Representation Clinic.

**Olivia Lanctot – Associate**

Olivia Lanctot is an Associate with the Firm's Wage and Hour department in Philadelphia. Prior to joining Berger Montague, she was an associate at Comegno Law Group in Moorestown, NJ, where she focused her practice on education and employment law.

Olivia received her law degree from William & Mary Law School and her B.A. from Gettysburg College.

During law school, she was heavily involved with William & Mary's Special Education Advocacy Clinic, where she negotiated with school districts to provide students with the appropriate accommodations and services necessary to access their education. During her final year, Olivia also worked as a law clerk for a plaintiffs' employment litigation firm, assisting with employee rights violations and discrimination cases before the Equal Employment Opportunity Commission (EEOC) and the Merit Systems Protection Board (MSPB).

**Julia McGrath – Associate**

Julia McGrath is an Associate in the firm's Antitrust practice group. She represents consumers, businesses, and public entities in complex class action litigation, prosecuting anticompetitive conduct such as price-fixing, bid-rigging, and illegal monopolization.

Ms. McGrath has challenged anticompetitive conduct in a variety of industries, including the single-serve coffee industry in *In Re Keurig Green Mountain Single-Serve Antitrust Litigation*; the pharmaceutical industry in *In Re: Ranbaxy Generic Drug Application Antitrust Litigation* (D. Mass) and *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation* (E.D. Pa.); and the financial industry in *In re London Silver Fixing Ltd. Antitrust Litigation* (S.D.N.Y.) and *In re: GSE Bonds Antitrust Litigation* (S.D.N.Y.).

Prior to law school, Ms. McGrath had a successful career in government and politics. She worked on political campaigns at the local, state, and federal level. She's advised top-tier congressional, gubernatorial, and U.S. Senate candidates in Pennsylvania and New Jersey and served as the Finance Director for U.S. Senator Bob Casey. In 2013, she was appointed by President Obama to serve as Special Assistant to the Mid-Atlantic Regional Administrator of the U.S. General Services Administration.

Ms. McGrath earned her J.D., *cum laude*, from Temple University Beasley School of Law and her B.A. in History from Boston University.

**Amey J. Park – Associate**

Amey J. Park is an Associate in the firm's Philadelphia office and practices in the firm's Consumer Protection and Commercial Litigation practice groups.

Before joining the firm, Ms. Park was an associate in the litigation department of a large corporate defense firm. She represented corporate and individual clients in complex commercial litigation, product liability, and personal injury matters in a wide variety of industries, including financial services, insurance, trust administration, and real estate. Ms. Park also represented clients *pro bono*, serving as first-chair counsel in a federal jury trial for violations of an inmate's constitutional rights by law enforcement officers and assisting a young refugee seeking asylum in federal immigration court.

Ms. Park is admitted to practice in state courts in Pennsylvania and New Jersey; the United States District Courts for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of New Jersey; and the United States Court of Appeals for the Third Circuit.

**Julie Pollock – Associate\***

Julie Pollock is part of the Firm's San Francisco Bay Area office in the Antitrust Department.

Julie graduated summa cum laude from USF School of Law. While in law school, Julie clerked in the Firm's Antitrust Department, and served as a judicial extern to Chief Justice Cantil-Sakauye of the California Supreme Court. Julie also served on the Board of Directors for the Legal Aid Association of California, advocating to expand access to critical legal services for low-income Californians.

Julie is passionate about social and economic justice. Prior to joining the firm, she earned a Master's Degree in Social Welfare from UCLA, and started her career doing policy work to improve healthcare and housing access for low-income older adults. Julie believes in aggressive antitrust enforcement as a tool to combat the excessive concentration of economic power and its resulting structural inequities.

**Radha Raghavan – Associate**

Radha Raghavan is an associate with the Firm's Consumer Department. Prior to joining Berger Montague, Radha was an associate at Wolf Popper LLP, where she focused her practice on consumer fraud, healthcare and securities class action litigation representing clients in state and federal courts across the country. Prior to that, Radha worked with well-respected dispute resolution firms in India and New York focusing on international disputes. At these firms, she represented clients in both international commercial and investor-state arbitrations under the ICC and UNCITRAL rules respectively.

Radha graduated from University Law College, Bangalore University with a law degree (BA.L., LL.B.) in 2014, where she was valedictorian for the Bachelor of Academic Law (BA.L.) program. Subsequently, Radha received her masters of law degree (LL.M.) from NYU in 2015. After her LL.M., Radha served as a judicial extern for Judge Gerald Lebovits at the New York State Supreme Court.

**Sophia Rios – Associate**

Sophia Rios is an associate in the firm's San Diego office and practices in the Consumer Protection and Antitrust practice groups.

Before joining the firm, Sophia was an associate in the litigation department of a large international law firm. She represented corporate and individual clients in consumer protection, complex commercial litigation, securities, and Americans with Disabilities Act (ADA) matters. In her pro bono practice, Sophia assisted refugees seeking asylum in the United States.

Sophia is committed to furthering diversity and inclusion in law firms. She serves on the firm's Diversity, Equity & Inclusion Task Force. Sophia has also participated in the Leadership Council on Legal Diversity's Pathfinder Program.

While at Stanford Law School, Sophia served as an extern Legal Adviser in the Office of Commissioner Julie Brill at the Federal Trade Commission in Washington, DC. Sophia co-founded the Stanford Critical Law Society, which serves as a student forum for the discussion of the relationship between law and race. Sophia was a Lead Article Editor for the Stanford Environmental Law Journal.

Before beginning law school, Sophia attended UC Berkeley and served as an intern on the White House Council of Environmental Quality. She is a first-generation college student and a San Diego native.

#### **Sonjay Singh – Associate**

Sonjay Singh is an Associate in the Firm's Consumer Protection department, working out of the Washington, D.C. office.

Sonjay comes to Berger Montague from Chaikin, Sherman, Cammarata & Siegel, a D.C. plaintiff's firm, where he litigated personal injury, medical malpractice, defective premises, and other tort cases as a trial attorney. Before that, Sonjay worked for Sauder Schelkopf, a Pennsylvania class action firm, where he participated in a variety of consumer protection litigation, including in the areas of products liability, data privacy, and institutional abuse. As an undergraduate, Sonjay co-founded a DEI hiring and recruiting technology startup in New York City, and managed its sales, marketing, and client relations for two years before leaving to pursue his J.D.

Sonjay graduated from Temple University's Beasley School of Law with both his J.D. and a certificate in Trial Advocacy and Litigation in 2020. During his time in law school, he was active on campus, and served as Vice President of the Student Bar Association. Sonjay also competed on Temple's Trial Team, winning the Inter-American Invitational at the University of Puerto Rico among other honors. For his dedication to plaintiff's litigation, Sonjay was named the Eisenberg Scholar, a scholarship given yearly to the outstanding student in civil litigation, and received the Trial Program Award for civil trial advocacy upon graduating.

**Y. Michael Twersky – Associate**

Y. Michael Twersky concentrates his practice primarily on representing plaintiffs in complex litigation, including on insurance, antitrust, and environmental matters.

In the past, Mr. Twersky has worked on a wide variety of insurance matters including an insurance case in which a Federal District Court found on Summary Judgement that a large insurance company had breached its policy when it denied benefits under an accidental death insurance plan. Mr. Twersky has also worked on a number of antitrust class actions alleging that pharmaceutical manufacturers wrongfully kept less expensive generic drugs off the market, in violation of the antitrust laws, including: *In re Skelaxin (Metaxalone) Antitrust Litigation*, 1:12-md-02343 (E.D. Tenn.) (\$73 million settlement in 2014), and *In re Solodyn Antitrust Litig.*, 14 MD 2503 (D. Mass.) (combined settlements in excess of \$76 million in 2018). Mr. Twersky has also represented inmates in connection with allegations that various inmate calling services charged unreasonable rates and fees in violation of the Federal Communication Act.

Currently, Mr. Twersky is litigating a number of complex class actions related to insurance products, including proposed class actions in multiple forums against a workers' compensation insurance company alleging that the company deceptively sold illegal workers' compensation programs that were not properly filed with state regulators. *E.g.*, *Shasta Linen Supply, Inc. v Applied Underwriters et al.*, No. 2:16-cv-0158 (N.D. Cal.). Mr. Twersky is also involved in a proposed class action in Federal Court brought on behalf of Alaska-enrolled Medicaid Healthcare Providers against the developers of the Alaska Medicaid Management Information System Company alleging that providers were harmed as a result of the negligent and faulty design and implementation of the MMIS system. *See South Peninsula Hospital et al v. Xerox State Healthcare, LLC*, 3:15-cv-00177 (D. Alaska). Mr. Twersky is also involved in environmental litigation on behalf of various states to recover the costs of remediation for contamination to groundwater resources.

Mr. Twersky graduated from Temple University Beasley School of Law in 2011, where he was a member of the Rubin Public Interest Law Honors Society and a Class Senator. In addition, Mr. Twersky advised various clients in business matters as part of Temple University's Business Law Clinic.

**Counsel**

**Zubair Ahmad – Counsel**

Zubair Ahmad is Counsel with the Antitrust department in the Philadelphia office. He has extensive experience with e-discovery in large scale litigation and has also spent time as associate in-house counsel with a developer of ambulatory surgical centers as well as a large regional hospital.

Mr. Ahmad graduated from the University of Michigan Law School where he was a member of the Journal of Law Reform. He received his undergraduate degree from Franklin & Marshall College where he was pre-med with a physics and sociology double major.

**Alexandra Antoniou – Counsel**

Alexandra Antoniou is an attorney in the firm's Philadelphia office, and works in the firm's Auto Defect practice area.

**Samantha Arluck – Counsel**

Samantha Arluck is Counsel with Berger Montague. Prior to joining Berger Montague, Sam worked at several different law firms as a staff attorney performing e-discovery and deposition work for securities matters. She worked for several years as an associate in New York law firms doing litigation.

Samantha graduated from the University of Pennsylvania with honors where she majored in Diplomatic History. After graduating from Boston University School of Law, she moved to New York City.

**David Catherine – Counsel**

David M. Catherine is Counsel with the Firm's Antitrust department in Philadelphia. Prior to joining Berger Montague, David was an Attorney in a boutique law firm, representing numerous plaintiffs in class-action pharmaceutical antitrust litigation, specializing in electronic discovery as well as legal research and deposition preparation. Prior to that, David was a Project Attorney at a large American multinational firm, representing clients in pharmaceutical products liability multi-district litigation, specializing in discovery and evidentiary preparation. Before that, David spent several years assisting several firms throughout the Philadelphia region with various aspects of discovery, legal research and litigation preparation.

David graduated from Syracuse University College of Law, where he also served in the Criminal Law Clinic, representing indigent clients in Syracuse City Court. David also graduated from Duquesne University, earning a Bachelor of Arts with a major in English while also serving in the Student Government Association and as an Officer in the National Service Fraternity, Alpha Phi Omega.

**James P.A. Cavanaugh – Counsel**

James P.A. Cavanaugh has experience working in antitrust matters, with a focus on the suppression of generic competition by major pharmaceutical manufacturers. Jim is an experienced litigator having previously established and managed for some years his own general practice law firm, prior to working in antitrust matters in more recent years. That law practice emphasized litigation, including workers' compensation, employment law, civil rights, and personal injury claims.

In that practice, Jim advocated for the establishment of case law precedent in *Dr. Joe John Doe v. TRIS Mental Health Services*, 298 N.J. Super. 677 (1996) permitting the disabled, for the first time, to proceed anonymously in the New Jersey Superior Courts.

Jim's experience included investigating the facts of a workplace explosion involving a faulty truck rim, coordination of physical evidence, close consultation with a Drexel University engineering expert, and ultimate settlement for injured plaintiff.

Jim's community contributions include pro bono representation of an amicus curiae (friend of the court) the National Association of Social Workers opposing discriminatory policies in the widely followed *James Dale v. Boy Scouts of America*, 160 N.J. 562 (1999) case [see also 530 U.S. 640 (2000)].

Jim was appointed by the Chief Justice of the New Jersey Supreme Court to sit on the NJ Supreme Court Task Force on Lesbian & Gay Issues, whose purpose was to examine discrimination in the courts and the legal profession and to adopt recommendations.

#### **Carl Copenhaver – Counsel**

Carl Copenhaver is Counsel in the Firm's Antitrust Department. Carl has almost 18 years of experience in complex securities and antitrust class action litigation as a discovery specialist. Over that span, he has worked independently, and later through his own discovery firm, with a wide variety of firms on a range of cases assisting in discovery and evidentiary-related matters.

Mr. Copenhaver received his Bachelor of Arts with Scholastic Distinction in History and a concentration in African American Studies from Carleton College, graduating magna cum laude. He was a member of the Mortar Board National Honor Society and was a nationally ranked member of the tennis team while winning multiple All-Conference Awards.

Mr. Copenhaver attended The George Washington University Law School where he was a Murray Snyder Public Interest Fellow and worked with local and national civil rights organizations on Fair Housing issues.

#### **Cate Crowe – Counsel**

Cate Crowe is Counsel in the Firm's antitrust department. She joined Berger Montague from Lockridge Grindal Nauen P.L.L.P. where her practice focused on private enforcement of antitrust laws against price fixing cartels and pay-for-delay schemes. Cate has supported plaintiff-side discovery and trial teams in complex consumer fraud, data breach, and antitrust litigations. She has experience identifying and vetting damages experts, mining evidence from document databases and phone records, and synthesizing evidence to develop narratives of overarching conspiracies for depositions and trial.

Cate also managed large-scale document reviews and is comfortable drafting coding instructions, administering document databases, and supervising coders. Before that, she operated a general litigation practice in Iowa where she practiced family law, juvenile law, and criminal defense.

Cate is active in Complex Litigation E-Discovery Forum and with the Committee to Support the Antitrust Laws.

**Stephen Farese – Counsel**

Stephen Farese is Counsel in the Firm’s Antitrust Department.

Stephen has over eighteen years of solid e-discovery experience and has developed significant technical skills on various e-discovery software platforms. Since 2004, he has helped large and small firms with their e-discovery needs including document productions, witness preparation, and quality control. He has interfaced with and assisted partners and associates in finding optimal ways to cull large document collections and has assisted them in the development of protocols setting the rules upon which the remaining documents are to be coded by reviewers.

Stephen has significant document review experience and is fully capable of handling a review from its initial stage (raw document collection) through to the use of legally supportable search terms to cull the initial population of documents into a subset to be reviewed by reviewers for responsiveness and privilege. He has an in-depth knowledge of attorney-client privilege and work product rules and has been instrumental in 2<sup>nd</sup> level (QC) and privilege reviews including privilege log creation.

Stephen has been hired as an E-discovery Subject Matter Expert on the document review side of the e-discovery equation. He is proficient in dealing with clients in answering their questions and presenting PowerPoint presentations illustrating costs and workflow. His legal background also positions him in a unique position of being able to assist in the writing of substantive review protocols and have the technical expertise to design and implement the necessary review coding panels.

Stephen Received his JD from Widener University School of Law in 1998. He is actively licensed in the Commonwealth of Pennsylvania and the State of New York.

**Clare Kirui – Counsel**

Clare Kirui is Counsel practicing in the Firm’s Antitrust practice group. Clare has extensive experience working in eDiscovery. Prior to joining Berger Montague, she worked on eDiscovery reviews and managed complex review projects. Clare has extensive experience conducting fact development for large-scale litigations, culling through large volumes of documents and analyzing and summarizing pertinent factual findings for relevance to legal issues.

Clare has served in an eDiscovery project management role during various phases of litigation. Clare has worked on multiple Antitrust matters conducting fact development for depositions, expert discovery, and trial preparation.

Clare is a California licensed attorney. She received her undergraduate degree from UCLA and earned her J.D. from the George Washington University Law School.

**Daniel E. Listwa – Counsel**

Daniel E. Listwa has worked on a number of antitrust matters, with a focus on the suppression of generic competition by major pharmaceutical manufacturers. Before joining the firm, Mr. Listwa

clerked for the Honorable J. Brian Johnson of the Lehigh County Court of Common Pleas, and was an associate at a medical malpractice defense firm in Blue Bell, PA. While in law school, Mr. Listwa was a staff writer for the Boston College Environmental Affairs Law Review, and interned at the U.S. District Court for the Eastern District of Pennsylvania.

#### **Ivy Marsnik – Counsel**

Ivy L. Marsnik is a litigation attorney based out of the Firm's Minneapolis office where she focuses her current practice on representing individuals who have been harmed by violations of the Fair Credit Reporting Act.

Prior to joining Berger Montague, Ms. Marsnik worked on behalf of individual plaintiffs at a premier employment and civil rights law firm and in several legal counsel positions at the Minnesota state legislature. She has also provided legal services to individual clients at Tubman, a nonprofit serving survivors of domestic violence, and at a University of Minnesota Law School clinic where she worked primarily as an advocate for tenants' rights.

#### **Bryan Plaster – Counsel**

Bryan L. Plaster is based out of the Firm's Minneapolis office and serves as Counsel to the Credit Reporting and Background Checks practice group. Prior to joining Berger Montague, Bryan was employed as in-house counsel through a fellowship with SICK, Inc., an international manufacturer of industrial sensor technology. During his time at the University of Minnesota Law School, he served as a Student Attorney in the Consumer Protection Clinic, clerked at a mid-sized commercial litigation firm, and completed two judicial internships.

Bryan graduated cum laude from the University of Minnesota Law School and completed a B.A. with distinction in Economics and Geography at the University of Wisconsin-Madison. Prior to embarking on a career in law, he spent five years in a variety of positions in the technology industry, including leadership roles in a late-stage startup where, in part, he assisted in guiding the company through various stages of growth and acquisition.

#### **Richa Sprung – Counsel**

Richa Sprung is Counsel with the Firm's Antitrust department. Prior to joining Berger Montague, Richa was an eDiscovery Review Manager at Consilio where she focused her practice on large-scale eDiscovery projects ranging in various civil actions. Prior to that, Richa was involved in eDiscovery client services ranging from in-house to vendor positions. During her eDiscovery career, Richa has developed extensive knowledge into tools, best practices to gather and produce ESI, and expert level communication with clients to achieve the optimal discovery process while minimizing costs.

Richa graduated from The Catholic University of America, Columbus School of Law, where she was active in various clubs as well as the Health Law Journal. Richa served as the President of the South Asian Law School Association, Secretary of the Federalist Society, Vice-President of the Criminal Law society, and had active membership in additional groups. Richa was also a

member of the National Moot Trial Team where she competed throughout the states and received high praises for her advocacy skills.

## **Of Counsel**

### **H. Laddie Montague Jr. – Chair *Emeritus* & Of Counsel**

H. Laddie Montague Jr. is Chairman *Emeritus* of the firm, in addition to his continuing work as Of Counsel. Mr. Montague was Chairman of the firm from 2003 to 2016 and served as a member of the firm's Executive Committee for decades, having joined the firm's predecessor David Berger, P.A., at its inception in 1970.

In addition to being one of the courtroom trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague has served as lead or co-lead counsel in many class actions, including, among others, *High Fructose Corn Syrup Antitrust Litigation* (2006), *In re Infant Formula Antitrust Litigation* (1993) and *Bogosian v. Gulf Oil Corp.* (1984), a nationwide class action against thirteen major oil companies. Mr. Montague was co-lead counsel for the State of Connecticut in its litigation against the tobacco industry. He is currently co-lead counsel in several pending class actions. In addition to the *Exxon Valdez Oil Spill Litigation*, he has tried several complex and protracted cases to the jury, including three class actions: *In re Master Key Antitrust Litigation* (1977), *In re Corrugated Container Antitrust Litigation* (1980) and *In re Brand Name Prescription Drugs Antitrust Litigation*, M.D.L. (1997-1998). For his work as trial counsel in the *Exxon Valdez Oil Spill Litigation*, Mr. Montague shared the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award.

Mr. Montague has been repeatedly singled out by *Chambers USA: America's Leading Lawyers for Business* as one of the top antitrust attorneys in the Commonwealth of Pennsylvania. He is lauded for his stewardship of the firm's antitrust department, referred to as "the dean of the Bar," stating that his peers in the legal profession hold him in the "highest regard," and explicitly praised for, among other things, his "fair minded[ness]." He also is or has been listed in *Lawdragon*, *An International Who's Who of Competition Lawyers*, and *The Legal 500: United States (Litigation)*. He has repeatedly been selected by *Philadelphia Magazine* as one of the top 100 lawyers in Pennsylvania. Mr. Montague has also been one of the only two inductees in the American Antitrust Institute's inaugural Private Antitrust Enforcement Hall of Fame.

He has been invited and made a presentation at the Organization for Economic Cooperation and Development (Paris, 2006); the European Commission and International Bar Association Seminar (Brussels, 2007); the Canadian Bar Association, Competition Section (Ottawa, 2008); and the 2010 Competition Law & Policy Forum (Ontario).

Mr. Montague is a graduate of the University of Pennsylvania (B.A. 1960) and the Dickinson School of Law (L.L.B. 1963), where he was a member of the Board of Editors of the Dickinson Law Review. He is the former Chairman of the Board of Trustees of the Dickinson School of Law of Penn State University and current Chairman of the Dickinson Law Association.

**Harold Berger –Of Counsel, Executive Shareholder *Emeritus***

Judge Berger is an Executive Shareholder *Emeritus* & Of Counsel. He participated in many complex litigation matters, including the *Exxon Valdez Oil Spill Litigation*, No. A89-095, in which he served on the case management committee and as Co-Chair of the national discovery team. He also participated in the *Three Mile Island Litigation*, No. 79-0432 (M.D. Pa.), where he acted as liaison counsel, and in the nationwide school asbestos property damage class action, *In re Asbestos School Litigation*, Master File No. 83-0268 (E.D. Pa.), where the firm served as co-lead counsel.

A former Judge of the Court of Common Pleas of Philadelphia, he has long given his service to the legal community and the judiciary. He is also active in law and engineering alumni affairs at the University of Pennsylvania and in other philanthropic endeavors. He serves as a member of Penn's Board of Overseers and as Chair of the Friends of Penn's Biddle Law Library, having graduated from both the engineering and law schools at Penn. Judge Berger also serves on the Executive Board of Penn Law's Center for Ethics and Rule of Law. In 2017, he was the recipient of Penn Law's Inaugural Lifetime Commitment Award, which recognizes graduates "who through a lifetime of service and commitment to Penn Law have truly set a new standard of excellence."

He is past Chair of the Federal Bar Association's National Committee on the Federal and State Judiciary and past President of the Federal Bar Association's Eastern District Chapter. He is the author of numerous law review articles, has lectured extensively before bar associations and at universities, and has served as Chair of the International Conferences on Global Interdependence held at Princeton University. Judge Berger has served as Chair of the Aerospace Law Committees of the American, Federal and Inter-American Bar Associations and, in recognition of the importance and impact of his scholarly work, was elected to the International Academy of Astronautics in Paris.

As his biographies in *Who's Who in America*, *Who's Who in American Law* and *Who's Who in the World* outline, he is the recipient of numerous awards, including the Special Service Award of the Pennsylvania Conference of State Trial Judges, a Special American Bar Association Presidential Program Award and Medal, and a Special Federal Bar Association Award for distinguished service to the Federal and State Judiciary. He has been given the highest rating (AV Preeminent) for legal ability as well as the highest rating for ethical standards by Martindale-Hubbell. Judge Berger was also presented with a Lifetime Achievement Award in 2014 by *The Legal Intelligencer* in recognition of figures who have helped shape the law in Pennsylvania and who had a distinct impact on the legal profession in the Commonwealth.

He is a permanent member of the Judicial Conference of the United States Court of Appeals for the Third Circuit and has served as Chair of both the Judicial Liaison and International Law Committees of the Philadelphia Bar Association. He has also served as National Chair of the FBA's Alternate Dispute Resolution Committee.

Recipient of the Alumnus of the Year Award of the Thomas McKean Law Club of the University of Pennsylvania Law School, he was further honored by the University's School of Engineering

and Applied Science by the dedication of the Harold Berger Biennial Distinguished Lecture and Award given to a technical innovator who has made a lasting contribution to the quality of our lives. He was also honored by the University by the dedication of an auditorium and lobby bearing his name and by the dedication of a student award in his name for engineering excellence.

Long active in diverse, philanthropic, charitable, community and inter-faith endeavors Judge Berger serves as a Lifetime Honorary Trustee of the Federation of Jewish Charities of Greater Philadelphia, as a Director of the National Museum of Jewish History, as a National Director of the Hebrew Immigrant Aid Society (HIAS) in its endeavors to assist refugees and indigent souls of all faiths, as A Charter Fellow of the Foundation of the Federal Bar Association and as a member of the Hamilton Circle of the Philadelphia Bar Foundation.

Among other honors and awards, as listed above, Judge Berger was honored by the University of Pennsylvania Law School at its annual Benefactors' Dinner and is the recipient of the "Children of the American Dream" award of HIAS for his leadership in the civic, legal, academic and Jewish communities.

#### **Gary E. Cantor – Of Counsel**

Gary E. Cantor is Of Counsel in the Philadelphia office. He concentrates his practice on securities and commercial litigation and derivatives valuations.

Mr. Cantor served as co-lead counsel in *Steiner v. Phillips, et al. (Southmark Securities)*, Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), (class settlement of \$82.5 million), and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB), (class settlement involving 119 separate limited partnerships resulting in cash settlement, oversight of partnership governance and debt restructuring (with as much as \$100 million in wrap mortgage reductions)). Mr. Cantor also represented plaintiffs in numerous commodity cases.

In recent years, Mr. Cantor played a leadership role in *In re Oppenheimer Rochester Funds Group Securities Litigation* (\$89.5 million settlement on behalf of investors in six tax-exempt bond mutual funds managed by OppenheimerFunds, Inc.), No. 09-md-02063-JLK (D. Col.); *In re KLA-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.) (\$65 million class settlement); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.) (\$52.5 million settlement.); *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.) (\$70 million class settlement). He was also actively involved in the *Merrill Lynch Securities Litigation* (class settlement of \$475 million) and *Waste Management Securities Litigation* (class settlement of \$220 million).

For over 20 years, Mr. Cantor also has concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's cases involving stocks, bonds, derivatives, and commodities. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor was a member of the Moot Court Board at University of Pennsylvania Law School where he authored a comment on computer-generated evidence in the University of Pennsylvania Law Review. He graduated from Rutgers College with the highest distinction in economics and was a member of Phi Beta Kappa.

**Peter R. Kahana –Of Counsel**

Peter R. Kahana is Of Counsel in the Insurance and Antitrust practice groups. He concentrates his practice in complex civil and class action litigation involving relief for insurance policyholders and consumers of other types of products or services who have been victimized by fraudulent conduct and unfair business practices.

Significant class cases vindicating the rights of insurance policyholders or consumers in which Mr. Kahana was appointed as co-class counsel have included: settlement in 2012 for \$90 million of breach of fiduciary duty and negligence claims (certified for trial in 2009) on behalf of a class of former policyholder-members of Anthem Insurance Companies, Inc. ("Anthem") alleging the class was paid insufficient cash compensation in connection with Anthem's conversion from a mutual insurance company to a publicly-owned stock insurance company (a process known as "demutualization") (*Ormond v. Anthem, Inc., et al.*, USDC, S.D. Ind., Case No. 1:05-cv-01908 (S.D. Ind. 2012)); settlement in 2010 for \$72.5 million of a nationwide civil RICO and fraud class action (certified for trial in 2009) against The Hartford and its affiliates on behalf of a class of personal injury and workers compensation claimants for the Hartford's alleged deceptive business practices in settling these injury claims for Hartford insureds with the use of structured settlements (*Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, 256 F.R.D. 284 (D. Conn. 2009)); settlement in 2009 for \$75 million of breach of contract, Unfair Trade Practices Act and insurance bad faith tort claims on behalf of a class of West Virginia automobile policyholders (certified for trial in 2007) alleging that Nationwide Mutual Insurance Company failed to properly offer and provide them with state-required optional levels of uninsured and underinsured motorist coverage (*Nationwide Mutual Insurance Company v. O'Dell, et al.*, Circuit Court of Roane County, W. Va., Civ. Action No. 00-C-37); and, settlement in 2004 for \$20 million on behalf of a class of cancer victims alleging that their insurer refused to pay for health insurance benefits for chemotherapy and radiation treatment (*Bergonzi v. CSO, USDC, D.S.D.*, Case No. C2-4096). For his efforts in regard to the Bergonzi matter, Mr. Kahana was named as the recipient of the American Association for Justice's Steven J. Sharp Public Service Award, which is presented annually to those attorneys whose cases tell the story of American civil justice and help educate state and national policymakers and the public about the importance of consumers' rights.

Mr. Kahana has also played a leading role in major antitrust and environmental litigation, including cases such as *In re Brand Name Prescription Drugs Antitrust Litigation* (\$723 million settlement), *In re Ashland Oil Spill Litigation* (\$30 million settlement), and *In re Exxon Valdez* (\$287 million compensatory damage award and \$507.5 million punitive damage award). In connection with his work as a member of the trial team that prosecuted *In re The Exxon Valdez*,

Mr. Kahana was selected in 1995 to share the Trial Lawyer of the Year Award by the Public Justice Foundation.

**Maryellen Madden – Of Counsel**

Maryellen Madden focuses her practice on complex litigation and commercial disputes, including securities, corporate governance, real estate, commercial contracts, health care and the sale and distribution of goods. She has handled litigation, including complex, multi-district litigation, in 22 states, as well as before domestic and international arbitration panels, administrative agencies and industry self-regulatory organizations. Prior to joining Berger Montague, she was an attorney with a national law firm.

**Susan Schneider Thomas – Of Counsel**

Susan Schneider Thomas concentrates her practice on *qui tam* litigation.

Ms. Thomas has substantial complex litigation experience. Before joining the firm, she practiced law at two Philadelphia area firms, Schnader, Harrison, Segal & Lewis and Greenfield & Chimicles, where she was actively involved in the litigation of complex securities fraud and derivative actions.

Upon joining the firm, Ms. Thomas concentrated her practice on complex securities and derivative actions. In 1986, she joined in establishing Zlotnick & Thomas where she was a partner with primary responsibility for the litigation of several major class actions including *Geist v. New Jersey Turnpike Authority*, C.A. No. 92-2377 (D.N.J.), a bond redemption case that settled for \$2.25 million and *Burstein v. Applied Extrusion Technologies*, C.A. No. 92-12166-PBS (D. Mass.), which settled for \$3.4 million.

Upon returning to the firm, Ms. Thomas has had major responsibilities in many securities and consumer fraud class actions, including *In re CryoLife Securities Litigation*, C.A. No. 1:02-CV-1868 BBM (N.D.Ga.), which settled in 2005 for \$23.25 million and *In re First Alliance Mortgage Co.*, Civ. No. SACV 00-964 (C.D.Cal.), a deceptive mortgage lending action which settled for over \$80 million in cooperation with the FTC. More recently, Ms. Thomas has concentrated her practice in the area of healthcare *qui tam* litigation. As co-counsel for a team of whistleblowers, she worked extensively with the U.S. Department of Justice and various State Attorney General offices in the prosecution of False Claims Act cases against pharmaceutical manufacturers that recovered more than \$2 billion for Medicare and Medicaid programs and over \$350 million for the whistleblowers. She has investigated or is litigating False Claims Act cases involving defense contractors, off-label marketing by drug and medical device companies, federal grant fraud, upcoding and other billing issues by healthcare providers, drug pricing issues and fraud in connection with for-profit colleges and student loan programs.

**Tyler E. Wren – Of Counsel**

Mr. Wren is a trial lawyer with over 35 years of experience in both the public and private sectors.

Mr. Wren has represented both plaintiffs and defendants in a broad spectrum of litigation matters, including class actions, environmental, civil rights, commercial disputes, personal injury, insurance coverage, election law, zoning and historical preservation matters and other government affairs. Mr. Wren routinely appears in both state and federal courts, as well as before local administrative agencies.

Following his graduation from law school, Mr. Wren served as staff attorney to the Committee of Seventy, a local civic watchdog group. Mr. Wren then spent a decade in the Philadelphia City Solicitor's Office in various positions in which his litigation and counseling skills were developed: Chief Assistant City Solicitor for Special Litigation and Appeals, Divisional Deputy City Solicitor for the Environment, Counsel to the Philadelphia Board of Ethics and Counsel to the Philadelphia Planning Commission. After leaving government employ and before joining the Firm in 2010, Mr. Wren was in private practice, including nine years with the Sprague and Sprague firm, headed by nationally recognized litigator Richard Sprague.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

CARRIE VASSEL, KAREN  
BURNAUGH, TOM GARDEN, ADA  
AND ANGELI GOZON, PATRICIA A.  
HENSLEY, CLYDIENE FRANCIS,  
PETER LOWEGARD, and GRANT  
BRADLEY individually and on behalf of  
a class of similarly situated individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., a New Jersey  
corporation, d/b/a AUDI OF AMERICA,  
INC.,

Defendant.

Case No. 1:21-cv-10546-NHL-EAP

**DECLARATION OF RAMZY LADAH IN SUPPORT OF PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

I, Ramzy Ladah, hereby declare as follows:

1. I am an attorney duly licensed to practice law before all of the courts in the State of California, and the State of California as well as before the United States Court of Appeals for the Ninth Circuit, the United States District Court of Nevada, District Court of Central California.

2. I am a partner at Ladah Law Firm PLLC (“Ladah Law”). I make this declaration in support of the Motion for Preliminary Approval of Class Action Settlement. I have personal knowledge of the facts stated below and, if called upon, could competently testify thereto.

3. The accompanying Declaration of Tarek H. Zohdy, which is being filed contemporaneously herewith, accurately summarizes the overview of the litigation, the settlement negotiations and mediation, the procedural history, the work undertaken by Plaintiffs and Class Counsel to initiate this litigation and for the benefit of the Class, the substantial contingent risks in and the complexity of this litigation, and the benefits of the Settlement.

4. My firm, Ladah Law, has been engaged in complex civil litigation since 2010. Our firm is collectively licensed in the states of Nevada, California, Arizona, and New York. Our firm's practice areas include Personal Injury, Commercial Litigation, Contracts, Insurance Law, Employment Law, Mass Torts, Labor Law, and Real Estate Law. Our compensation is almost exclusively from court-awarded fees, court-approved settlements, and contingent fee agreements.

5. Ladah Law has obtained numerous large jury verdicts for its clients over the past few years alone, including a jury verdict in a trucking collision case for \$10,000,000. Ladah Law as a firm has collected over \$300,000,000 in verdicts and settlements in the past 10 years.

6. Throughout the course of investigation, pleadings, mediation, and filing of the Settlement Agreement with the Court, Ladah Law, along with Class Counsel Capstone and Berger Montague's attorneys have devoted significant time and resources to the investigation, development, and resolution of this case.

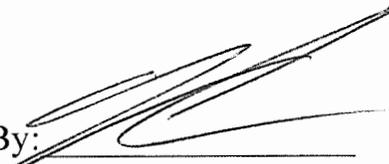
7. Ladah Law is not representing clients with interests at odds with the

interests of the Class Members.

8. Based on my experience, the Settlement provides substantial relief to the Settlement Class, is fair, reasonable, and adequate and the Settlement treats all Settlement Class Members equitably. I ask that the Court preliminarily approve the Settlement and authorize notice of the settlement to go out to the class.

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

Dated: October 10, 2023

By:   
Ramzy Ladah

# **EXHIBIT A**



# LADAH LAW

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## F I R M

517 S. 3rd St.  
Las Vegas, NV 89101  
702-252-0055  
ladahlaw.com

### **About Ladah Law Firm**

Ladah Law is known as a premier Nevada civil litigation firm, with attorneys licensed in multiple states throughout the country. Ladah Law specializes in trying complex cases in trial to verdict, in both state and federal courts. The firm has been distinguished for their success in litigation and obtaining record setting settlements and favorable verdicts for its clients.

Known for specializing in personal injury, Ladah Law has grown into successfully litigating other plaintiff oriented rights of recovery, such as contract breach, intellectual property, and product defect cases. The firm also achieved success at the appellate level, successfully arguing matters in both the Nevada Supreme Court and Ninth Circuit Court of Appeals.

Ladah Law currently consists of of 9 lawyers, 12 paralegals, and a growing and experience support staff that is fluent in over 6 different languages. The firm is a contributing member to the Nevada Justice Association and has been recognized by its peers for its success in obtaining verdicts in state and federal courts.

Ladah Law is proud to support diversity and inclusion, as many members of its staff come from various parts of the world, ranging from China to California. Ladah Law further supports females in leadership roles, as the firm has 3 female attorneys and many female staff members in supervisory positions. Moreover, women at the firm are supported to take advantage of professional development education to strengthen their paths into important roles, not only in the firm, but also in the community. As a result, Ladah Law proudly boasts some of the most experienced and accomplished women in the industry. At Ladah Law, women lead.



**LADAH LAW**  
FIRM

## **History of Ladah Law Firm**

Founded by Ramzy Ladah in 2010, Ladah Law was created to serve plaintiffs in personal injury actions. Ramzy Ladah began as a solo practitioner and has grown the firm from 2 employees to over 35 employees, and still growing. Ramzy Ladah's vision for Ladah Law was to build a reputable litigation firm that was not afraid to take cases to trial and achieve verdicts, no matter the size of the case.

Ramzy Ladah has obtained numerous large jury verdicts for his clients over the past few years, including a jury verdict in a trucking accident case for \$10,000,000.00. For his age, Ramzy Ladah has obtained more million dollar settlements and verdicts than any other attorney in the State of Nevada. As a member of the multi-million dollar advocates forum, the Top 40 under 40 lawyers, and the top 100 trial lawyers in the nation, attorney Ramzy Ladah is well respected in the profession. Ramzy Ladah is also one of the few certified personal injury specialists in the state of Nevada.

## **Select Attorney Profiles**

### **Dina Romaya-Ladah**

Dina was awarded a scholarship to attend the University of Nevada, Las Vegas, William S. Boyd School of Law, which she began in 2004. During her time at UNLV she externed for Senator Harry Reid. After graduating from law school in 2007, Dina went on to take and pass bar exams in Nevada, California and Arizona and is licensed to practice in all three states, as well as the federal courts in Nevada and Southern District of California.

Dina is a Sustaining Member of the Nevada Justice Association, a Forum member of Trial by Woman, an advocate for Citizens for Justice, and has served on boards within the community, in addition to doing philanthropic work within Clark County and beyond.

Dina has collaborated to create juror profiles and select juries who have awarded multi-million dollar verdicts to Ladah Law Firm Clients. Known as the "juror whisperer", Dina specializes in jury selection and is pivotal part of the firm during trial.

Dina has been honored on the cover of My Vegas Magazine as a Readers' Choice Top 100 Lawyers in Las Vegas (Winter 2017), recognized as a "Real Top Lawyer" by Real Vegas Magazine's inaugural September 2018 issue, recognized as one of the



**LADAH LAW**  
FIRM

“Women who Wow” in Real Vegas Magazine’s December 2018 issue and again as one of the “Women Who Wow – Real Women of Substance” in Real Vegas Magazines’ December 2019 issue, and was named in the 2020 Top 40 under 40 by the National Trial Lawyers Association.

### **Anthony Ashby**

Anthony Ashby has been licensed for over 20 years in Nevada and spent nearly all of his 20 year career working as an insurance defense lawyer. During his time working for the defense, Anthony rose to the ranks of senior partner at one of the most successful insurance defense firms in Nevada.

Anthony has conducted more than 100 jury trials, over 200 arbitrations, and dozens of mediations for insurance companies, and therefore is considered one of the most experienced litigation attorneys in Nevada. Anthony uses his considerable insurance defense experience to guide the firm’s clients through the strategy and trial tactics defense uses to delay justice for plaintiffs. Anthony is involved, one way or another, in essentially every case that Ladah Law Firm takes to trial.

### **Adrian Karimi**

Adrian attended the University of California, Los Angeles and received a Bachelor’s in History, *Cum Laude*. Once graduating from UCLA, Adrian moved to Las Vegas, Nevada and attended William S. Boyd School of Law at UNLV. While in law school, Adrian was a judicial extern clerk for the Honorable Justice Pickering of the Nevada Supreme Court, and also for the Honorable Judge (now Justice) Abbi Silver of the Eighth Judicial District Court, Dept. XV in Clark County, Nevada. Adrian also worked as a law clerk in private practice while in law school, honing his skills in various areas of civil litigation such as civil RICO claims and Nevada’s newest area of law: HOA foreclosure processes.

Since 2014, Adrian began his legal career as a Judicial Law Clerk for Honorable Judge (now Justice) Silver. It was during his clerkship did Adrian become more familiar with both civil and criminal matters, and the Court process for all issues. After his clerkship, Adrian went into private practice joining one of Las Vegas’ bigger Plaintiffs’ firms working on class actions, mass torts, general civil litigation, personal injury, workers’ compensation, and wage/hour claims. Adrian has done over 10 trials and over 100 arbitrations since becoming licensed in 2014.