

# **EXHIBIT B**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re ZOOM SECURITIES LITIGATION	)	Case No. 3:20-cv-02353-JD
	)	
This Document Relates To:	)	<b>DECLARATION OF PROFESSOR</b>
	)	<b>WILLIAM B. RUBENSTEIN IN</b>
ALL ACTIONS	)	<b>SUPPORT OF PLAINTIFFS' MOTION</b>
	)	<b>FOR ATTORNEY'S FEES</b>

1. I am the Bruce Bromley Professor of Law at Harvard Law School and have been recognized as a leading national expert on class action law and practice. Lead Counsel<sup>1</sup> seek attorney's fees in the amount of 18.75% of the \$150 million settlement fund. Lead Counsel have retained me to assist the Court in reviewing whether this request is reasonable in the context of this litigation.<sup>2</sup>

2. The core of my opinion in this case turns on two key conclusions. *First*, all of the metrics in the case – the percentage requested, the hourly rates of various timekeeper categories, the average hourly rate across the case, and the total number of hours – are within or below the norms for comparable class actions and provide empirical support for the request. *Second*, the

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<sup>1</sup> The Stipulation of Settlement states that “‘Lead Counsel’ means Robbins Geller Rudman & Dowd LLP.” Stipulation of Settlement, *In re Zoom Sec. Litig.*, No. 3:20-cv-02353-JD (N.D. Cal. March 24, 2025), ECF 127-2 at 4 [hereinafter “Settlement Agreement”]; the Court appointed Robbins Geller as Lead Counsel, ECF 56, and, in certifying a class for settlement purposes, appointed Robbins Geller as Class Counsel, ECF 128.

<sup>2</sup> As I believe the Court is generally aware of my qualifications, I provide those in Exhibit A, with a list of documents I reviewed in preparing this opinion in Exhibit B.

only real issue here is that the normal level fee request, negotiated by the Lead Plaintiff, yields a high multiple of Lead Counsel's lodestar. More specifically:

- **Empirical evidence demonstrates that:**
  - **Lead Counsel's requested percentage is below the Ninth Circuit's 25% benchmark, and consistent with awards in cases involving common funds of this magnitude** (Part II(A), *infra*). The requested fee is below the Ninth Circuit's 25% benchmark, which empirical evidence also demonstrates to be the norm in this District, consistent with the average percentage award (18%) in cases of this magnitude, and well below the median award (25%) in securities class actions of this magnitude.
  - **Lead Counsel's lodestar reflects reasonable billing rates** (Part II(B), *infra*). For purposes of this Declaration, my research assistants compiled a database of all billing rates in fee petitions approved by courts overseeing class action settlements in the Northern District of California in 2024 (293 rates from 24 cases). The billing rates Lead Counsel employ for partners and partnership-track attorneys are almost precisely (5.6% higher than) the norm. The reasonableness of Lead Counsel's rates is consistent across other categories of billers (4.5% below the mean for staff attorneys, 10.0% above the mean for paralegals), with Lead Counsel's average hourly rate for all professionals (\$738) falling 8.7% below the mean of the comparison set.
  - **Lead Counsel's lodestar reflects a comparatively small quantity of hours to produce a recovery of this magnitude** (Part II(C), *infra*). The total number of hours Lead Counsel expended in this case is about one-eighth of the norm for cases of this settlement size. It is evident they were both efficient in prosecuting this case and negotiating a settlement and engaged in no churning or lodestar padding. What is extraordinary here is the relationship between the number of hours expended and the recovery for the client: roughly speaking, Lead Counsel secured about \$42,525 for every hour they worked on the case; this is more than four times the mean and median for class action cases of this magnitude.
- **Lead Counsel are entitled to a significant lodestar multiplier given the risks they undertook and the results they achieved for the class** (Part III, *infra*). Lead Counsel's 18.75% fee award would be slightly less than eleven times their total lodestar. Courts have assessed the meaning of lodestar multipliers in qualitative and quantitative terms:
  - **Qualitatively**. Courts routinely approve common fund fee awards that embody a multiple of class counsel's lodestar in recognition of the risks that class counsel take in contingent fee matters and the results that they achieve for the class in a given case. Here, Lead Counsel took significant risks, investing millions of dollars

of their own time and money into an untested case against a large corporate defendant, represented by one of the largest law firms in the country; the case presented a novel and complex set of facts, overlapping as it did with the onset of the Covid epidemic and the spike in awareness and usage of the defendant's product. And those risks surely paid off when Lead Counsel secured for the class a large fund, with recoveries available to each and every eligible class member investor according to a straightforward and familiar claiming process, at rates 4-5 times the norm for cases of this type. These facts provide strong support for the Court to conclude Lead Counsel are entitled to a substantial multiple of their lodestar.

- ***Quantitatively.*** Empirical evidence shows the average multiplier to be about 1.5 times counsel's lodestar, with that number roughly doubling (to about 3.2) in large fund cases; but in dozens of cases (appended as Exhibit D), courts have awarded much higher multipliers, including some at the double-digit level sought here. While a double digit multiplier is on the high end of available data, numerical comparisons are somewhat constrained by several limitations in these data: (1) there is no empirical evidence of the multipliers lawyers make in the vast majority of contingent fee cases (basic tort matters), but it is likely the multipliers in those cases are often quite high; (2) there is empirical evidence of multipliers in only about half of all class action cases; and (3) it is likely that lawyers most often propose, and by implication courts most often undertake, a cross-check in those cases in which multipliers are low, creating a selection bias problem with the available data. Thus, while the multiplier implied by Lead Counsel's lodestar is at the high end of available data, it is surely a more normal data point across the full range of contingent fee cases.

3. Rule 23 demands a fee be "reasonable," but it does not specify whether the Court should make that assessment in terms of the percentage (the class's cost) or the multiplier (counsel's profit over their hourly rates). While I have long been a strong proponent of the cross-check, there are a variety of reasons cutting against *over-reliance* on the multiplier in the circumstances present here: (1) letting the multiplier determine the fee creates perverse incentives as it encourages counsel to run up meaningless lodestar and delays the class's recovery; (2) outside of the class action setting, courts have rejected reliance on profit in assessing the reasonableness of the cost of an attorney's services; and (3) the value of the cross-check diminishes when the price the class is paying is normal. In short, Lead Counsel performed superbly in this case and they

should not be penalized for the efficiency with which they secured the class's excellent recovery. The multiplier is a datapoint in the Court's analysis, but there are strong reasons in this setting that it should not be determinative of the cost of the class's legal services. That conclusion is buttressed by the fact that the Lead Plaintiff here not only supports the proposed fee, but in fact reports that he *negotiated* this level of fee award.

## II. EMPIRICAL EVIDENCE SUPPORTING THE REASONABLENESS OF THE FEE REQUEST

4. This Court has recently stated the legal standard for common fund fee petitions in these terms:

The use of the percentage-of-the-fund method in common-fund cases is the prevailing practice in the Ninth Circuit for awarding attorneys' fees and permits the Court to focus on a showing that a fund conferring benefits on a class was created through the efforts of plaintiffs' counsel. . . . A 25% benchmark percentage has been recognized as potentially useful, albeit in no way mandatory or binding. The Court will consider: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards made in similar cases.<sup>3</sup>

Applying these factors, the following sections consider the reasonableness of Lead Counsel's requested percentage (Part II(A), *infra*); their proposed rates (Part II(B), *infra*); and their hours (Part II(C), *infra*); the succeeding Part addresses the proposed multiplier in qualitative (risks and results) (Part III(A), *infra*) and quantitative (Part III(B), *infra*) terms, and discusses a number of important policy considerations in the cross-check analysis (Part III(C), *infra*).

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<sup>3</sup> *In re Robinhood Outage Litig.*, No. 3:20-CV-01626-JD, 2023 WL 5321525, at \*1 (N.D. Cal. July 28, 2023) (Donato, J.) (cleaned up).

(A)  
***Empirical Evidence Supporting The Percentage Sought***

5. Lead Counsel's requested 18.75% is below the norm across a full range of cases.
6. In the Ninth Circuit, 25% is the benchmark, or normal, fee.<sup>4</sup>
7. Empirical evidence, set forth in Table 1, shows that courts in the Ninth Circuit award about 25% on average, consistent with the benchmark.

**TABLE 1**  
**EMPIRICAL DATA ON PERCENTAGE AWARDS IN THE NINTH CIRCUIT**

	<b>YEARS STUDIED</b>	<b>NUMBER OF CASES</b>	<b>AVERAGE PERCENTAGE</b>
Eisenberg & Miller II <sup>5</sup>	1993 - 2008	101	25%
Eisenberg & Miller II <sup>6</sup> – N.D. Cal. Specifically	1993-2008	47	26%
Eisenberg & Miller III <sup>7</sup>	2009 - 2013	144	26%
Fitzpatrick <sup>8</sup>	2006 - 2007	111	23.9%
Rubenstein & Krishna <sup>9</sup>	2006 - 2011	196	24.5%

<sup>4</sup> *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047–48 (9th Cir. 2002).

<sup>5</sup> See Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 260 tbl.4 (2010) [hereinafter “Eisenberg & Miller II”].

<sup>6</sup> See *id.* at 259 tbl.3.

<sup>7</sup> Theodore Eisenberg, Geoffrey Miller & Roy Germano, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. Rev. 937, 951 tbl.3 (2017) [hereinafter “Eisenberg & Miller III”].

<sup>8</sup> Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical Legal Stud. 811, 836 tbl.9 (2010) [hereinafter “Fitzpatrick”].

<sup>9</sup> 5 *Newberg and Rubenstein on Class Actions* § 15:78 (citing William B. Rubenstein et al., *Class Action Fee Awards 2006–2011: An Empirical Study*).

8. Empirical evidence from a fourth study that focused solely on securities class actions demonstrated that the mean percentage award for all securities class action settlements from 2007–2012 was 23.8% and the median 25.0%.<sup>10</sup> The same empirical study also found that in Districts that see a high volume of securities class actions – the Northern and Central Districts of California and the Southern District of New York – the average fee award was 21.67%.<sup>11</sup>

9. Empirical research demonstrates that percentage awards tend to decrease as the size of the fund increases.<sup>12</sup> While the effect is easily demonstrated in the aggregate,<sup>13</sup> pinning down percentage awards for a particular settlement size is more difficult as the available empirical data break down percentages by case size in tranches. Table 2 sets forth the data from the five studies for the tranches relevant here.<sup>14</sup> Table 2 also includes data from a longitudinal study of fees in *securities* class actions specifically; that study showed that the median fee for securities settlements of this size (\$100-\$500 million) was 22% from 1996-2014 and 25% for the past decade (2015-

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<sup>10</sup> Lynn A. Baker et. al., *Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions*, 115 Colum. L. Rev. 1371, 1389 tbl.1 (2015) [hereinafter “Baker”].

<sup>11</sup> *Id.* at 1396.

<sup>12</sup> This is referred to as the “sliding scale” or “mega-fund” concept. *See* 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at §§ 15:80-81.

<sup>13</sup> *See id.* at § 15:81, Graphs 1–2.

<sup>14</sup> The securities class actions study found that in districts with a high volume of securities class actions, which includes the Northern District of California, fee awards for cases in the top quartile of settlements averaged 17.46%. However, the study did not provide any data as to what range of settlements the “top quartile” represents. Baker, *supra* note 10, at 1396.

2024).<sup>15</sup> The average of the five study averages (and securities study median) in Table 2 is 21.15%.

Lead Counsel's 18.75% request is 2.4 percentage points, or more than 11%, below that norm.

**TABLE 2**  
**EMPIRICAL DATA ON PERCENTAGE AWARDS IN LARGER FUND CASES**

	DEFINITION OF TRANCHE	CASES IN TRANCHE	AVERAGE PERCENTAGE
Eisenberg & Miller II <sup>16</sup>	\$69.6 million - \$175.5 million	69	19.4%
Eisenberg & Miller III <sup>17</sup>	>\$67.5 million	45	22.3%
Fitzpatrick <sup>18</sup>	>\$72.5 million	45	18.4%
Fitzpatrick <sup>19</sup>	\$100 million - \$250 million	14	17.9%
Rubenstein & Krishna <sup>20</sup>	\$125 million - \$175 million	23	23.9%
NERA – Securities Cases <sup>21</sup>	\$100 million - \$500 million	N/A	25% (median)

<sup>15</sup> Edward Flores and Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2024 Full-Year Review*, National Economic Research Associates, Inc. (NERA) at 30, fig. 27 (Jan. 22, 2025) [hereinafter “NERA”].

<sup>16</sup> Eisenberg & Miller II, *supra* note 5, at 265 tbl.7.

<sup>17</sup> Eisenberg & Miller III, *supra* note 7, at 947-48 fig.5.

<sup>18</sup> Fitzpatrick, *supra* note 8, at 839 tbl.10.

<sup>19</sup> *Id.* at 839 tbl.11.

<sup>20</sup> 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at § 15:89 (citing William B. Rubenstein et al., *Class Action Fee Awards 2006–2011: An Empirical Study*). The median award in this tranche of my data set is 24.8%.

<sup>21</sup> NERA, *supra* note 15, at 30 fig. 27.



10. These data points support the conclusions that Lead Counsel's 18.75% request is below the Ninth Circuit benchmark, below actual awards in Ninth Circuit cases, and lower than percentage awards in comparably sized settlements, including securities settlements.

**(B)**

***Empirical Evidence Supporting The Hourly Rates Employed***

11. The *Manual for Complex Litigation* states:

What constitutes a reasonable hourly rate varies according to geographic area and the attorney's experience, reputation, practice, qualifications, and customary charge. The rate should reflect what the attorney would normally command in the relevant marketplace.<sup>22</sup>

Applying these principles, the following subsections analyze the rates Lead Counsel propose for their (1) partners and partnership-track attorneys, (2) staff attorneys, and (3) paralegals, and then (4) a concluding subsection analyzes the blended, or average, hourly rate across the entire lodestar.

**1.**

**Partner and Partnership-Track Hourly Rates**

12. For purposes of this Declaration, I directed my research assistants to create a database of hourly rates recently approved by judges in the Northern District of California overseeing class action fee petitions so as to have an empirical basis by which to assess the reasonableness of Lead Counsel's proposed rates.

13. My research assistants completed this task in two steps:

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<sup>22</sup> *Manual for Complex Litigation (Fourth)* § 14.122 (2004) (citing *Blum v. Stenson*, 465 U.S. 886, 895 (1984) (“[R]easonable fees’ . . . are to be calculated according to the prevailing market rates in the relevant community . . .”); *Lindy Bros. Builders, Inc. of Phila. v. Am. Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 167 (3d Cir. 1973)).

- *Step 1.* Using the Federal Judicial Center’s database listing all civil cases terminated in a given year,<sup>23</sup> my research assistants identified (a) all class actions resulting in damages (b) terminated in the Northern District in 2024 with (c) judicially-approved settlements in which (d) the fee petition contained hourly rates attributable to specific billers. They then reviewed the order granting approval of class counsel’s fees to ensure that the Court endorsed the hourly rates proposed in the fee petition.
- *Step 2.* They then sought to ensure completeness in the data by running Westlaw searches for cases terminated in the Northern District in 2024.<sup>24</sup> For each of these cases, they again reviewed the fee petition and order granting approval to ensure (a) that the petition contained hourly rates attributable to specific billers and (b) the Court endorsed the hourly rates proposed in the fee petition.

14. This process yielded 24 total cases and 293 data points; 5 of the cases (listed in Exhibit C) were securities class actions; no case meeting the criteria was excluded. My team then reviewed class counsel’s lodestar submissions in each case and extracted 293 individual hourly rates of partnership-track attorneys (partner, counsel, associate) to employ in our analysis.<sup>25</sup> We adjusted all these rates to 2025 dollars using the U.S. Bureau of Labor Statistics’ Producer Price Index-Office of Lawyers (PPI-OL) index.<sup>26</sup> My research assistants also tracked down the law school graduation year for each of the 266 identified attorneys.

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<sup>23</sup> *Civil Cases Filed, Terminated, and Pending from SY 1988 to Present*, Federal Judicial Center, <https://www.fjc.gov/research/idb/civil-cases-filed-terminated-and-pending-sy-1988-present>.

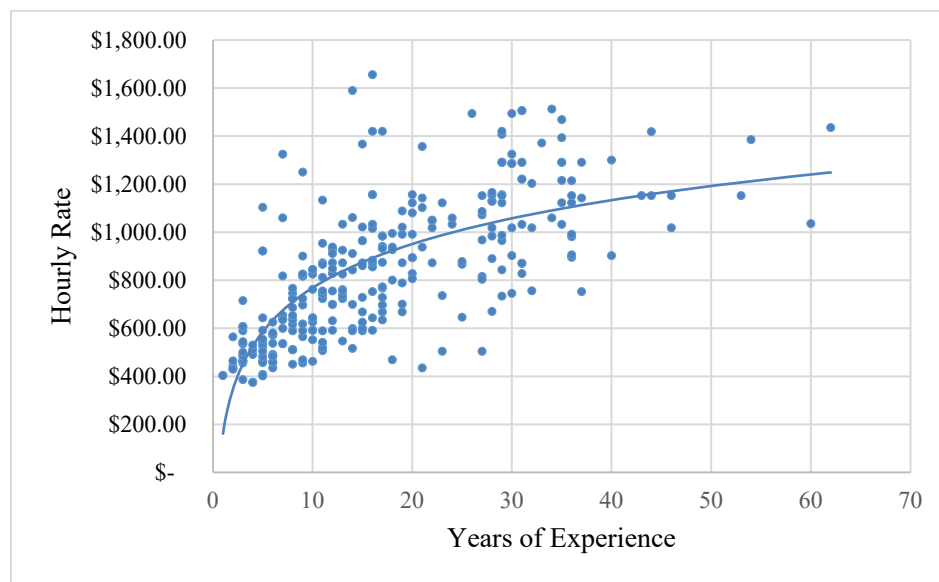
<sup>24</sup> Specifically, they ran this search chain: < adv: DA(aft12-31-2023) & DA(bef01-01-2025) & (“class action” “class settlement”) & “final approval” >. Westlaw returned cases approving fee awards in 2024 that were nonetheless not captured by the FJC approach, usually because the case had not been officially terminated for FJC purposes.

<sup>25</sup> This dataset does not include staff attorneys. The reasonableness of Lead Counsel’s staff attorney rates is assessed separately in ¶¶ 20-21, *infra*. We also excluded attorneys from nonprofit organizations from the dataset, as these attorneys’ salaries are generally not set by the market.

<sup>26</sup> This price database can be accessed here: <https://www.bls.gov/ppi/databases/>. To specifically access the PPI-OL, first click on “One Screen” in the “Industry Data” row below “PPI Databases.” Then select “541110 Offices of lawyers” as the industry and “541110541110 Offices of lawyers” as the product.

15. Once each timekeeper's experience level had been identified and all of the dollar amounts had been set to 2025 levels, we plotted the rates, with the x-axis representing the number of years of the timekeeper's experience and the y-axis representing the timekeeper's hourly rate. The resulting scatter plot, set forth below in Graph 1, provides a snapshot of judicially-approved hourly rates in 2024 Northern District of California class actions (expressed in 2025 dollars), with the blue line sketching the trend of rates across experience levels.

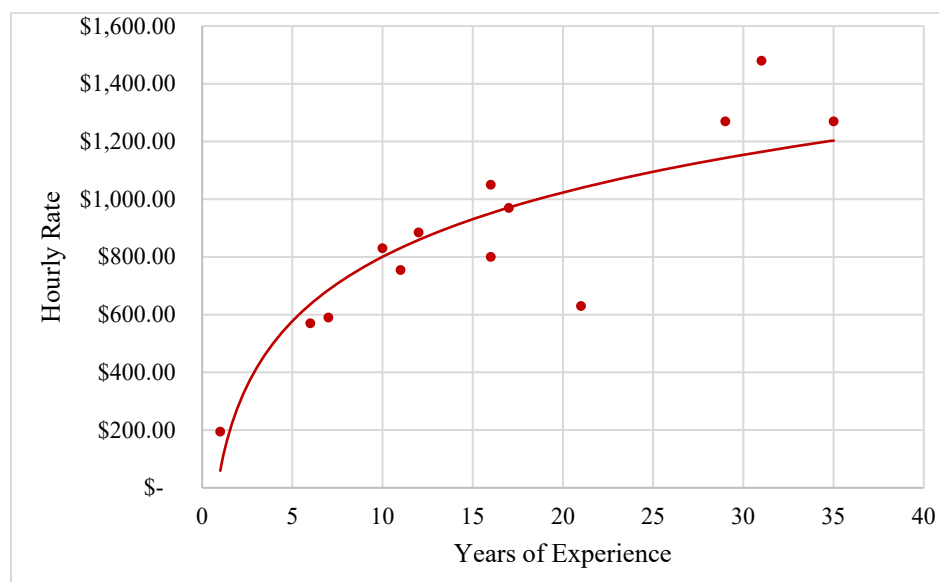
**GRAPH 1**  
**JUDICIALLY APPROVED HOURLY RATES**  
**IN 2024 N.D. CAL. CLASS ACTIONS**



16. I next directed my research assistants to plot, in the same manner, the rates employed by Lead Counsel in their lodestar submission. Specifically, for each of the 13 partnership-track lawyers in their lodestar, Lead Counsel supplied us with the name, years of

experience, and proposed hourly rate.<sup>27</sup> We plotted these rates onto the same type of x-y axis that we had employed for the Northern District of California comparison set. The resulting scatter plot, set forth below in Graph 2, provides a snapshot of Lead Counsel’s billing rates, with the red line sketching the trend of Lead Counsel’s rates across experience levels.

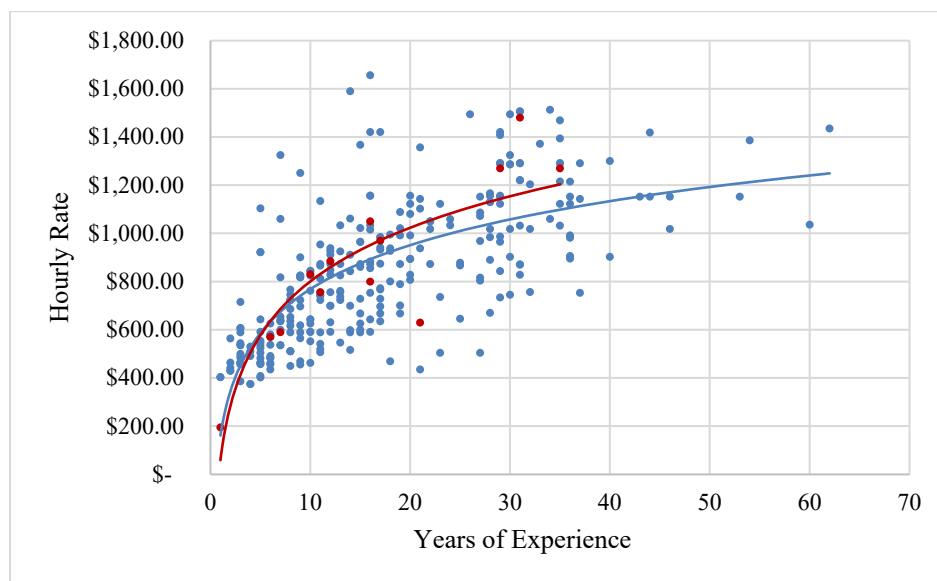
**GRAPH 2**  
**LEAD COUNSEL’S PROPOSED HOURLY RATES**



17. Finally, we aggregated Graphs 1 and 2 onto a single scatterplot, Graph 3, with Northern District judicially approved rates in blue and Lead Counsel’s proposed rates in red.

<sup>27</sup> Lead Counsel utilize their rates as of 2025 for all time spent on the litigation. This approach comports with Supreme Court precedent authorizing the use of current rates as “an appropriate adjustment for delay in payment.” *Missouri v. Jenkins*, 491 U.S. 274, 283–84 (1989).

**GRAPH 3**  
**LEAD COUNSEL’S PROPOSED HOURLY RATES COMPARED TO**  
**JUDICIALLY APPROVED HOURLY RATES IN 2024 N.D. CAL. CLASS ACTIONS**



18. As is visually evident in Graph 3, Lead Counsel’s trend line closely tracks that of the comparison set, falling slightly below it for lawyers with less experience and slightly above for lawyers with more experience. When the differences between the trend lines are compared,<sup>28</sup> Lead Counsel’s trend line is on average 5.58% above the trend line for rates approved in the Northern District class actions last year. Lead Counsel’s rates are even more reasonable when compared solely to approved rates in *securities* class actions in the Northern District for 2024, falling on average 0.92% below the approved rates.

<sup>28</sup> We compared the distance between the two trend lines at 12 points for which Lead Counsel have a timekeeper and took the average of those 12 comparisons. We removed one timekeeper at the 1-year level as the trendline from the comparison set is 172% higher than Lead Counsel’s trendline when measured at this point, which skewed the overall analysis.

19. This empirical evidence demonstrates that the rates Lead Counsel employ in their lodestar submission are in line with rates approved by Northern District judges overseeing class actions that terminated in 2024.

## 2.

### Staff Attorney Rates

20. Separately from the comparison of partnership-track attorneys, we compared Lead Counsel's proposed rates for staff attorneys to those charged by other firms for such attorneys.<sup>29</sup> We undertook this analysis separately because staff attorney rates tend not to fluctuate significantly with years of admission to the bar in the same manner that partnership-track attorney rates do, perhaps because their careers are less linear in nature.<sup>30</sup> Accordingly, we consider the reasonableness of staff attorney rates solely on a case-by-case basis, looking at the weighted average hourly rate for staff attorneys (adjusted to 2025 dollars) in the nine of 24 cases in our N.D.

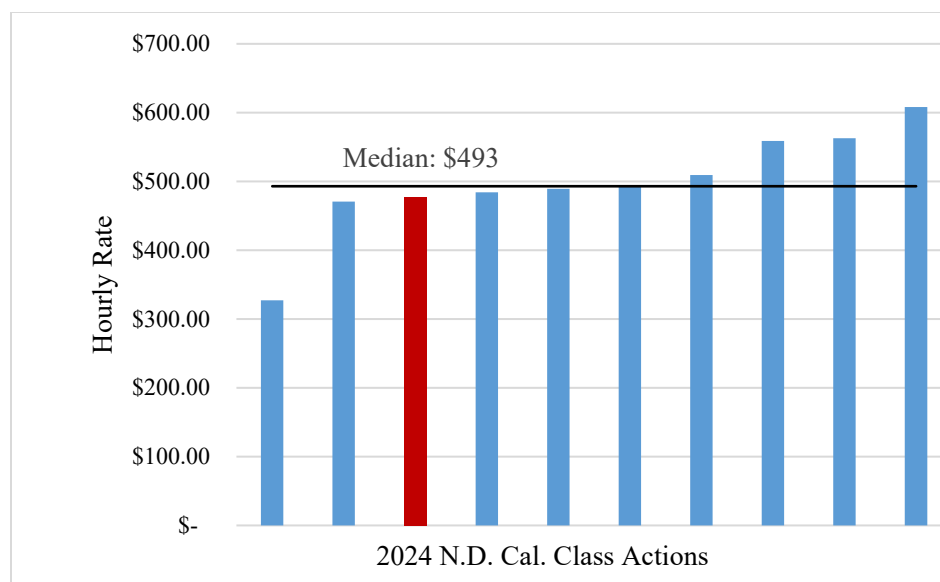
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<sup>29</sup> While firms all have specific nomenclature for various types of attorneys, the term "staff attorney" generally applies to lawyers (a) on the firm's payroll; (b) typically paid full benefits like any other lawyer on payroll; and (c) typically housed at the firm (with the firm therefore bearing some overhead expenses). These characteristics distinguish staff attorneys from contract attorneys (sometimes hired and paid through agencies, typically not provided benefits, and often housed off-site); at the same time, staff attorneys differ from firm associates in that they are generally not on a partnership track. Given the central characteristics defining staff attorneys, most courts have permitted class counsel to include their time in the lodestar cross-check calculation, as opposed to shifting these costs to the expense ledger. *See, e.g., Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 WL 6619983, at \*15 (N.D. Cal. Dec. 18, 2018), *aff'd sub nom. Hefler v. Pekoc*, 802 F. App'x 285 (9th Cir. 2020) ("Because the staff attorneys have lower billing rates . . . this results in a lower lodestar, which factors into the Court's cross-check."); *In re Citigroup Inc. Bond Litig.*, 988 F. Supp.2d 371, 377–78 (S.D.N.Y. 2013) (including staff attorneys in lodestar calculation).

<sup>30</sup> For example, in one case from our comparison set, two staff attorneys billed at \$450 per hour, despite one having 4 years of experience and the other having 13 years of experience. *See In re Alphabet, Inc. Sec. Litig.*, No. 3:18-cv-06245 (N.D. Cal. Jul. 19, 2024), ECF No. 234-1 at 8.

Cal. 2024 class action comparison set that had such attorneys in their lodestar submissions.<sup>31</sup> The average rate (in 2025 dollars) in the nine comparison cases – consisting of 39 timekeepers – ranged from a low of \$327 to a high of \$608, with a median rate of \$493 and mean of \$500. This is reflected in Graph 4, below, with the weighted average hourly rate in this case (\$478) highlighted in red.

**GRAPH 4**  
**LEAD COUNSEL’S AVERAGE STAFF ATTORNEY RATE COMPARED TO**  
**JUDICIALLY APPROVED STAFF ATTORNEY RATES**  
**IN 2024 N.D. CAL. CLASS ACTIONS**



21. As is visually evident, the staff attorney rates proposed by Lead Counsel are in line with rates judges approved in other Northern District class actions terminated in 2024. Lead Counsel’s average rate for staff attorneys (\$478) is 3.1% below the median (\$493) and 4.5% below the mean (\$500) of the nine cases in the comparison group. Lead Counsel’s average rates are

<sup>31</sup> We calculated the average hourly rate by dividing the total dollar amount billed for staff attorneys in a case by the total number of hours billed for staff attorneys.

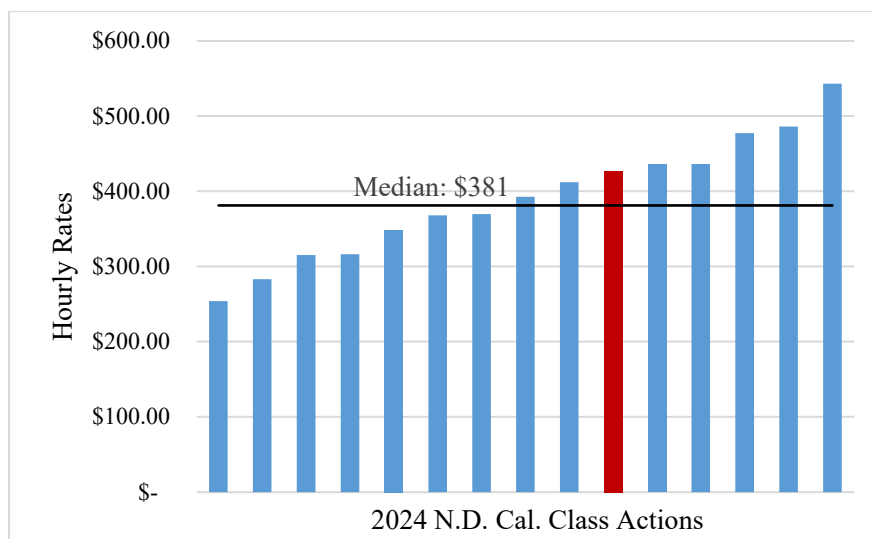
equally reasonable when compared to rates in the three *securities* class actions terminated in the Northern District in 2024 that employed staff attorneys: Lead Counsel's rates fall 2.3% below the median and 2.5% below the mean set by the other securities cases. This empirical evidence confirms the reasonableness of Lead Counsel's staff attorney rates.

### 3.

#### Paralegal Rates

22. My research assistants also collected information on the rates charged for paralegal work in the Northern District dataset described above. The weighted average hourly rates for paralegals in the comparison set (again calculated by dividing the total dollar amount billed for paralegals in a case by the total number of hours billed for paralegals and again adjusted to 2025 dollars) ranged from a low of \$254 to a high of \$543, with a median rate of \$381 and a mean of \$388. This is reflected in Graph 5, below, with the weighted average hourly rate in this case (\$427) highlighted in red.

**GRAPH 5**  
**LEAD COUNSEL'S AVERAGE PARALEGAL RATE COMPARED TO**  
**JUDICIALLY APPROVED PARALEGAL RATES IN 2024 N.D. CAL. CLASS ACTIONS**





23. As Graph 5 demonstrates, Lead Counsel's average rate for paralegal work (\$427) is just above the median (12.1%); it is similarly 10.0% above the mean. Lead Counsel's average paralegal rates are equally reasonable when compared to rates in the four *securities* class actions terminated in the Northern District in 2024 containing paralegal rates: Lead Counsel's rates fall 6.2% above the median and 7.5% above the mean set in those cases. The fact that Lead Counsel's paralegal rates are slightly above the norm is entirely immaterial here: if Lead Counsel billed all paralegal time at the comparison set's \$381 median rate, their lodestar would drop by 0.8%, and their lodestar multiplier would increase infinitesimally. In sum, this empirical evidence confirms the reasonableness of Lead Counsel's paralegal rates.

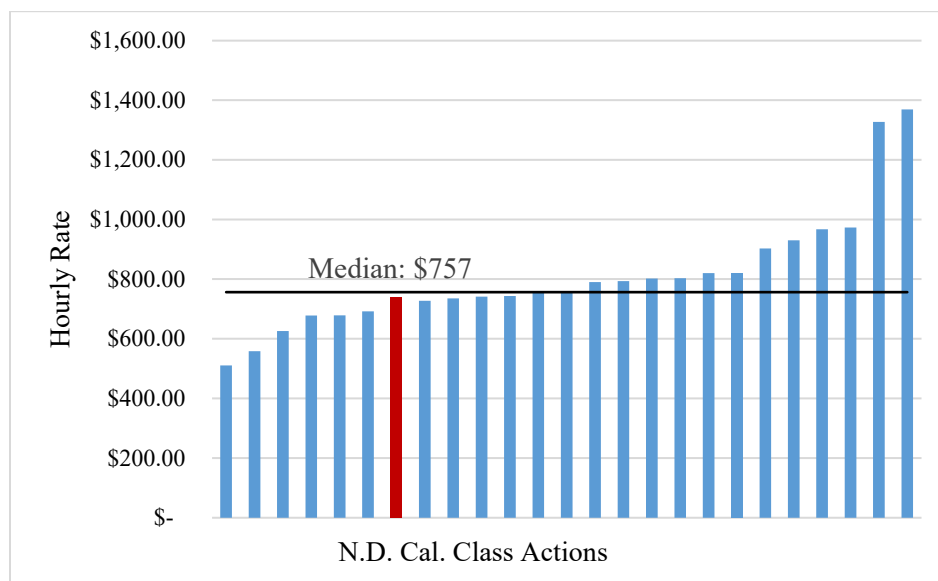
#### 4.

#### **Total Average Hourly Rate**

24. In addition to assessing the hourly rates of each lawyer, we also reviewed Lead Counsel's average – or blended –hourly rate for the entire case. The average hourly rate is calculated by taking the total lodestar (in 2025 dollars) and dividing it by the total number of hours worked by all of the timekeepers in the case. The resulting number provides the average billing rate of an hour expended on the case.

25. Graph 6, below, compares Lead Counsel's average rate to the average rates in the 24 comparison cases. The average rate in the comparison cases ranged from a low of \$510 to a high of \$1,369, with the median case having a rate of \$757 and the mean being \$809. This is reflected in Graph 6, below, with the average rate in this case (\$738) highlighted in red.

**GRAPH 6**  
**LEAD COUNSEL’S AVERAGE HOURLY RATE COMPARED TO**  
**AVERAGE HOURLY RATES IN 2024 N.D. CAL. CLASS ACTIONS**



26. As is evident in Graph 6, Lead Counsel’s \$738 rate falls 2.4% below the median case’s average rate (\$757) and 8.7% below the average of all the comparison cases (\$809).

\* \* \*

27. In sum, empirical evidence supports the conclusion that the rates Lead Counsel employ across the range of professional employees are generally consistent with, if generally lower than, the rates courts in this District approved for professionals in class actions in 2024. The Court could find that these are impressive metrics for the level of lawyering required for a case of this magnitude and complexity.

**(C)**  
***Empirical Evidence Supporting the Hours Expended***

28. Counsel are entitled to be compensated for reasonable time spent at all points in the litigation. Courts are cautioned to avoid engaging in an “*ex post facto*” determination of whether

attorney hours were necessary to the relief obtained.”<sup>32</sup> The issue “is not whether hindsight vindicates an attorney’s time expenditures, but whether, at the time the work was performed, a reasonable attorney would have engaged in similar time expenditures.”<sup>33</sup>

29. Lead Counsel did not provide me – nor did I ask to see – a breakdown of each hour expended, as such a fine-grained lodestar audit is not required for purposes of the lodestar cross-check.<sup>34</sup> Rather, I examine the hours that Lead Counsel billed by a quantitative comparison to the hours expended in similarly large cases.

30. Only a few cases in our 2024 Northern District dataset generally, and the securities subset specifically, exceeded \$100 million in recovery; on the assumption that there’s a positive relationship between time and reward, the cases in that dataset do not therefore helpfully address the question of how many hours it might take to achieve a \$150 million recovery. Accordingly, I directed my research assistants to gather data from my own database (*see* Ex. A, ¶ 8) of the hours expended in cases with settlements of comparable size. My dataset contained 18 cases with settlement sizes ranging from \$125 million to \$175 million (in 2025 dollars) and hours data, all of which we use in our analysis. The hours in these cases ranged from 5,700 to 65,066, with a median of 17,868 and a mean of 26,633. Lead Counsel billed 3,527 hours as of July 15, 2025 (the date

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<sup>32</sup> *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992).

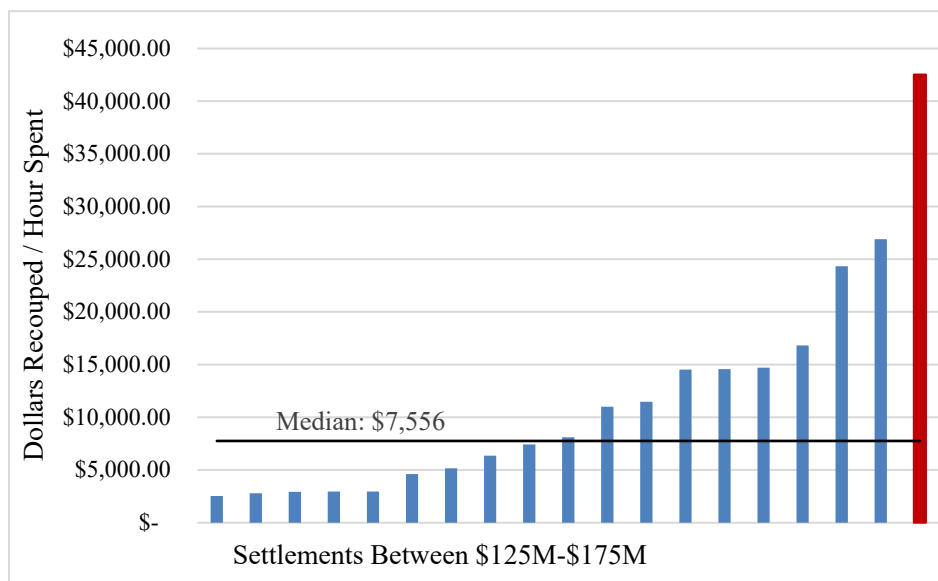
<sup>33</sup> *Id.*; *accord League of Residential Neighborhood Advocs. v. City of Los Angeles*, 633 F. Supp. 2d 1119, 1133 (C.D. Cal. 2009) (noting that litigant’s brief quoted language from *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992), and approving time expended).

<sup>34</sup> *See In re Nat’l Collegiate Athletic Ass’n Athletic Grant-in-Aid Cap Antitrust Litig.*, 768 F. App’x 651, 654 (9th Cir. 2019) (“[When conducting a lodestar cross-check,] the district court may rely on attorney fee summaries rather than actual billing records.”) (citation omitted); *Hefler*, 2018 WL 6619983, at \*14 (noting, in context of lodestar crosscheck, that “trial courts need not, and indeed should not, become green-eyeshade accountants . . . [r]ather, the Court seeks to do rough justice, not to achieve auditing perfection”) (cleaned up).

that Lead Counsel's time was provided to me), which falls far below the median and mean for settlements of this magnitude.

31. Counsel's low number of hours is consistent with the primarily legal nature of this case. At the same time, this comparatively low number of total hours provides support for the conclusion that Lead Counsel did not pad their lodestar with excess hours. But that conclusion minimizes Lead Counsel's achievement because, not only did they efficiently manage their hours, but the recovery they produced is also very large. Putting those two data points together (time and results converted to 2025 dollars) shows that Lead Counsel secured about \$42,525 every hour they worked on the case – this is about 5.6 times the median for the 18 comparably-sized class actions in my data base, as reflected in Graph 7 below, and 4.3 times the average.

**GRAPH 7**  
**LEAD COUNSEL'S DOLLARS RECOUPED PER HOUR SPENT**  
**COMPARED TO THAT IN CLASS ACTIONS OF SIMILAR SIZE**



32. The data presented in Graph 7 provides strong quantitative support for the conclusions that Lead Counsel were efficient, that they have not attempted to pad their lodestar,

and that their efficiency was remarkably productive. These conclusions are confirmed by a more qualitative assessment of the efforts that Lead Counsel undertook, outlined in Part III(A), *infra*.

33. In sum, empirical data enable the Court to find that the total hours Lead Counsel expended achieving this settlement was reasonable: Lead Counsel have neither churned artificial hours nor padded their lodestar.

\* \* \*

34. This part has provided empirical evidence strongly supporting the conclusion that all of the metrics in the case – the percentage requested, the hourly rates of various timekeeper categories, the average hourly rate across the case, and the total number of hours – are within or below the norms for comparable class actions.

### III. EVIDENCE SUPPORTING THE REASONABLENESS OF A SIGNIFICANT MULTIPLIER IN THIS CASE

35. As the Court is aware, in common fund cases, class counsel are typically paid a percentage of the fund, but courts often cross-check the reasonableness of the percentage award by asking counsel to submit their lodestar and by determining whether the percentage is a positive or negative multiple of that lodestar.<sup>35</sup> A lodestar cross-check identifies the profit, above counsel's hourly rates, that a given percentage award embodies.

36. Contingent fee lawyers generally, and class action attorneys in particular, are typically paid an amount greater than their hourly rates alone because they serve a critical social function in pursuing legal claims worth less than the cost of litigation (so-called “negative value

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<sup>35</sup> 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at §§ 15:84–89.

claims”),<sup>36</sup> a function captured by the title “private attorneys general.”<sup>37</sup> Fees are what incentivize an attorney to set up an entire legal practice around the pursuit of such negative value claims. Yet if the contingent fee attorney were paid at only her hourly rate, she would have no incentive to invest her time and money in a client’s case – she would take the far less risky path of representing clients who could presently pay her on an hourly basis, as most corporate counsel are paid. The California Supreme Court summarized this by quoting two commentators:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans.<sup>38</sup>

A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.<sup>39</sup>

37. The lodestar cross-check generates a number – a positive or negative multiple of class counsel’s lodestar – that identifies the profit class counsel are making above (or loss, below)

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<sup>36</sup> For a discussion, see William B. Rubenstein, *Why Enable Litigation: A Positive Externalities Theory of the Small Claims Class Action*, 74 UMKC L. Rev. 709 (2006).

<sup>37</sup> For a discussion, see William B. Rubenstein, *On What a “Private Attorney General” Is – And Why It Matters*, 57 Vand. L. Rev. 2129 (2004).

<sup>38</sup> *Ketchum v. Moses*, 17 P.3d 735, 742 (Cal. 2001) (quoting Richard A. Posner, *Economic Analysis of Law* 534, 567 (4th ed. 1992)).

<sup>39</sup> *Id.* (quoting John Leubsdorf, *The Contingency Factor in Attorney Fee Awards*, 90 Yale L.J. 473, 480 (1981)); see also Herbert M. Kritzer & Jayanth K. Krishnan, *Lawyers Seeking Clients, Clients Seeking Lawyers: Sources of Contingency Fee Cases and Their Implications for Case Handling*, 21 Law & Pol’y 347, 348 (1999) (“[A] lawyer representing a client on a contingency basis provides services beyond those that are solely legal. Often it is the additional services – for example, banking services (advancing costs) and insurance services (absorbing losses when they occur) – that make it possible for the client to hire the lawyer.” (footnote omitted)).

their hourly rates. I have explained that, in assessing the reasonableness of proposed multipliers, “[c]ourts in most circuits look at multiple factors – particularly the risk of non-recovery, the quality of counsel’s work, and the result achieved – to determine the reasonableness of the resulting multiplier,” and that “courts [often] look at multipliers in similar common fund cases and/or empirical evidence about normal multipliers more generally.”<sup>40</sup> The succeeding sub-sections apply these qualitative and quantitative approaches to the facts of this case, and then the section concludes with an examination of several underlying policy concerns.

### A.

#### *Qualitative Assessment*

38. The Ninth Circuit offers several reasonableness factors to consider in assessing a multiplier, including “the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.”<sup>41</sup> In the following paragraphs, I sort these factors into two categories – risks and results – and consider each in turn.

39. Six independent factors demonstrate the riskiness of this case:<sup>42</sup>

- **Novelty.** Many class actions are pursued by lawyers who specialize in particular areas (securities, antitrust, consumer, etc.) and can economize their practices and lower their risks by repeating efforts from one case to the next. This case shares that dynamic to a limited extent, as it is a securities class action. But it arose out of a unique setting – the impact of disclosures on securities prices in conjunction with the impact of the COVID-19 pandemic on the securities market – and hence presented novel questions for securities litigators.

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<sup>40</sup> 5 *Newberg and Rubenstein on Class Actions*, *supra* note 9, at § 15:87 (cleaned up).

<sup>41</sup> *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 784 (9th Cir. 2022) (cleaned up).

<sup>42</sup> The point is not to look at Lead Counsel’s risks *ex post*, but rather to demonstrate the strength of the achievement compared to the risks *ex ante*.

- **High stakes.** Notwithstanding Zoom’s large valuation,<sup>43</sup> it is not every day it settles a case for \$150 million dollars. It surely did so in part because the risk of a trial loss was greater. Given the magnitude of this case, the company defended it with special interest and vigor. Indeed, throughout the litigation – lasting over three years – the Defendants have contested all claims alleged by the Lead Plaintiff, and even now continue to deny any wrongdoing.
- **Significant expense.** Lead Counsel report a lodestar and expenses around \$3 million. This means that Lead Counsel have loaned the class millions of dollars – and risked losing every penny of it on the outcome of this case.
- **Unshared risk.** In most class action matters, particularly of this magnitude, the class is represented by a collection of plaintiffs’ firms.<sup>44</sup> This means that the lawyers can spread the risk among the various firms. Here, one firm shouldered nearly all of the risk.
- **Well-funded Defendant.** Zoom is a well-capitalized corporation, reaping annual revenues of \$4.7 billion and boasting an enterprise valuation of \$15.65 billion.<sup>45</sup> While Lead Counsel were funding this case themselves, with of millions of dollars of their own time and money, they were up against a Defendant with almost unlimited resources.
- **Powerful defense firm.** Zoom exerted its financial strength by retaining high-priced counsel from Cooley LLP, one of the largest,<sup>46</sup> most expensive, and well-respected firms in the country.<sup>47</sup> Lead Counsel’s risk was increased significantly by the skill, depth, resources, and tenacity of the defense firm they faced.

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<sup>43</sup> See *infra* note 45 and accompanying text.

<sup>44</sup> See, e.g., *Manual for Complex Litigation (Fourth)* § 10.22 (2004) (discussing presence of multiple counsel in complex litigation and advising judges on how to manage); Judith Resnick et al., *Individuals Within the Aggregate: Relationships, Representation, and Fees*, 71 N.Y.U. L. Rev. 296, 321 n.74 (1996) (describing a class action “in which some 60 firms are reportedly involved”).

<sup>45</sup> See Yahoo! Finance, *Zoom Communications, Inc. (ZM) – Statistics*, <https://finance.yahoo.com/quote/ZM/key-statistics/> (indicating trailing twelve-month revenues of \$4.7 billion and enterprise value of \$15.65 billion for Defendant Zoom Communications, Inc. as of June 24, 2025).

<sup>46</sup> See Cooley, *Overview*, <https://www.cooley.com/about> (stating that the firm has “nearly 1,400 lawyers”); PublicLegal, *America’s 350 Largest Law Firms*, <https://www.ilrg.com/nlj250> (listing Cooley as the 38<sup>th</sup> largest law firm in the United States by number of attorneys).

<sup>47</sup> See Vault, *2026 Vault Law 100*, <https://legacy.vault.com/best-companies-to-work-for/law/top-100-law-firms-rankings> (ranking Cooley as the 22<sup>nd</sup> most prestigious law firm in the United States).



40. These points demonstrate what seems incontestable: Lead Counsel took risks in litigating this case from inception to settlement. Like any investor that takes risks, these attorneys are entitled to a return on their investment, so long as the risks they took paid off. I will now turn to that analysis.

41. At least six components of this case's outcome speak to the results Lead Counsel obtained in this matter:

- ***Significant monetary relief.*** The settlement – \$150 million – constitutes a very large common fund. My own database has fund information on 1,017 settlements; when those settlement funds are adjusted to 2025 dollars, only 64 are larger than this, placing this settlement in the top 6.3%.<sup>48</sup>
- ***100% of injured class members eligible for relief.*** The settlement agreement explains that the class, for settlement purposes, is defined as “all Persons that purchased or otherwise acquired Zoom securities between April 18, 2019, and April 6, 2020, inclusive”<sup>49</sup> excluding only certain categories of users that have special affiliation with Zoom or opt outs. Any class member who meets these criteria and suffered a net loss is eligible to file a proof of claim form (negligible claims of less than \$10 will not be paid out).
- ***Cash relief.*** Class actions sometimes end in settlements that return class members little direct compensation, occasionally nothing more concrete than coupons or recoveries going exclusively to third party *cy pres* recipients.<sup>50</sup> The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements “granting class members illusory nonmonetary benefits, such as discount coupons for more of defendants’ product . . . .”<sup>51</sup> The settlement secured in this case will deliver cash compensation directly to class members, a form of recovery that speaks highly of the case’s outcome.

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<sup>48</sup> Without adjusting for inflation, only 36 settlements in my dataset are larger than \$150 million, putting this settlement in the top 3.5%.

<sup>49</sup> Settlement Agreement, *supra* note 1, at ¶ 1.4.

<sup>50</sup> See 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at §§ 12:7-13 (on nonpecuniary damages).

<sup>51</sup> *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

- **Cash relief at a high level.** Not only does this settlement provide cash payments to class members, the payments are significant when compared to the estimated recoverable damages: Lead Plaintiff reports that the settlement “recovers at least 32% of the estimated reasonably recoverable common stock damages.”<sup>52</sup> The median settlement as a percentage of estimated damages in securities cases with comparable claims (Rule 10b-5 cases) and size (\$250 million–\$499 million in estimated damages) was 8.1% in 2024 and 5.9% from 2015–2023.<sup>53</sup> Thus, the percentage recovery obtained by Lead Counsel is significantly higher (four times higher than the 2024 norm and more than five times higher than the 2015–2023 norm) than the median percentage recovery for comparable cases.
- **Straightforward claims process.** Class actions often end with settlements requiring class members to file claims. The claim-filing process may often dissuade class members from making the effort, particularly in small-claim situations. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements “imposing such strict eligibility conditions or cumbersome claims procedures that many members will be unlikely to claim benefits . . . .”<sup>54</sup> Here, the claim form is straightforward: class members need only fill in identifying information, information about and proof of their transactions of Zoom securities, and an attestation to the veracity of the information – and then click submit.<sup>55</sup>
- **No hint of collusion.** A critical concern in class suits is that the class’s agents might be tempted to sell out the class by agreeing to a low recovery in return for a high fee. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements that “[a]ctive judicial oversight of the settlement process [is necessary to] prevent collusion between counsel for the class and defendant and [to] minimize the potential for unfair settlements.”<sup>56</sup> Here, there is no hint of collusion – this case has been adversarial since its inception, encompassing about three years of

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<sup>52</sup> Lead Plaintiff’s Notice of Renewed Unopposed Motion and Unopposed Motion for Preliminary Approval of Proposed Settlement and Memorandum of Points and Authorities in Support Thereof, *In re Zoom, Inc. Sec. Litig.*, Case No. 3:20-cv-02353-JD (N.D. Cal. Mar. 24, 2025), ECF No. 127 at 9. [hereinafter “Motion for Preliminary Approval”]

<sup>53</sup> Laarni T. Bulan & Eric Tam, Cornerstone Rsch., *Securities Class Action Settlements: 2024 Review and Analysis* 7 fig.5 (2025), <https://www.cornerstone.com/wp-content/uploads/2025/03/Securities-Class-Action-Settlements-2024-Review-and-Analysis.pdf>

<sup>54</sup> *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

<sup>55</sup> Zoom Securities Settlement – File A Claim, <https://www.zoomsecuritiessettlement.com/file-claim.aspx>; see also *In re Zoom, Inc. Sec. Litig.*, No. 3:20-cv-02353-JD (N.D. Cal. Mar. 24, 2025), ECF 127-2.

<sup>56</sup> *Manual for Complex Litigation (Fourth)* § 22.923 (2004).

hard-fought litigation, and culminating in a “mediation process with Judge Phillips which extended over a number of months and resulted in acceptance by both parties of a mediator’s proposal.”<sup>57</sup> There is no evidence of Lead Counsel selling out the class’s interest.

42. These risks and results are evidence that Lead Counsel, one relatively small law firm, took significant risks in investing substantial capital and labor in adversarial litigation without the promise of an easy return on that investment, and Lead Counsel shouldered that risk superbly, prevailing at each critical juncture and generating an excellent recovery for the class. There is little doubt that they are entitled to a positive lodestar multiplier. The succeeding section addresses the quantitative and policy aspects of this question.

## B. *Quantitative Assessment*

43. The available empirical evidence shows that the average percentage fee award generally embodies a positive lodestar multiplier. In five studies with pertinent data, the average lodestar multiplier ranged from 1.42 to 3.89,<sup>58</sup> meaning that, in the average case, the percentage-of-the-fund method yielded an award to class counsel of about 1.5 times their normal hourly rates.

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<sup>57</sup> See Motion for Preliminary Approval, *supra* note 52 at 1.

<sup>58</sup> See 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at § 15:89 (citing William B. Rubenstein et al., *Class Action Fee Awards 2006–2011: An Empirical Study* at tbl.14) (1.42 average multiplier in 790 cases from 2006-2011); Eisenberg & Miller III, *supra* note 7, at 965 tbl.12 (1.48 average multiplier in 294 cases from 2009-2013); Fitzpatrick, *supra* note 8, at 833-34 tbl.9 (1.65 average multiplier in 204 cases from 2006-2007); Eisenberg & Miller II, *supra* note 5, at 272 tbl.14 (1.81 average multiplier in 368 cases from 1993-2008); Stuart J. Logan, Beverly C. Moore & Jack Moshman, *Attorney Fee Awards in Common Fund Class Actions*, 24 Class Action Rep. 167, 167 (2003) [hereinafter “Logan, Moore & Moshman”] (3.89 average multiplier in 1,120 cases from 1973-2003).

44. All of the empirical studies with pertinent data also show that multipliers tend to rise as the size of the class's fund increases,<sup>59</sup> with the average multiplier in these larger-fund cases across the four studies with data being 3.20. The "larger funds" in these studies started at modest levels (two below \$100 million, one at \$100 million, and the fourth at \$175.5 million), implying that isolation of multipliers in a set of larger funds alone might yield an average multiplier higher than 3.2.

45. While the multiplier sought here is even higher than the average multiplier in these studies' larger fund cases, so too are multipliers in a non-trivial quantity of cases. In Exhibit D, I provide a list of 94 cases with multipliers of 4 or greater, 60 of which are cases with multipliers of 5 or greater. The cases on this list include cases approving multipliers as high as 19 and encompass roughly a handful of cases at or above the level sought here. This list is not meant to be either exhaustive or representative of all multipliers that courts have approved. Rather, it demonstrates that courts approve percentage awards that embody multipliers consistent with the multiplier sought here in appropriate circumstances.

46. While comparing the multiplier sought here to empirical data about multipliers approved in other cases places this case near the high end of what courts have approved, that conclusion is likely exaggerated given at least three limitations in the empirical data on multipliers:

- *First*, there is no publicly-available empirical data about multipliers in the vast majority of contingent fee matters – individual tort cases – as the fees in these cases arise out of private contracts between attorney and client and need no court approval. However, many large-scale tort practices settle large volumes of cases with insurance companies,

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<sup>59</sup> See Eisenberg & Miller III, *supra* note 7, at 967 tbl.13 (2.72 average multiplier in 35 cases over \$67.5 million); Eisenberg & Miller II, *supra* note 5, at 274 tbl.15 (3.18 average multiplier in 40 cases over \$175.5 million); 5 *Newberg and Rubenstein on Class Actions*, *supra* note 9, at § 15:89 (2.39 average multiplier in 89 cases over \$44.6 million); Logan, Moore & Moshman, *supra* note 58, at 167 (4.5 average multiplier in 64 cases over \$100 million).

with the law firms undertaking little or no legal work prior to the settlement.<sup>60</sup> As tort attorneys in these matters tend to take 30-40% of the recoveries, their lodestar multipliers are likely very high. So too, in many mass tort MDLs, lawyers have large inventories of contingent fee cases, but perform little actual legal work as most is undertaken by a central plaintiffs' steering committee; federal judges have expressed such concern about the resulting profits to the individual tort lawyers in some of these MDLs that they have often capped the amounts these lawyers are permitted to charge their clients in these cases.<sup>61</sup>

- *Second*, the empirical evidence of multipliers in class action cases is similarly limited as courts undertake a lodestar cross-check in only about half of all cases.<sup>62</sup>
- *Third*, it is likely that lawyers are more prone to propose, and therefore courts to undertake, a cross-check in those cases in which multipliers are low, creating a selection bias problem with the available data. For instance, many courts have held that "a lodestar cross check need not be performed where plaintiff's counsel achieves a significant result through an early settlement"<sup>63</sup> – in other words, in cases where a multiplier is likely to be significant.

Thus, while a double-digit multiplier is at the high end of available data, it is surely a more normal data point across the full range of contingent fee cases.

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<sup>60</sup> See Nora Freeman Engstrom, *Run-of-the-Mill Justice*, 22 Geo. J. Leg. Ethics 1485, 1526 (2009) (describing "settlement mills" and explaining that in one large settlement mill, "claims usually settled after only four-to-six hours of employee (not necessarily attorney) effort," while at another, "'regular run-of-the-mill cases' required only two-to-three hours of attorney time").

<sup>61</sup> See *In re Nat'l Football League Players' Concussion Inj. Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at \*4 (E.D. Pa. Apr. 5, 2018) (adopting report of court-appointed expert (Professor Rubenstein) recommending 22% fee cap and summarizing prior court approaches to fee caps).

<sup>62</sup> 5 Newberg and Rubenstein on Class Actions, *supra* note 9, at § 15:89 (reporting that courts performed a cross-check in 53% of the percentage cases in one six-year (2003–2008) study and in 42% of cases in another five-year (2009–2013) study).

<sup>63</sup> See, e.g., *Rankin v. Am. Greetings, Inc.*, No. 2:10-CV-01831-GGH, 2011 WL 13239039, at \*2 (E.D. Cal. July 6, 2011); see also *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at \*16 (N.D. Cal. Jan. 26, 2007), *aff'd*, 331 F. App'x 452 (9th Cir. 2009) ("Under the circumstances presented here, where the early settlement resulted in a significant benefit to the class, the Court finds no need to conduct a lodestar cross-check."); *Lopez v. Youngblood*, No. CV-F-07-0474 DLB, 2011 WL 10483569, at \*14 (E.D. Cal. Sept. 2, 2011) ("A lodestar cross-check is not required in this circuit, and in a case such as this, is not a useful reference point.") (citing *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at \*16 (N.D. Cal. Jan. 26, 2007)).

**C.**  
***Policy Issues***

47. Although I have long been a proponent of a lodestar cross-check<sup>64</sup> – which essentially uses profit to regulate cost – the Court might show caution before reducing Lead Counsel’s fees based solely on a lodestar cross check in the circumstances of this case for several reasons.

48. *First*, the high multiplier here is the consequence of nothing more than one central fact: counsel’s efficiency in prosecuting the case vigorously and competently and settling the case quickly, coupled with the absence of any suggestion of a sell-out given the superb return for the class.<sup>65</sup> A strong, but quick, settlement poses a simple policy dilemma. If the Court lowers the requested fee because of the large multiplier, it thereby generates perverse incentives for future cases: counsel finding themselves with excellent class recoveries *too early in a case* will simply prolong the litigation unnecessarily until their lodestar reaches a level that domesticates the multiplier into a reasonable range. As just explained above,<sup>66</sup> for this reason, courts in this situation often abandon the cross-check as an unhelpful metric in measuring the fee award. This Court could reach a similar conclusion – to not *over-rely* on the cross-check in these circumstances – even after *undertaking* the cross-check analysis.

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<sup>64</sup> See, e.g., *Laffitte v. Robert Half Int’l, Inc.*, 1 Cal. 5th 480, 504 (2016) (“We tend to agree with the amicus curiae brief of Professor William B. Rubenstein that these concerns [about the lodestar cross-check] are likely overstated and the benefits of having the lodestar cross-check available as a tool outweigh the problems its use could cause in individual cases.”).

<sup>65</sup> See *supra* ¶ 41.

<sup>66</sup> See *supra* text accompanying note 63.

49. *Second*, outside the single arena of class action fee awards, courts have studiously avoided looking at a lawyer's profit as a measuring stick of the reasonableness of the price of an attorney's services, finding that such an inquiry opens a Pandora's box.<sup>67</sup>

50. Indeed, *third*, a lodestar cross-check may make the most sense when class members are paying a very high price for legal services – a third, or 40%, of their recovery to class counsel – but it recedes in importance as the costs of legal services decrease. When prices are high, they beg the question of whether that exorbitant cost reflects real work or excess profit. As prices come down to, or below, the norm, fears of overpayment recede and policy concerns about over-relying on profit as the decisive factor may outweigh them.

51. *Fourth*, I reviewed Lead Plaintiff's affidavit to be submitted in conjunction with Lead Counsel's fee request and note that the Lead Plaintiff reports both that he supports the fee request and in fact that he negotiated it. He also reports that he shopped for Lead Counsel at the outset of the case. These facts provide support for the conclusion that the Lead Plaintiff is a savvy consumer of legal services who carefully selected Lead Counsel to represent him, and the class, and then conscientiously sought to achieve a fee level he deemed to be in the class's best interests.

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<sup>67</sup> See *Shaffer v. Superior Ct.*, 33 Cal. App. 4th 993, 39 Cal. Rptr. 2d 506 (1995) ("If a law firm's profit margin were relevant to the analysis of the conscionability of its fees, a veritable Pandora's Box of questions and problems would be opened. For example, how are we to define 'profit margin.' Is it gross revenues minus total costs? If so, are those numbers measured on an accrual basis, a cost basis, or some other basis? Are they to be evaluated in absolute dollar terms or in terms of a percentage of its costs. Is every single item of cost incurred by a firm (e.g., both capital expenditures and costs of operations) to be part of the calculation? . . . Examination of profits would penalize law firms which are able to produce at costs substantially less than their competitors. It would unfairly penalize the efficient and reward the inefficient. Additionally, it would place courts in the position of supervising attorney's fees on the basis of individual profit margins instead of the market price for given services. This would be . . . bad public policy.").



The Third Circuit mandates deference to a fee negotiated by the Lead Plaintiff *ex ante*,<sup>68</sup> while the Second Circuit takes a similar approach, directing its district court to “give serious consideration to negotiated fees because PSLRA lead plaintiffs often have a significant financial stake in the settlement, providing a powerful incentive to ensure that any fees resulting from that settlement are reasonable.”<sup>69</sup> In so holding, the Second Circuit noted that “the agreed-upon fee will offer the best indication of a market rate, thus providing a good starting position for a district court’s fee analysis.”<sup>70</sup> The Ninth Circuit has noted – in an opinion concerning appointment of lead counsel, not fees – that, “An aggressively negotiated fee agreement does not relieve the district court of the responsibility of reviewing the fees actually paid to ensure that they are fair to the class and otherwise meet the Reform Act’s standards.”<sup>71</sup> While the Lead Plaintiff’s active monitoring of the class’s legal services and the cost thereof cannot relieve the Court of carefully reviewing the full record, the Court may nonetheless conclude – as have other Courts in this District<sup>72</sup> – that the Lead Plaintiffs’ actions provide further support for the reasonableness of the requested fee.

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<sup>68</sup> *In re Cendant Corp. Litig.*, 264 F.3d 201, 282 (3d Cir. 2001) (“[C]ourts should accord a presumption of reasonableness to any fee request submitted pursuant to a retainer agreement that was entered into between a properly-selected lead plaintiff and a properly-selected lead counsel.”)

<sup>69</sup> *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 133–134 (2d Cir. 2008).

<sup>70</sup> *Id.*

<sup>71</sup> *In re Cavanaugh*, 306 F.3d 726, 734 (9th Cir. 2002). *See generally*, 5 *Newberg and Rubenstein on Class Actions*, *supra* note 9, at § 15:75.

<sup>72</sup> *See In re Yahoo! Inc. Sec. Litig.*, No. 17-CV-00373-LHK, 2018 WL 4283377, at \*2 (N.D. Cal. Sept. 7, 2018) (granting an award of attorneys’ fees based in part on the fact that “[t]he fee has been reviewed and approved as reasonable by Plaintiffs, sophisticated investors who actively supervised the Action”); *In re Portal Software, Inc. Sec. Litig.*, No. C-03-5138 VRW, 2007 WL 4171201, at \*16 (N.D. Cal. Nov. 26, 2007) (noting that a “fee agreement resulted from arms-length bargaining, the court might well find . . . persuasive in determining the reasonableness of the attorneys’ fees”); *Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 WL 6619983, at \*15



52. In sum, there are good reasons to hesitate before over-emphasizing profit and letting it become the sole decisive factor of a fee award.

\* \* \*

53. It is my opinion that:

- Empirical analysis provides support for the conclusions that:
  - ✓ 18.75% is a normal percentage award for a settlement of this size and far below the median fee award (25%) in securities class actions of this size;
  - ✓ all of the billing rates Lead Counsel employ are reasonable;
  - ✓ the total quantity of hours Lead Counsel bill is reasonable, indeed extraordinarily low for a settlement of this magnitude;
- Lead Counsel are entitled to a significant lodestar multiplier given the risks they undertook and the results they achieved for the class and there are important policy concerns to consider before letting the size of the multiplier, standing alone, dictate the outcome of the fee request.



July 16, 2025

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William B. Rubenstein

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(N.D. Cal. Dec. 18, 2018), *aff'd sub nom. Hefler v. Pekoc*, 802 F. App'x 285 (9th Cir. 2020) (“As with the Settlement itself, the lack of objections from institutional investors who presumably had the means, the motive, and the sophistication to raise objections [to attorneys’ fees] weighs in favor of approval.”) (internal quotation marks omitted).

# **EXHIBIT A**

*In re Zoom Securities Litigation*  
Case No. 3:20-cv-02353-JD  
U.S. District Court for the Northern District of California

**EXPERT DECLARATION OF PROFESSOR WILLIAM B. RUBENSTEIN**

**EXHIBIT A**  
**BACKGROUND AND QUALIFICATIONS**

1. I am the Bruce Bromley Professor of Law at Harvard Law School. I graduated from Yale College, *magna cum laude*, in 1982 and from Harvard Law School, *magna cum laude*, in 1986. I clerked for the Hon. Stanley Sporkin in the U.S. District Court for the District of Columbia following my graduation from law school. Before joining the Harvard faculty as a tenured professor in 2007, I was a law professor at the UCLA School of Law for a decade, and an adjunct faculty member at Harvard, Stanford, and Yale Law Schools while a litigator in private practice during the preceding decade. I am admitted to practice law in the Commonwealth of Massachusetts, the State of California, the Commonwealth of Pennsylvania (inactive), the District of Columbia (inactive), the U.S. Supreme Court, six U.S. Courts of Appeals, and four U.S. District Courts.

2. My principal area of scholarship is complex civil litigation, with a special emphasis on class action law. I am the author, co-author, or editor of five books and more than a dozen scholarly articles, as well as many shorter publications (a fuller bibliography appears in my appended c.v.). Much of this work concerns various aspects of class action law. Since 2008, I have been the sole author of the leading national treatise on class action law, *Newberg on Class Actions*. Between 2008 and 2017, I rewrote the entire multi-volume treatise from scratch as its Fifth Edition and, subsequently, produced the treatise's Sixth Edition – now entitled, *Newberg and Rubenstein on Class Actions* – which was published in 2022. My work has been excerpted in casebooks on complex litigation, as noted on my c.v.

3. My expertise in complex litigation has been recognized by judges, scholars, and lawyers in private practice throughout the country for whom I regularly provide consulting advice and educational training programs. Between 2010 and 2023, the Judicial Panel on Multidistrict Litigation (JPML) annually invited me to give a presentation on the current state of class action law at its MDL Transferee Judges Conference. The Federal Judicial Center invited me to participate as a panelist (on the topic of class action settlement approval) at its March 2018 judicial workshop celebrating the 50<sup>th</sup> anniversary of the JPML, *Managing Multidistrict and Other Complex Litigation Workshop*. The Ninth Circuit invited me to moderate a panel on class action law at the 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop. The American Law Institute selected me to serve as an Adviser on a Restatement-like project developing the *Principles of the Law of Aggregate Litigation*. In 2007, I was the co-chair of the Class Action Subcommittee of the Mass Torts Committee of the ABA's Litigation Section. I am on the Advisory Board of the publication *Class Action Law Monitor*. I have often presented continuing legal education programs on class action law at law firms and conferences.

4. My teaching focuses on procedure and complex litigation. I regularly teach the basic civil procedure course to first-year law students, and I have taught a variety of advanced courses on complex litigation, professional responsibility concerns in aggregate litigation, remedies, and federal litigation. I have received honors for my teaching, including: the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence, as the best teacher at Harvard Law School during the 2011–2012 school year; the Rutter Award for Excellence in Teaching, as the best teacher at UCLA School of Law during the 2001–2002 school year; and the John Bingham Hurlbut Award for Excellence in Teaching, as the best teacher at Stanford Law School during the 1996–1997 school year.

5. My academic work on class action law follows a significant career as a litigator. For nearly eight years, I worked as a staff attorney and project director at the national office of the American Civil Liberties Union (ACLU) in New York City. In those capacities, I litigated dozens of cases on behalf of plaintiffs pursuing civil rights matters in state and federal courts throughout the United States. I also oversaw and coordinated hundreds of additional cases being litigated by ACLU affiliates and cooperating attorneys in courts around the country. I therefore have personally initiated and pursued complex litigation, including class actions.

6. I have been retained as an expert witness in more than 120 cases and as an expert consultant in another 40 or so cases. These cases have been in state and federal courts throughout the United States, most have been complex class action cases, and many have been MDL proceedings. I have been retained to testify as an expert witness on issues ranging from the propriety of class certification, to the reasonableness of settlements and fees, to the preclusive effect of class action judgments. I have been retained by counsel for plaintiffs, for defendants, and for objectors.

7. Courts have also appointed me to serve as their expert witness in complex matters:

- In 2015, the United States Court of Appeals for the Second Circuit appointed me to argue for affirmance of a district court order that significantly reduced class counsel's fee request in a large, complex securities class action, a task I completed successfully when the Circuit summarily affirmed the decision on appeal.<sup>1</sup>
- In 2017, the United States District Court for the Eastern District of Pennsylvania appointed me to serve as an expert witness on certain attorney's fees issues in the National Football League (NFL) Players' Concussion Injury Litigation (MDL 2323).

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<sup>1</sup> See *In re IndyMac Mortg.-Backed Sec. Litig.*, 94 F. Supp. 3d 517 (S.D.N.Y. 2015), *aff'd sub nom. DeValerio v. Olinski*, 673 F. App'x 87 (2d Cir. 2016).

In my final report to the Court, I recommended, *inter alia*, that the Court should cap individual retainer agreements at 22%, a recommendation that the Court adopted.<sup>2</sup>

- In 2018, the United States District Court for the Northern District of Ohio appointed me to serve as an expert consultant to the Court on complex class certification and common benefit fees issues in the National Prescription Opiate Litigation (MDL 2804).
- The United States District Courts for the Southern District of New York and the Eastern District of Pennsylvania have both appointed me to serve as a mediator to resolve complex matters in class action cases.

8. One of the functions I can provide as an expert witness is to present empirical evidence of class action practices from other cases. As part of my scholarly work on class action law, I have created and maintain a database containing data on over 1,000 class action lawsuits. Specifically, my research assistants coded the data from case reports appearing in the journal, *Class Action Attorney Fee Digest* (CAAFD). CAAFD was published monthly from January 2007 to September 2011 for a total of 57 issues and reported on 1,187 unique court-approved state and federal class actions. For each case, a CAAFD case abstract describes the awarding court and judge, the subject matter of the dispute, the settlement/judgment benefits, the attorney fee and expense awards (both as requested by plaintiff's counsel and as approved by the court), the case filing and attorney fee award dates, any named plaintiff awards, and miscellaneous data on case and settlement/judgment administration. In creating the database from the CAAFD reports, my research team cross-checked the accuracy of a subset of federal reports against source documents from PACER; we found only one error – an understatement of the settlement benefit value by 2% – in 726 data fields, or fewer than 0.15% of fields. I am therefore confident about the accuracy of

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<sup>2</sup> *In re Nat'l Football League Players' Concussion Inj. Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at \*1 (E.D. Pa. Apr. 5, 2018) (“I adopt the conclusions of Professor Rubenstein and order that IRPAs’ fees be capped at 22% plus reasonable costs.”).

the data in my database and use it regularly as a source for my scholarship and expert witness work.

9. Courts have often relied on my expert witness testimony.<sup>3</sup>

10. I have been retained in this case to provide an opinion concerning the issues set forth in the first paragraph of my Declaration. I am being compensated for providing this expert opinion. I was paid a flat fee in advance of rendering my opinion, so my compensation is in no way contingent upon the content of my opinion.

11. In analyzing these issues, I have discussed the case with the counsel who retained me. I have also reviewed documents from this litigation and the related cases, a list of which is

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<sup>3</sup> See, e.g., *In re Genetically Modified Rice Litig.*, 764 F.3d 864, 872 (8th Cir. 2014); *In re Zetia (Ezetimibe) Antitrust Litig.*, No. 2:18-MD-2836, 2022 WL 18108387, at \*7 (E.D. Va. Nov. 8, 2022); *Reed v. Light & Wonder, Inc.*, No. 18-CV-565-RSL, 2022 WL 3348217, at \*1–2 (W.D. Wash. Aug. 12, 2022); *City of Westland Police & Fire Ret. Sys. v. MetLife, Inc.*, No. 12-CV-0256 (LAK), 2021 WL 2453972, at \*2–3 (S.D.N.Y. June 15, 2021); *In re Facebook Biometric Info. Priv. Litig.*, No. 15-CV-03747-JD, 2021 WL 757025, at \*10–12 (N.D. Cal. Feb. 26, 2021); *Kater v. Churchill Downs Inc.*, No. 15-CV-00612-RSL, 2021 WL 511203, at \*1–2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Playtika Ltd.*, No. 18-CV-5277-RSL, 2021 WL 512230, at \*1–2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Huuuge, Inc.*, No. 18-CV-5276-RSL, 2021 WL 512229, at \*1–2 (W.D. Wash. Feb. 11, 2021); *Amador v. Baca*, No. 2:10-CV-01649-SVW-JEM, 2020 WL 5628938, at \*13 (C.D. Cal. Aug. 11, 2020); *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at \*10, 14 (S.D. Ill. Dec. 16, 2018); *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at \*5 (M.D.N.C. Dec. 3, 2018); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at \*2–4 (E.D. Pa. Apr. 5, 2018); *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2017 WL 3175924, at \*3 (N.D. Cal. July 21, 2017); *Aranda v. Caribbean Cruise Line, Inc.*, No. 1:12-cv-04069, 2017 WL 1369741, at \*5 (N.D. Ill. Apr. 10, 2017), *aff'd sub nom. Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792 (7th Cir. 2018); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL 5158730, at \*9–10 (N.D. Cal. Sept. 2, 2015); *Asghari v. Volkswagen Grp. of Am., Inc.*, No. 13-CV-02529 MMM, 2015 WL 12732462, at \*44 (C.D. Cal. May 29, 2015); *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-md-2591-JWL, 2015 WL 2165341, at \*5 (D. Kan. May 8, 2015); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010); *Commonwealth Care All. v. Astrazeneca Pharm. L.P.*, No. CIV.A. 05-0269 BLS 2, 2013 WL 6268236, at \*2 (Mass. Super. Aug. 5, 2013).

attached as Exhibit B, and I have reviewed the case law and scholarship relevant to the issues herein.

12. My full c.v. is set forth in the succeeding pages.



**PROFESSOR WILLIAM B. RUBENSTEIN**

Harvard Law School - AR323  
 1545 Massachusetts Avenue  
 Cambridge, MA 02138

(617) 496-7320  
 rubenstein@law.harvard.edu

**ACADEMIC EMPLOYMENT****HARVARD LAW SCHOOL, CAMBRIDGE MA**

Bruce Bromley Professor of Law	2018-present
Sidley Austin Professor of Law	2011-2018
Professor of Law	2007-2011
Bruce Bromley Visiting Professor of Law	2006-2007
Visiting Professor of Law	2003-2004, 2005-2006
Lecturer in Law	1990-1996
<i>Courses:</i>	Civil Procedure; Class Action Law; Remedies; Legal Profession
<i>Awards:</i>	2012 Albert M. Sacks-Paul A. Freund Award for Teaching Excellence
<i>Membership:</i>	American Law Institute; American Bar Foundation Fellow

**UCLA SCHOOL OF LAW, LOS ANGELES CA**

Professor of Law	2002-2007
Acting Professor of Law	1997-2002
<i>Courses:</i>	Civil Procedure; Complex Litigation; Remedies
<i>Awards:</i>	2002 Rutter Award for Excellence in Teaching
	Top 20 California Lawyers Under 40, <i>Calif. Law Business</i> (2000)

**STANFORD LAW SCHOOL, STANFORD CA**

Acting Associate Professor of Law	1995-1997
<i>Courses:</i>	Civil Procedure; Federal Litigation
<i>Awards:</i>	1997 John Bingham Hurlbut Award for Excellence in Teaching

**YALE LAW SCHOOL, NEW HAVEN CT**

Lecturer in Law	1994, 1995
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**BENJAMIN N. CARDOZO SCHOOL OF LAW, NEW YORK NY**

Visiting Professor	Summer 2005
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**LITIGATION-RELATED EMPLOYMENT****AMERICAN CIVIL LIBERTIES UNION, NATIONAL OFFICE, NEW YORK NY**

Project Director and Staff Counsel	1987-1995
-Litigated impact cases in federal and state courts throughout the United States.	
-Supervised a staff of attorneys at the national office, oversaw work of ACLU attorneys around the country and coordinated work with private cooperating counsel nationwide.	
-Significant experience in complex litigation practice and procedural issues; appellate litigation; litigation coordination, planning and oversight.	

**HON. STANLEY SPORKIN, U.S. DISTRICT COURT, WASHINGTON DC**

Law Clerk	1986-87
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**PUBLIC CITIZEN LITIGATION GROUP, WASHINGTON DC**

Intern	Summer 1985
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## EDUCATION

HARVARD LAW SCHOOL, CAMBRIDGE MA  
J.D., 1986, *magna cum laude*

YALE COLLEGE, NEW HAVEN CT  
B.A., 1982, *magna cum laude*  
Editor-in-Chief, YALE DAILY NEWS

## SELECTED COMPLEX LITIGATION EXPERIENCE

*Professional Service and Highlighted Activities*

- ◇ *Author*, NEWBERG AND RUBENSTEIN ON CLASS ACTIONS (6<sup>th</sup> ed. 2022); NEWBERG ON CLASS ACTIONS (sole author since 2008, sole author of entirely re-written Fifth Edition (2011-2019))
- ◇ *Speaker*, Judicial Panel on Multidistrict Litigation, Multidistrict Litigation (MDL) Transferee Judges Conference, Palm Beach, Florida (provided presentation to MDL judges on recent developments in class action law and related topics (2010, 2011, 2013-2019))
- ◇ *Panelist*, Federal Judicial Center, *Managing Multidistrict Litigation and Other Complex Litigation Workshop* (for federal judges) (March 15, 2018)
- ◇ *Amicus curiae*, authored *amicus* brief in United States Supreme Court on proper approach to standing in class action lawsuits (*Labcorp, v. Davis*, Case No. 24-304 (2025))
- ◇ *Amicus curiae*, authored *amicus* brief on proper approach to incentive awards in class action lawsuits in conjunction with motion for rehearing *en banc* in the United States Court of Appeals for the Eleventh Circuit (*Johnson v. NPAS Sols., LLC*, 975 F.3d 1244 (11th Cir. 2020))
- ◇ *Amicus curiae*, authored *amicus* brief in United States Supreme Court on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, 139 S. Ct. 1041 (2019))
- ◇ *Amicus curiae*, authored *amicus* brief in California Supreme Court on proper approach to attorney's fees in common fund cases (*Laffitte v. Robert Half Int'l Inc.*, 376 P.3d 672, 687 (Cal. 2016) (noting reliance on *amicus* brief))
- ◇ *Amicus curiae*, authored *amicus* brief in the United States Supreme Court filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion*, No. 09-893, 131 S. Ct. 1740 (2011))
- ◇ *Adviser*, American Law Institute, *Project on the Principles of the Law of Aggregate Litigation*, Philadelphia, Pennsylvania
- ◇ *Co-Chair*, ABA Litigation Section, Mass Torts Committee, Class Action Sub-Committee, 2007
- ◇ *Planning Committee*, American Bar Association, Annual National Institute on Class Actions

Conference, 2006, 2007

- ◇ “Expert’s Corner” (Monthly Column), *Class Action Attorney Fee Digest*, 2007-2011

#### *Judicial Appointments*

- ◇ *Co-Mediator*. Appointed by the United States District Court for the Eastern District of Pennsylvania to help mediate a complex attorney’s fees issue (*In re National Football League Players’ Concussion Injury Litigation*, Civil Action No. 2:12-md-02323 (E.D. Pa. June-September 2022))
- ◇ *Mediator*. Appointed by the United States District Court for the Southern District of New York to mediate a set of complex issues in civil rights class action (*Grottano v. City of New York*, Civil Action No. 15-cv-9242 (RMB) (May 2020-January 2021))
- ◇ *Expert consultant*. Appointed by the United States District Court for the Northern District of Ohio, and Special Master, as an expert consultant on class certification and attorney’s fees issues in complex multidistrict litigation (*National Prescription Opiate Litigation*, MDL 2804, Civil Action No. 1:17-md-2804 (N.D. Ohio Aug. 13, 2018; June 29, 2019; March 10, 2020))
- ◇ *Expert witness*. Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney’s fees in complex litigation, with result that the Court adopted recommendations (*In re National Football League Players’ Concussion Injury Litigation*, 2018 WL 1658808 (E.D. Pa. April 5, 2018))
- ◇ *Appellate counsel*. Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff’d sub. nom.*, *DeValerio v. Olinski*, 673 F. App’x 87, 90 (2d Cir. 2016))

#### *Expert Witness*

- ◇ Submitted expert witness declaration concerning reasonableness of attorney’s fee request (*Loop, LLC v. CDK Global, LLC*, Case No. 3:24-cv-00571-jdp (W.D. Wisc. 2025))
- ◇ Submitted expert witness declaration on ethics concerns arising out of Plaintiffs’ Steering Committee member in one piece of MDL representing opt-out plaintiffs in another (*In re: Blue Cross Blue Shield Antitrust Litigation*, MDL 2406, Case No. 2:13-cv-20000-RDP (N.D. Ala. 2025))
- ◇ Submitted expert witness declaration and scheduled to testify at trial concerning valuation of class action settlement (*In the Matter of the Petition for the Allocation of Aggregate Settlement Amount Between the Individual Settlement and the Class Settlement of the Maui Fire Cases*, Case No. S.P. No. 2CSP-24-0000049 (Hawai’i Cir. Ct., Second Circuit, 2024-2025))
- ◇ Submitted two expert witness declarations concerning reasonableness of proposed settlement in nationwide insurance class action, in light of competing litigation (*Glover v. Connecticut General Life Insurance Co., et al.*, Civil Action No. 3:16-cv-00827-MPS (D. Conn. 2024))

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- ◇ Submitted expert witness declaration concerning ethics of class counsel and other objections to proposed complex class action settlement (*In re National Prescription Opiate Litigation (Third Party Payor Actions)*), Case No. 1:17-md-02804-DAP (N.D. Ohio 2024))
- ◇ Submitted expert witness declaration and deposed as to class certification requirements (*Gateway Royalty LLC v. EAP Ohio LLC*, Case No. 5:20-cv-02813 (N.D. Ohio 2024))
- ◇ Submitted expert witness declaration on history and equity of proposed allocation system in complex class action settlement (*In re National Prescription Opiate Litigation (Third Party Payor Actions)*), Case No. 1:17-md-02804-DAP (N.D. Ohio 2024))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Drazen v. GoDaddy.com*, Civil Action No. 1:19-cv-00563-KD-B (S.D. Ala. 2024))
- ◇ Retained as an expert witness concerning reasonableness of attorney's fee request (*In re Apple Inc. Securities Litigation*, Case No. 4:19-cv-02033-YGR (N.D. Cal. 2024))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Brown v. Google LLC*, Civil Action No. 4:20-cv-03664 (N.D. Cal. 2024))
- ◇ Submitted expert witness declaration concerning proper approach to – and reasonableness of – attorney's fee request (*Parris v. Meta Platforms, Inc.*, Case No. 2023LA000672 (Illinois Circuit Court, DuPage Cty., 2024))
- ◇ Submitted expert witness declaration concerning proper approach to – and reasonableness of – attorney's fee request (*Barr v. SelectBlinds LLC*, Civil Action No. 2:22-cv-08326-SPG-PD (C.D. Cal. 2023))
- ◇ Submitted expert witness declaration on history and equity of proposed allocation system in complex class action settlement (*In re McKinsey & Co. Inc. National Prescription Opiate Consultant Litigation*, Case No. 3:21-md-02996-CRB (N.D. Cal. 2023))
- ◇ Submitted expert witness declaration concerning reasonableness of proposed hourly rates used in lodestar cross-check submission (*In re National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-CV-00745-PLF (D. D.C. 2023))
- ◇ Submitted expert witness declarations concerning reasonableness of – and proper approach to – attorney's fees in context of issue class action judgment (*James, et al., v. PacifiCorp, et al.*, Civil Action No. 20CV33885 (Oregon Circuit Court, Multnomah Cty. 2023))
- ◇ Retained as an expert witness concerning reasonableness of attorney's fee request (*In re Wells Fargo & Company Securities Litigation*, Case No. 1:20-cv-04494-GHW (S.D.N.Y. 2023))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*In re Facebook, Inc. Consumer Privacy User Profile Litigation*, Civil Action No. 3:18-cv-02843-VC (N.D. Cal. 2023))
- ◇ Submitted expert witness declaration concerning constitutionality of proposed procedures for resolving

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aggregate claims within a bankruptcy proceeding (*In re PG&E Corporation and Pacific Gas and Electric Company*, Bankruptcy Case No. 19-30088 (N.D. Cal. Bankrpt. 2023))

- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Health Republic Insurance Company v. United States*, Civil Action No. 1:16-cv-0259C (Ct. Fed. Cl. 2023))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Benson, et al. v. DoubleDown Interactive, LLC, et al.*, Civil Action No. 2:18-cv-00525 (W.D. Wash. 2023))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fees request (*In re Twitter Inc. Securities Litigation*, Case No. 4:16-cv-05314 (N.D. Cal. October 13, 2022))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Ferrando v. Zynga Inc.*, Civil Action No. 2:22-cv-00214 (W.D. Wash. 2022))
- ◇ Retained as an expert witness concerning fee structures in complex mass/class litigation (*In re Upstream Addicks and Barker (Texas) Flood-Control Reservoirs*, Sub-Master Docket No. 17-9001L, (Ct. of Federal Claims, 2022-))
- ◇ Submitted an expert witness declaration concerning reasonableness of proposed settlement in nationwide securities class action, in light of competing litigation (*In re Lyft, Inc. Securities Litigation*, Case No. 4:19-cv-02690 (N.D. Cal. August 19, 2022))
- ◇ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Zetia (Ezetimibe) Antitrust Litigation*, MDL No. 2836, 2:18-md-2836 (E.D. Va. July 12, 2022))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Reed v. Scientific Games Corp.*, Civil Action No. 2:18-cv-00565 (W.D. Wash. 2022))
- ◇ Submitted an expert witness declaration concerning reasonableness of proposed settlement in nationwide securities class action, in light of competing litigation (*In re Micro Focus International PLC Securities Litigation*, Master File No. 1:18-cv-06763 (S.D.N.Y., May 4, 2022))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Americredit Financial Services, Inc., d/b/a/ GM Financial v. Bell*, No. 15SL-AC24506-01 (Twenty-First Judicial Circuit Court, St. Louis County, Missouri, March 13, 2022))
- ◇ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Marjory Stoneman Douglas High School Shooting FTCA Litigation*, Case No. 0:18-cv-62758 (S.D. Fla. February 7, 2022))
- ◇ Expert witness declaration concerning expected claiming rates in class action submitted to court (*In re: Tiktok, Inc., Consumer Privacy Litigation*, No. 1:20-cv-04699 (N.D. Ill. Jan. 24, 2022))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*City of Westland Police & Fire Ret. Sys. v. MetLife, Inc.*, No. 12-CV-0256 (LAK), 2021 WL 2453972 (S.D.N.Y. June 15, 2021))

- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Kater v. Churchill Downs*, Civil Action No. 2:15-cv-00612 (W.D. Wash. 2020))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Wilson v. Playtika, LTD*, Civil Action No. 3:18-cv-05277 (W.D. Wash. 2020))
- ◇ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Wilson v. Huuuge*, Civil Action No. 3:18-cv-005276 (W.D. Wash. 2020))
- ◇ Submitted expert witness declarations and testified at fairness hearing concerning (1) reasonableness of attorney's fee request and (2) empirical data confirming robustness of class claims rate (*In re Facebook Biometric Information Privacy Litigation*, Civil Action No. 3:15-cv-03747-JD (N.D. Cal. (2020))
- ◇ Retained as an expert witness on issues regarding the Lead Plaintiff/Lead Counsel provisions of the Private Securities Litigation Reform Act of 1995 (PSLRA) (*In re Apple Inc. Securities Litigation.*, Civil Action No. 4:19-cv-02033-YGR (N.D. Cal. (2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Amador v. Baca*, Civil Action No. 2:10-cv-01649 (C.D. Cal. February 9, 2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement (*In re: Columbia Gas Cases*, Civil Action No. 1877CV01343G (Mass. Super. Ct., Essex County, February 6, 2020))
- ◇ Submitted an expert witness declaration, and reply declaration, concerning reasonableness of attorney's fee request (*Hartman v. Pompeo*, Civil Action No. 1:77-cv-02019 (D.D.C. October 10, 2019; February 28, 2020))
- ◇ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724, 16-MD-2724 (E.D. Pa. May 15, 2019))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, relied upon by court in awarding fees (*Hale v. State Farm Mut. Auto. Ins. Co.*, 2018 WL 6606079 (S.D. Ill. Dec. 16, 2018))
- ◇ Submitted expert witness affidavit and testified at fairness hearing concerning second phase fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.*, Case No. 217-2010-CV-00294 (New Hampshire Superior Court, Merrimack County (2018))
- ◇ Submitted expert witness report – and rebutted opposing expert – concerning class certification issues for proposed class action within a bankruptcy proceeding (*In re Think Finance*, Case No. 17-33964 (N.D. Tex. Bankrpt. 2018))
- ◇ Submitted expert witness declaration concerning specific fee issues raised by Court at fairness hearing and second declaration in response to report of Special Master (*In re Anthem, Inc. Data Breach*



*Litigation*, Case No. 15-MD-02617-LHK (N.D. Cal. 2018))

- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request following plaintiffs' verdict at trial in consumer class action (*Krakauer v. Dish Network, L.L.C.*, Civil Action No. 1:14-cv-00333 (M.D.N.C. 2018))
- ◇ Submitted three expert witness declarations and deposed by/testified in front of Special Master in investigation concerning attorney's fee issues (*Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, Civ. Action No. 1:11-cv-10230 (D. Mass. 2017-18))
- ◇ Retained as an expert witness on issues regarding the preclusive effect of a class action judgment on later cases (*Sanchez v. Allianz Life Insurance Co. of N. Amer.*, Case No. BC594715 (California Superior Court, Los Angeles County (2018))
- ◇ Retained as an expert witness and submitted report explaining meaning of the denial of a motion to dismiss in American procedure to foreign tribunals (*In re Qualcomm Antitrust Matter*, declaration submitted to tribunals in Korea and Taiwan (2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 3.0-liter settlement, referenced by court in awarding fees (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, 2017 WL 3175924 (N.D. Cal. July 21, 2017))
- ◇ Retained as an expert witness concerning impracticability of joinder in antitrust class action (*In re Celebrex (Celecoxib) Antitrust Litigation*, Civ. Action No. 2-14-cv-00361 (E.D. Va. (2017))
- ◇ Submitted an expert witness declaration and deposed concerning impracticability of joinder in antitrust class action (*In re Modafinil Antitrust Litigation*, Civ. Action No. 2-06-cv-01797 (E.D. Pa. (2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 2.0-liter settlement (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, 2017 WL 1047834 (N.D. Cal., March 17, 2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Aranda v. Caribbean Cruise Line, Inc.*, 2017 WL 1368741 (N.D. Ill., April 10, 2017))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*McKinney v. United States Postal Service*, Civil Action No. 1:11-cv-00631 (D.D.C. (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Johnson v. Caremark RX, LLC*, Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Geancopoulos v. Philip Morris USA Inc.*, Civil Action No. 98-6002-BLS1 (Mass. Superior Court, Suffolk County))

- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Gates v. United Healthcare Insurance Company*, Case No. 11 Civ. 3487 (S.D.N.Y. 2015))
- ◇ Retained as an expert trial witness on class action procedures and deposed prior to trial in matter that settled before trial (*Johnson v. Caremark RX, LLC*, Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*In re High-Tech Employee Antitrust Litig.*, 2015 WL 5158730 (N.D. Cal. Sept. 2, 2015))
- ◇ Retained as an expert witness concerning adequacy of putative class representatives in securities class action (*Medoff v. CVS Caremark Corp.*, Case No. 1:09-cv-00554 (D.R.I. (2015))
- ◇ Submitted an expert witness declaration concerning reasonableness of proposed class action settlement, settlement class certification, attorney's fees, and incentive awards (*Fitzgerald Farms, LLC v. Chesapeake Operating, L.L.C.*, Case No. CJ-2010-38, Dist. Ct., Beaver County, Oklahoma (2015))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Asghari v. Volkswagen Grp. of Am., Inc.*, 2015 WL 12732462 (C.D. Cal. May 29, 2015))
- ◇ Submitted an expert witness declaration concerning propriety of severing individual cases from class action and resulting statute of repose ramifications (*In re: American International Group, Inc. 2008 Securities Litigation*, 08-CV-4772-LTS-DCF (S.D.N.Y. (2015))
- ◇ Retained by Fortune Global 100 Corporation as an expert witness on fee matter that settled before testimony (2015)
- ◇ Submitted an expert witness declaration and testified at Special Master proceeding concerning reasonableness of attorney's fee allocation in sealed fee mediation (2014-2015)
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*In re: Hyundai and Kia Fuel Economy Litigation*, MDL 13-02424 (C.D. Cal. (2014))
- ◇ Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Ammari Electronics v. Pacific Bell Directory*, Case No. RG0522096, California Superior Court, Alameda County (2014))
- ◇ Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Deutsche Bank Securities, Inc.*, Case No. CGC-10-497839, California Superior Court, San Francisco County (2014))



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- ◇ Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Credit Suisse Securities (USA) LLC*, Case No. CGC-10-497840, California Superior Court, San Francisco County (2014))
- ◇ Retained as expert witness on proper level of common benefit fee in MDL (*In re Neurontin Marketing and Sales Practice Litigation*, Civil Action No. 04-10981, MDL 1629 (D. Mass. (2014))
- ◇ Submitted an expert witness declaration concerning Rule 23(g) selection of competing counsel, referenced by court in deciding issue (*White v. Experian Information Solutions, Inc.*, 993 F. Supp. 2d 1154 (C.D. Cal. (2014))
- ◇ Submitted an expert witness declaration concerning proper approach to attorney's fees under California law in a statutory fee-shifting case (*Perrin v. Nabors Well Services Co.*, Case No. 1220037974, Judicial Arbitration and Mediation Services (JAMS) (2013))
- ◇ Submitted an expert witness declaration concerning fairness and adequacy of proposed nationwide class action settlement (*Verdejo v. Vanguard Piping Systems*, Case No. BC448383, California Superior Court, Los Angeles County (2013))
- ◇ Retained as an expert witness regarding fairness, adequacy, and reasonableness of proposed nationwide consumer class action settlement (*Herke v. Merck*, No. 2:09-cv-07218, MDL Docket No. 1657 (*In re Vioxx Products Liability Litigation*) (E. D. La. (2013))
- ◇ Retained as an expert witness concerning ascertainability requirement for class certification and related issues (*Henderson v. Acxiom Risk Mitigation, Inc.*, Case No. 3:12-cv-00589-REP (E.D. Va. (2013))
- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement and performing analysis of Anet expected value of settlement benefits, relied on by court in approving settlement (*In re Navistar Diesel Engine Products Liab. Litig.*, 2013 WL 10545508 (N.D. Ill. July 3, 2013))
- ◇ Submitted an expert witness declaration concerning reasonableness of class action settlement and attorney's fee request (*Commonwealth Care All. v. Astrazeneca Pharm. L.P.*, 2013 WL 6268236 (Mass. Super. Aug. 5, 2013))
- ◇ Submitted an expert witness declaration concerning propriety of preliminary settlement approval in nationwide consumer class action settlement (*Anaya v. Quicktrim, LLC*, Case No. CIVVS 120177, California Superior Court, San Bernardino County (2012))
- ◇ Submitted expert witness affidavit concerning fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.*, Case No. 217-2010-CV-00294, New Hampshire Superior Court, Merrimack County (2012))
- ◇ Submitted expert witness declaration and deposed concerning class certification issues in nationwide fraud class action, relied upon by the court in affirming class certification order (*CVS Caremark Corp. v. Lauriello*, 175 So. 3d 596, 609-10 (Ala. 2014))

- ◇ Submitted expert witness declaration in securities class action concerning value of proxy disclosures achieved through settlement and appropriate level for fee award (*Rational Strategies Fund v. Jhung*, Case No. BC 460783, California Superior Court, Los Angeles County (2012))
- ◇ Submitted an expert witness report and deposed concerning legal malpractice in the defense of a class action lawsuit (*KB Home v. K&L Gates, LLP*, Case No. BC484090, California Superior Court, Los Angeles County (2011))
- ◇ Retained as expert witness on choice of law issues implicated by proposed nationwide class certification (*Simon v. Metropolitan Property and Cas. Co.*, Case No. CIV-2008-1008-W (W.D. Ok. (2011))
- ◇ Retained, deposed, and testified in court as expert witness in fee-related dispute (*Blue, et al. v. Hill*, Case No. 3:10-CV-02269-O-BK (N.D. Tex. (2011))
- ◇ Retained as an expert witness in fee-related dispute (*Furth v. Furth*, Case No. C11-00071-DMR (N.D. Cal. (2011))
- ◇ Submitted expert witness declaration concerning interim fee application in complex environmental class action (*DeLeo v. Bouchard Transportation*, Civil Action No. PLCV2004-01166-B, Massachusetts Superior Court (2010))
- ◇ Retained as an expert witness on common benefit fee issues in MDL proceeding in federal court (*In re Vioxx Products Liability Litigation*, MDL Docket No. 1657 (E.D. La. (2010))
- ◇ Submitted expert witness declaration concerning fee application in securities case, referenced by court in awarding fee (*In re AMICAS, Inc. Shareholder Litigation*, 27 Mass. L. Rptr. 568 (Mass. Sup. Ct. (2010))
- ◇ Submitted an expert witness declaration concerning fee entitlement and enhancement in non-common fund class action settlement, relied upon by the court in awarding fees (*Parkinson v. Hyundai Motor America*, 796 F.Supp.2d 1160, 1172-74 (C.D. Cal. 2010))
- ◇ Submitted an expert witness declaration concerning class action fee allocation among attorneys (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))
- ◇ Submitted an expert witness declaration concerning settlement approval and fee application in wage and hour class action settlement (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))
- ◇ Submitted an expert witness declaration concerning objectors' entitlement to attorney's fees (*Rodriguez v. West Publishing Corp.*, Case No. CV-05-3222 (C.D. Cal. (2010))
- ◇ Submitted an expert witness declaration concerning fairness of settlement provisions and processes, relied upon by the Ninth Circuit in reversing district court's approval of class action settlement (*Radcliffe v. Experian Inform. Solutions Inc.*, 715 F.3d 1157, 1166 (9th Cir. 2013))
- ◇ Submitted an expert witness declaration concerning attorney's fees in class action fee dispute, relied upon by the court in deciding fee issue (*Ellis v. Toshiba America Information Systems, Inc.*, 218 Cal.

App. 4th 853, 871, 160 Cal. Rptr. 3d 557, 573 (2d Dist. 2013))

- ◇ Submitted an expert witness declaration concerning common benefit fee in MDL proceeding in federal court (*In re Genetically Modified Rice Litigation*, MDL Docket No. 1811 (E.D. Mo. (2009))
- ◇ Submitted an expert witness declaration concerning settlement approval and fee application in national MDL class action proceeding (*In re Wal-Mart Wage and Hour Employment Practices Litigation*, MDL Docket No. 1735 (D. Nev. (2009))
- ◇ Submitted an expert witness declaration concerning fee application in national MDL class action proceeding, referenced by court in awarding fees (*In re Dept. of Veterans Affairs (VA) Data Theft Litigation*, 653 F. Supp.2d 58 (D.D.C. (2009))
- ◇ Submitted an expert witness declaration concerning common benefit fee in mass tort MDL proceeding in federal court (*In re Kugel Mesh Products Liability Litigation*, MDL Docket No. 1842 (D. R.I. (2009))
- ◇ Submitted an expert witness declaration and supplemental declaration concerning common benefit fee in consolidated mass tort proceedings in state court (*In re All Kugel Mesh Individual Cases*, Master Docket No. PC-2008-9999, Superior Court, State of Rhode Island (2009))
- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Warner v. Experian Information Solutions, Inc.*, Case No. BC362599, California Superior Court, Los Angeles County (2009))
- ◇ Submitted an expert witness declaration concerning process for selecting lead counsel in complex MDL antitrust class action (*In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL Docket No. 1869 (D. D.C. (2008))
- ◇ Retained, deposed, and testified in court as expert witness on procedural issues in complex class action (*Hoffman v. American Express*, Case No. 2001-022881, California Superior Court, Alameda County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Salsgiver v. Yahoo! Inc.*, Case No. BC367430, California Superior Court, Los Angeles County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in wage and hour class action (*Voight v. Cisco Systems, Inc.*, Case No. 106CV075705, California Superior Court, Santa Clara County (2008))
- ◇ Retained and deposed as expert witness on fee issues in attorney fee dispute (*Stock v. Hafif*, Case No. KC034700, California Superior Court, Los Angeles County (2008))
- ◇ Submitted an expert witness declaration concerning fee application in consumer class action (*Nicholas v. Progressive Direct*, Civil Action No. 06-141-DLB (E.D. Ky. (2008))
- ◇ Submitted expert witness declaration concerning procedural aspects of national class action arbitration (*Johnson v. Gruma Corp.*, JAMS Arbitration No. 1220026252 (2007))

- ◇ Submitted expert witness declaration concerning fee application in securities case (*Drulias v. ADE Corp.*, Civil Action No. 06-11033 PBS (D. Mass. (2007))
- ◇ Submitted expert witness declaration concerning use of expert witness on complex litigation matters in criminal trial (*U.S. v. Gallion, et al.*, No. 07-39 (E. D. Ky. (2007))
- ◇ Retained as expert witness on fees matters (*Heger v. Attorneys' Title Guaranty Fund, Inc.*, No. 03-L-398, Illinois Circuit Court, Lake County, IL (2007))
- ◇ Retained as expert witness on certification in statewide insurance class action (*Wagner v. Travelers Property Casualty of America*, No. 06CV338, Colorado District Court, Boulder County, CO (2007))
- ◇ Testified as expert witness concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corporate Derivative Litigation*, Case No. 01098905, California Superior Court, Santa Barbara Cty, CA (2006))
- ◇ Submitted expert witness declaration concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corp. Corporate Derivative Litigation*, Case No. CV-03-11 RSWL (C.D. Cal. (2006))
- ◇ Retained as expert witness as to certification of class action (*Canova v. Imperial Irrigation District*, Case No. L-01273, California Superior Court, Imperial Cty, CA (2005))
- ◇ Retained as expert witness as to certification of nationwide class action (*Enriquez v. Edward D. Jones & Co.*, Missouri Circuit Court, St. Louis, MO (2005))
- ◇ Submitted expert witness declaration on procedural aspects of international contract litigation filed in court in Korea (*Estate of Wakefield v. Bishop Han & Jooan Methodist Church* (2002))
- ◇ Submitted expert witness declaration as to contested factual matters in case involving access to a public forum (*Cimarron Alliance Foundation v. The City of Oklahoma City*, Case No. Civ. 2001-1827-C (W.D. Ok. (2002))
- ◇ Submitted expert witness declaration concerning reasonableness of class certification, settlement, and fees (*Baird v. Thomson Elec. Co.*, Case No. 00-L-000761, Cir. Ct., Mad. Cty, IL (2001))

#### *Expert Consultant*

- ◇ Provided expert consulting services to the ACLU's Immigrants' Rights Project on class action issues arising out of deportation of Venezuelan migrants to El Salvador (*A. A. R. P. v. Trump*, 145 S. Ct. 1364 (2025); *Trump v. J. G. G.*, 145 S. Ct. 1003 (2025))
- ◇ Retained as a consulting expert in series of direct and class action cases challenging artificial intelligence (AI) generators (2024)
- ◇ Retained as a consulting expert in class action (*In re: East Palestine Train Derailment*, Case No. 4:23-CV-00242-BYP (N.D. Ohio 2024))

- ◇ Retained as a consulting expert in complex MDL/class action (*In re: Aqueous Film-Forming Foams Products Liability Litigation*, Case No. 2:18-md-2873-RMG (D. S.C. 2023-2024))
- ◇ Retained as an expert in confidential matter pending in international arbitration forum concerning litigation financing issues in complex litigation (2022-2023)
- ◇ Retained as an expert in matter pending in several federal courts concerning attorney's fees in class action setting (2022-2023)
- ◇ Provided expert consulting services to Planned Parenthood Federation of America and the American Civil Liberties Union Foundation concerning complex class certification, notice, and other procedural issues arising out of Texas's law banning abortion (*Whole Woman's Health v. Austin Reeve Jackson*, Civil Action No. 1:21-cv-00616 (W.D. Tex. 2021))
- ◇ Retained as an expert witness on class action issues in complex mass tort MDL (*In re Roundup Products Liability Litigation*, Civil Action No. 3:16-md-02741-VC (N.D. Cal. (2020))
- ◇ Provided expert consulting services to Harvard Law School Predatory Lending and Consumer Protection Clinic concerning complex class action issues in bankruptcy (*In re: ITT Educational Services Inc.*, Case No. 16-07207-JMC-7A (Bank. S.D. Ind. 2020))
- ◇ Provided expert consulting services to law firm concerning complex federal procedural and bankruptcy issues (*Homaidan v. Navient Solutions, LLC*, Adv. Proc. No. 17-1085 (Bank. E.D.N.Y 2020))
- ◇ Provided expert consulting services to the ACLU on multi-district litigation issues arising out of various challenges to President Trump's travel ban and related policies (*In re American Civil Liberties Union Freedom of Information Act Requests Regarding Executive Order 13769*, Case Pending No. 28, Judicial Panel on Multidistrict Litigation (2017); *Darweesh v. Trump*, Case No. 1:17-cv-00480-CBA-LB (E.D.N.Y. (2017))
- ◇ Provided expert consulting services to law firm regarding billing practices and fee allocation issues in nationwide class action (2016)
- ◇ Provided expert consulting services to law firm regarding fee allocation issues in nationwide class action (2016)
- ◇ Provided expert consulting services to the ACLU of Southern California on class action and procedural issues arising out of challenges to municipality's treatment of homeless persons with disabilities (*Glover v. City of Laguna Beach*, Case No. 8:15-cv-01332-AG-DFM (C.D. Cal. (2016))
- ◇ Retained as an expert consultant on class certification issues (*In re: Facebook, Inc., IPO Securities and Derivative Litigation*, No. 1:12-md-2389 (S.D.N.Y. 2015))
- ◇ Provided expert consulting services to lead class counsel on class certification issues in nationwide class action (2015)
- ◇ Retained by a Fortune 100 Company as an expert consultant on class certification issues

- ◇ Retained as an expert consultant on class action and procedure related issues (*Lange et al v. WPX Energy Rocky Mountain LLC*, Case No. 2:13-cv-00074-ABJ (D. Wy. (2013))
- ◇ Retained as an expert consultant on class action and procedure related issues (*Flo & Eddie, Inc., v. Sirius XM Radio, Inc.*, Case No. CV 13-5693 (C.D. Cal. (2013))
- ◇ Served as an expert consultant on substantive and procedural issues in challenge to legality of credit card late and over-time fees (*In Re Late Fee and Over-Limit Fee Litigation*, 528 F.Supp.2d 953 (N.D. Cal. 2007), *aff'd*, 741 F.3d 1022 (9th Cir. 2014))
- ◇ Retained as an expert on Class Action Fairness Act (CAFA) removal issues and successfully briefed and argued remand motion based on local controversy exception (*Trevino, et al. v. Cummins, et al.*, No. 2:13-cv-00192-JAK-MRW (C. D. Cal. (2013))
- ◇ Retained as an expert consultant on class action related issues by consortium of business groups (*In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico on April 20, 2010*, MDL No. 2179 (E.D. La. (2012))
- ◇ Provided presentation on class certification issues in nationwide medical monitoring classes (*In re: National Football League Players' Concussion Injury Litigation*, MDL No. 2323, Case No. 2:12-md-02323-AB (E.D. Pa. (2012))
- ◇ Retained as an expert consultant on class action related issues in mutli-state MDL consumer class action (*In re Sony Corp. SXRDRear Projection Television Marketing, Sales Practices & Prod. Liability Litig.*, MDL No. 2102 (S.D. N.Y. (2009))
- ◇ Retained as an expert consultant on class action certification, manageability, and related issues in mutli-state MDL consumer class action (*In re Teflon Prod. Liability Litig.*, MDL No. 1733 (S.D. Iowa (2008))
- ◇ Retained as an expert consultant/co-counsel on certification, manageability, and related issues in nationwide anti-trust class action (*Brantley v. NBC Universal*, No.- CV07-06101 (C.D. Cal. (2008))
- ◇ Retained as an expert consultant on class action issues in complex multi-jurisdictional construction dispute (*Antenucci, et al., v. Washington Assoc. Residential Partner, LLP, et al.*, Civil No. 8-04194 (E.D. Pa. (2008))
- ◇ Retained as an expert consultant on complex litigation issues in multi-jurisdictional class action litigation (*McGreevey v. Montana Power Company*, No. 08-35137, U.S. Court of Appeals for the Ninth Circuit (2008))
- ◇ Retained as an expert consultant on class action and attorney fee issues in nationwide consumer class action (*Figueroa v. Sharper Image*, 517 F.Supp.2d 1292 (S.D. Fla. 2007))
- ◇ Retained as an expert consultant on attorney's fees issue in complex class action case (*Natural Gas Anti-Trust Cases Coordinated Proceedings*, D049206, California Court of Appeals, Fourth District (2007))



- ◇ Retained as an expert consultant on remedies and procedural matters in complex class action (*Sunscreen Cases*, JCCP No. 4352, California Superior Court, Los Angeles County (2006))
- ◇ Retained as an expert consultant on complex preclusion questions in petition for review to California Supreme Court (*Mooney v. Caspari*, Supreme Court of California (2006))
- ◇ Retained as an expert consultant on attorney fee issues in complex common fund case (*In Re DietDrugs (Phen/Fen) Products Liability Litigation* (E. D. Pa. (2006))
- ◇ Retained as an expert consultant on procedural matters in series of complex construction lien cases (*In re Venetian Lien Litigation*, Supreme Court of the State of Nevada (2005-2006))
- ◇ Served as an expert consultant on class certification issues in countywide class action (*Beauchamp v. Los Angeles Cty. Metropolitan Transp. Authority*, (C.D. Cal. 2004))
- ◇ Served as an expert consultant on class certification issues in state-wide class action (*Williams v. State of California*, Case No. 312-236, Cal. Superior Court, San Francisco)
- ◇ Served as an expert consultant on procedural aspects of complex welfare litigation (*Allen v. Anderson*, 199 F.3d 1331 (9th Cir. 1999))

#### *Ethics Opinions*

- ◇ Retained to provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2017))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2013))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2011))
- ◇ Provided expert opinion on issues of professional ethics in implicated by nationwide class action practice (*In re Professional Responsibility Inquiries* (2010))
- ◇ Provided expert opinion on issues of professional ethics implicated by complex litigation matter (*In re Professional Responsibility Inquiries* (2010))
- ◇ Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2007))

#### *Publications on Class Actions & Procedure*

- ◇ NEWBERG AND RUBENSTEIN ON CLASS ACTIONS (6<sup>th</sup> ed. 2022 and updates through 2024); NEWBERG ON CLASS ACTIONS (sole author since 2008, sole author of entirely re-written Fifth Edition (2011-2019))

- ◇ *Deconstitutionalizing Personal Jurisdiction: A Separation of Powers Approach*, Harvard Public Law Working Paper No. 20-34, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3715068](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3715068).
- ◇ *The Negotiation Class: A Cooperative Approach to Class Actions Involving Large Stakeholders*, 99 TEXAS L. REV. 73 (2020) (with Francis E. McGovern)
- ◇ *Profit for Costs*, 63 DEPAUL L. REV. 587 (2014) (with Morris A. Ratner)
- ◇ *Procedure and Society: An Essay for Steve Yeazell*, 61 U.C.L.A. REV. DISC. 136 (2013)
- ◇ *Supreme Court Round-Up – Part II*, 5 CLASS ACTION ATTORNEY FEE DIGEST 331 (September 2011)
- ◇ *Supreme Court Round-Up – Part I*, 5 CLASS ACTION ATTORNEY FEE DIGEST 263 (July-August 2011)
- ◇ *Class Action Fee Award Procedures*, 5 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2011)
- ◇ *Benefits of Class Action Lawsuits*, 4 CLASS ACTION ATTORNEY FEE DIGEST 423 (November 2010)
- ◇ *Contingent Fees for Representing the Government: Developments in California Law*, 4 CLASS ACTION ATTORNEY FEE DIGEST 335 (September 2010)
- ◇ *Supreme Court Roundup*, 4 CLASS ACTION ATTORNEY FEE DIGEST 251 (July 2010)
- ◇ *SCOTUS Okays Performance Enhancements in Federal Fee Shifting Cases – At Least In Principle*, 4 CLASS ACTION ATTORNEY FEE DIGEST 135 (April 2010)
- ◇ *The Puzzling Persistence of the AMega-Fund@ Concept*, 4 CLASS ACTION ATTORNEY FEE DIGEST 39 (February 2010)
- ◇ *2009: Class Action Fee Awards Go Out With A Bang, Not A Whimper*, 3 CLASS ACTION ATTORNEY FEE DIGEST 483 (December 2009)
- ◇ *Privatizing Government Litigation: Do Campaign Contributors Have An Inside Track?*, 3 CLASS ACTION ATTORNEY FEE DIGEST 407 (October 2009)
- ◇ *Supreme Court Preview*, 3 CLASS ACTION ATTORNEY FEE DIGEST 307 (August 2009)
- ◇ *Supreme Court Roundup*, 3 CLASS ACTION ATTORNEY FEE DIGEST 259 (July 2009)
- ◇ *What We Now Know About How Lead Plaintiffs Select Lead Counsel (And Hence Who Gets Attorney's Fees!) in Securities Cases*, 3 CLASS ACTION ATTORNEY FEE DIGEST 219 (June 2009)
- ◇ *Beware Of Ex Ante Incentive Award Agreements*, 3 CLASS ACTION ATTORNEY FEE DIGEST 175 (May 2009)
- ◇ *On What a "Common Benefit Fee" Is, Is Not, and Should Be*, 3 CLASS ACTION ATTORNEY FEE DIGEST 87 (March 2009)



- ◇ *2009: Emerging Issues in Class Action Fee Awards*, 3 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2009)
- ◇ *2008: The Year in Class Action Fee Awards*, 2 CLASS ACTION ATTORNEY FEE DIGEST 465 (December 2008)
- ◇ *The Largest Fee Award – Ever!*, 2 CLASS ACTION ATTORNEY FEE DIGEST 337 (September 2008)
- ◇ *Why Are Fee Reductions Always 50%?: On The Imprecision of Sanctions for Imprecise Fee Submissions*, 2 CLASS ACTION ATTORNEY FEE DIGEST 295 (August 2008)
- ◇ *Supreme Court Round-Up*, 2 CLASS ACTION ATTORNEY FEE DIGEST 257 (July 2008)
- ◇ *Fee-Shifting For Wrongful Removals: A Developing Trend?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 177 (May 2008)
- ◇ *You Cut, I Choose: (Two Recent Decisions About) Allocating Fees Among Class Counsel*, 2 CLASS ACTION ATTORNEY FEE DIGEST 137 (April 2008)
- ◇ *Why The Percentage Method?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 93 (March 2008)
- ◇ *Reasonable Rates: Time To Reload The (Laffey) Matrix*, 2 CLASS ACTION ATTORNEY FEE DIGEST 47 (February 2008)
- ◇ *The “Lodestar Percentage” A New Concept For Fee Decisions?*, 2 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2008)
- ◇ *Class Action Practice Today: An Overview*, in ABA SECTION OF LITIGATION, CLASS ACTIONS TODAY 4 (2008)
- ◇ *Shedding Light on Outcomes in Class Actions*, in CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM 20-59 (Joseph W. Doherty, Robert T. Reville, and Laura Zakaras eds. 2008) (with Nicholas M. Pace)
- ◇ *Finality in Class Action Litigation: Lessons From Habeas*, 82 N.Y.U. L. REV. 791 (2007)
- ◇ *The American Law Institute’s New Approach to Class Action Objectors’ Attorney’s Fees*, 1 CLASS ACTION ATTORNEY FEE DIGEST 347 (November 2007)
- ◇ *The American Law Institute’s New Approach to Class Action Attorney’s Fees*, 1 CLASS ACTION ATTORNEY FEE DIGEST 307 (October 2007)
- ◇ *“The Lawyers Got More Than The Class Did!”: Is It Necessarily Problematic When Attorneys Fees Exceed Class Compensation?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 233 (August 2007)
- ◇ *Supreme Court Round-Up*, 1 CLASS ACTION ATTORNEY FEE DIGEST 201 (July 2007)

- ◇ *On The Difference Between Winning and Getting Fees*, 1 CLASS ACTION ATTORNEY FEE DIGEST 163 (June 2007)
- ◇ *Divvying Up The Pot: Who Divides Aggregate Fee Awards, How, and How Publicly?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 127 (May 2007)
- ◇ *On Plaintiff Incentive Payments*, 1 CLASS ACTION ATTORNEY FEE DIGEST 95 (April 2007)
- ◇ *Percentage of What?*, 1 CLASS ACTION ATTORNEY FEE DIGEST 63 (March 2007)
- ◇ *Lodestar v. Percentage: The Partial Success Wrinkle*, 1 CLASS ACTION ATTORNEY FEE DIGEST 31 (February 2007) (with Alan Hirsch)
- ◇ *The Fairness Hearing: Adversarial and Regulatory Approaches*, 53 U.C.L.A. L. REV. 1435 (2006) (excerpted in THE LAW OF CLASS ACTIONS AND OTHER AGGREGATE LITIGATION 447-449 (Richard A. Nagareda ed., 2009))
- ◇ *Why Enable Litigation? A Positive Externalities Theory of the Small Claims Class Action*, 74 U.M.K.C. L. REV. 709 (2006)
- ◇ *What a “Private Attorney General” Is – And Why It Matters*, 57 VAND. L. REV. 2129(2004) (excerpted in COMPLEX LITIGATION 63-72 (Kevin R. Johnson, Catherine A. Rogers & John Valery White eds., 2009)).
- ◇ *The Concept of Equality in Civil Procedure*, 23 CARDOZO L. REV. 1865 (2002) (selected for the Stanford/Yale Junior Faculty Forum, June 2001)
- ◇ *A Transactional Model of Adjudication*, 89 GEORGETOWN L.J. 371 (2000)
- ◇ *The Myth of Superiority*, 16 CONSTITUTIONAL COMMENTARY 599 (1999)
- ◇ *Divided We Litigate: Addressing Disputes Among Clients and Lawyers in Civil Rights Campaigns*, 106 YALE L. J. 1623 (1997) (excerpted in COMPLEX LITIGATION 120-123 (1998))

#### *Selected Presentations*

- ◇ *Opioid Litigation: What’s New and What Does it Mean for Future Litigation?*, RAND Institute for Civil Justice and RAND Kenneth R. Feinberg Center for Catastrophic Risk Management and Compensation, RAND Corporation, October 22, 2020
- ◇ *The Opioid Crisis: Where Do We Go From Here?*” Clifford Symposium 2020, DePaul University College of Law, Chicago, Illinois, May 28-29, 2020)
- ◇ *Class Action Law Update*, MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2019

- ◇ *Class Action Law Update*, MDL Transferee Judges Conference, Palm Beach, Florida, October 31, 2018
- ◇ *Attorneys' Fees Issues*, MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2018
- ◇ *Panelist*, Federal Judicial Center, Managing Multidistrict Litigation and Other Complex Litigation Workshop (for federal judges) (March 15, 2018)
- ◇ *Class Action Update*, MDL Transferee Judges Conference, Palm Beach, Florida, November 1, 2017
- ◇ *Class Action Update*, MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2016
- ◇ *Judicial Power and its Limits in Multidistrict Litigation*, American Law Institute, Young Scholars Medal Conference, *The Future of Aggregate Litigation*, New York University School of Law, New York, New York, April 12, 2016
- ◇ *Class Action Update & Attorneys' Fees Issues Checklist*, MDL Transferee Judges Conference, Palm Beach, Florida, October 28, 2015
- ◇ *Class Action Law*, 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop, Tucson, Arizona, January 26, 2015
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2014
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2013
- ◇ *Class Action Remedies*, ABA 2013 National Institute on Class Actions, Boston, Massachusetts, October 23, 2013
- ◇ *The Public Life of the Private Law: The Logic and Experience of Mass Litigation – Conference in Honor of Richard Nagareda*, Vanderbilt Law School, Nashville, Tennessee, September 27-28, 2013
- ◇ *Brave New World: The Changing Face of Litigation and Law Firm Finance*, Clifford Symposium 2013, DePaul University College of Law, Chicago, Illinois, April 18-19, 2013
- ◇ *Twenty-First Century Litigation: Pathologies and Possibilities: A Symposium in Honor of Stephen Yeazell*, UCLA Law Review, UCLA School of Law, Los Angeles, California, January 24-25, 2013
- ◇ *Litigation's Mirror: The Procedural Consequences of Social Relationships*, Sidley Austin Professor of Law Chair Talk, Harvard Law School, Cambridge, Massachusetts, October 17, 2012
- ◇ *Alternative Litigation Funding (ALF) in the Class Action Context – Some Initial Thoughts*, Alternative Litigation Funding: A Roundtable Discussion Among Experts, George Washington University Law School, Washington, D.C., May 2, 2012
- ◇ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Brooklyn Law School Faculty

Workshop, Brooklyn, New York, April 2, 2012

- ◇ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Loyola Law School Faculty Workshop, Los Angeles, California, February 2, 2012
- ◇ *Recent Developments in Class Action Law and Impact on MDL Cases*, MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2011
- ◇ *Recent Developments in Class Action Law*, MDL Transferee Judges Conference, Palm Beach, Florida, October 26, 2010
- ◇ *A General Theory of the Class Suit*, University of Houston Law Center Colloquium, Houston, Texas, February 3, 2010
- ◇ *Unpacking The "Rigorous Analysis" Standard*, ALI-ABA 12<sup>th</sup> Annual National Institute on Class Actions, New York, New York, November 7, 2008
- ◇ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of California (Boalt Hall) School of Law Civil Justice Workshop, Berkeley, California, February 28, 2008
- ◇ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of Pennsylvania Law Review Symposium, Philadelphia, Pennsylvania, Dec. 1, 2007
- ◇ *Current CAFA Consequences: Has Class Action Practice Changed?*, ALI-ABA 11<sup>th</sup> Annual National Institute on Class Actions, Chicago, Illinois, October 17, 2007
- ◇ *Using Law Professors as Expert Witnesses in Class Action Lawsuits*, ALI-ABA 10<sup>th</sup> Annual National Institute on Class Actions, San Diego, California, October 6, 2006
- ◇ *Three Models for Transnational Class Actions*, Globalization of Class Action Panel, International Law Association 2006 Conference, Toronto, Canada, June 6, 2006
- ◇ *Why Create Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, UMKC Law Review Symposium, Kansas City, Missouri, April 7, 2006
- ◇ *Marks, Bonds, and Labels: Three New Proposals for Private Oversight of Class Action Settlements*, UCLA Law Review Symposium, Los Angeles, California, January 26, 2006
- ◇ *Class Action Fairness Act*, Arnold & Porter, Los Angeles, California, December 6, 2005
- ◇ *ALI-ABA 9<sup>th</sup> Annual National Institute on Class Actions*, Chicago, Illinois, September 23, 2005
- ◇ *Class Action Fairness Act*, UCLA Alumni Assoc., Los Angeles, California, September 9, 2005
- ◇ *Class Action Fairness Act*, Thelen Reid & Priest, Los Angeles, California, May 12, 2005
- ◇ *Class Action Fairness Act*, Sidley Austin, Los Angeles, California, May 10, 2005

- ◇ Class Action Fairness Act, Munger, Tolles & Olson, Los Angeles, California, April 28, 2005
- ◇ Class Action Fairness Act, Akin Gump Strauss Hauer Feld, Century City, CA, April 20, 2005

## SELECTED OTHER LITIGATION EXPERIENCE

*United States Supreme Court*

- ◇ Served as *amicus curiae* and co-authored *amicus* brief (with Professor Arthur Miller) on proper approach to standing in class action lawsuits (*Labcorp, v. Davis*, No. 24-304, October Term 2024)
- ◇ Served as *amicus curiae* and authored *amicus* brief on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, No. 17-961, October Term 2018)
- ◇ Co-counsel on petition for writ of *certiorari* concerning application of the voluntary cessation doctrine to government defendants (*Rosebrock v. Hoffman*, 135 S. Ct. 1893 (2015))
- ◇ Authored *amicus* brief filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion*, No. 09-893, 131 S. Ct. 1740 (2011))
- ◇ Co-counsel in constitutional challenge to display of Christian cross on federal land in California's Mojave preserve (*Salazar v. Buono*, 130 S. Ct. 1803 (2010))
- ◇ Co-authored *amicus* brief filed on behalf of constitutional law professors arguing against constitutionality of Texas criminal law (*Lawrence v. Texas*, 539 U.S. 558 (2003))
- ◇ Co-authored *amicus* brief on scope of *Miranda* (*Illinois v. Perkins*, 496 U.S. 292 (1990))

*Attorney's Fees*

- ◇ Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney's fees in complex litigation, with result that the Court adopted recommendations (*In re National Football League Players' Concussion Injury Litigation*, 2018 WL 1658808 (E.D.Pa. April 5, 2018))
- ◇ Appointed by the United States District Court for the Northern District of Ohio as an expert consultant on common benefit attorney's fees issues in complex multidistrict litigation, with result that the Court adopted recommendations (*In re: Nat'l Prescription Opiate Litig.*, No. 1:17-MD-2804, 2020 WL 8675733 (N.D. Ohio June 3, 2020))
- ◇ Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff'd sub. nom.*, *DeValerio v. Olinski*, 673 F. App'x 87, 90 (2d Cir. 2016)).
- ◇ Co-counsel in appeal of common benefit fees decision arising out of mass tort MDL (*In re Roundup*

*Prod. Liab. Litig.*, Civil Action No. 21-16228, 2022 WL 16646693 (9th Cir, 2022))

- ◇ Served as *amicus curiae* and co-authored *amicus* brief on proper approach to attorney's fees in common fund cases (*Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 504, 376 P.3d 672, 687 (2016))

#### *Consumer Class Action*

- ◇ Co-counsel in challenge to antenna-related design defect in Apple's iPhone4 (*Dydyk v. Apple Inc.*, 5:10-cv-02897-HRL, U.S. Dist. Court, N.D. Cal.) (complaint filed June 30, 2010)
- ◇ Co-class counsel in \$8.5 million nationwide class action settlement challenging privacy concerns raised by Google's Buzz social networking program (*In re Google Buzz Privacy Litigation*, 5:10-cv-00672-JW, U.S. Dist. Court, N.D. Cal.) (amended final judgment June 2, 2011)

#### *Disability*

- ◇ Co-counsel in successful ADA challenge (\$500,000 jury verdict) to the denial of health care in emergency room (*Howe v. Hull*, 874 F. Supp. 779, 873 F. Supp 72 (N.D. Ohio 1994))

#### *Employment*

- ◇ Co-counsel in challenges to scope of family benefit programs (*Ross v. Denver Dept. of Health*, 883 P.2d 516 (Colo. App. 1994)); (*Phillips v. Wisc. Personnel Com'n*, 482 N.W.2d 121 (Wisc. 1992))

#### *Equal Protection*

- ◇ Co-counsel in (state court phases of) successful challenge to constitutionality of a Colorado ballot initiative, Amendment 2 (*Evans v. Romer*, 882 P.2d 1335 (Colo. 1994))
- ◇ Co-counsel (and *amici*) in challenges to rules barring military service by gay people (*Able v. United States*, 44 F.3d 128 (2d Cir. 1995); *Steffan v. Perry*, 41 F.3d 677 (D.C. Cir. 1994) (*en banc*))
- ◇ Co-counsel in challenge to the constitutionality of the Attorney General of Georgia' firing of staff attorney (*Shahar v. Bowers*, 120 F.3d 211 (11<sup>th</sup> Cir. 1997))

#### *Fair Housing*

- ◇ Co-counsel in successful Fair Housing Act case on behalf of group home (*Hogar Agua y Vida En el Desierto v. Suarez-Medina*, 36 F.3d 177 (1st Cir. 1994))

#### *Family Law*

- ◇ Co-counsel in challenge to constitutionality of Florida law limiting adoption (*Cox v. Florida Dept. of Health and Rehab. Svcs.*, 656 So.2d 902 (Fla. 1995))
- ◇ Co-authored *amicus* brief in successful challenge to Hawaii ban on same-sex marriages (*Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993))

*First Amendment*

- ◇ Co-counsel in successful challenge to constitutionality of Alabama law barring state funding for university student groups (*GLBA v. Sessions*, 930 F.Supp. 1492 (M.D. Ala. 1996))
- ◇ Co-counsel in successful challenge to content restrictions on grants for AIDS education materials (*Gay Men's Health Crisis v. Sullivan*, 792 F.Supp. 278 (S.D.N.Y. 1992))

*Landlord / Tenant*

- ◇ Lead counsel in successful challenge to rent control regulation (*Braschi v. Stahl Associates Co.*, 544 N.E.2d 49 (N.Y. 1989))

*Police*

- ◇ Co-counsel in case challenging DEA brutality (*Anderson v. Branen*, 27 F.3d 29 (2d Cir. 1994))

*Prison Conditions*

- ◇ Co-counsel in appeal of class certification decision in damages class action arising out of conditions in St. Louis City Jail (*Cody v. City of St. Louis for & on behalf of Medium Sec. Inst.*, 103 F.4th 523, 526 (8th Cir. 2024))

*Racial Equality*

- ◇ Co-authored *amicus* brief for constitutional law professors challenging constitutionality of Proposition 209 (*Coalition for Economic Equity v. Wilson*, 110 F.3d 1431 (9th Cir. 1997))

## SELECTED OTHER PUBLICATIONS

*Editorials*

- ◇ *Follow the Leaders*, NEW YORK TIMES, March 15, 2005
- ◇ *Play It Straight*, NEW YORK TIMES, October 16, 2004
- ◇ *Hiding Behind the Constitution*, NEW YORK TIMES, March 20, 2004
- ◇ *Toward More Perfect Unions*, NEW YORK TIMES, November 20, 2003 (with Brad Sears)
- ◇ *Don't Ask, Don't Tell, Don't Believe It*, NEW YORK TIMES, July 20, 1993
- ◇ *AIDS: Illness and Injustice*, WASH. POST, July 26, 1992 (with Nan D. Hunter)



BAR ADMISSIONS

- ◇ Massachusetts (2008)
- ◇ California (2004)
- ◇ District of Columbia (1987) (inactive)
- ◇ Pennsylvania (1986) (inactive)
- ◇ U.S. Supreme Court (1993)
- ◇ U.S. Court of Appeals for the First Circuit (2010)
- ◇ U.S. Court of Appeals for the Second Circuit (2015)
- ◇ U.S. Court of Appeals for the Fifth Circuit (1989)
- ◇ U.S. Court of Appeals for the Ninth Circuit (2004)
- ◇ U.S. Court of Appeals for the Eleventh Circuit (1993)
- ◇ U.S. Court of Appeals for the D.C. Circuit (1993)
- ◇ U.S. District Courts for the Central District of California (2004)
- ◇ U.S. District Court for the District of the District of Columbia (1989)
- ◇ U.S. District Court for the District of Massachusetts (2010)
- ◇ U.S. District Court for the Northern District of California (2010)



# **EXHIBIT B**

*In re Zoom Securities Litigation*  
Case No. 3:20-cv-02353-JD  
United States District Court for the Northern District of California

**EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN**

**EXHIBIT B**

List of Documents Reviewed by Professor Rubenstein  
(other than case law and scholarship on the relevant issues)

1. Complaint for Violations of the Federal Securities Laws, ECF No. 1
2. Attachment 1 to Complaint for Violations of the Federal Securities Laws, ECF No. 1-1
3. Attachment 2 to Complaint for Violations of the Federal Securities Laws, ECF No. 1-2
4. Civil Cover Sheet for Complaint for Violations of the Federal Securities Laws, ECF No. 1-3
5. Related Case Order, ECF No. 11
6. Notice of Publication of Notice of Pendency of Action, ECF No. 12
7. Exhibit A to Notice of Publication of Notice of Pendency of Action, ECF No. 12-1
8. Order re Consolidation, ECF No. 24
9. Notice of Motion and Motion for Appointment as Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel; Memorandum of Law in Support Thereof, ECF No. 28
10. Declaration of Danielle S. Myers in Support of Motion for Appointment of Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel, ECF No. 29
11. Exhibit A to Declaration of Danielle S. Myers in Support of Motion for Appointment of Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel, ECF No. 29-1
12. Exhibit B to Declaration of Danielle S. Myers in Support of Motion for Appointment of Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel, ECF No. 29-2
13. Exhibit C to Declaration of Danielle S. Myers in Support of Motion for Appointment of Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel, ECF No. 29-3
14. Exhibit D to Declaration of Danielle S. Myers in Support of Motion for Appointment of Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel, ECF No. 29-4
15. Notice of Motion and Motion of Lawrence Jarnes for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel; Memorandum of Points and Authorities in Support Thereof, ECF No. 34
16. Declaration of Benjamin Heikali in Support of Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-1
17. Exhibit 1 to Declaration of Benjamin Heikali in Support of Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-2
18. Exhibit 2 to Declaration of Benjamin Heikali in Support of Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-3

19. Exhibit 3 to Declaration of Benjamin Heikali in Support of Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-4
20. Exhibit 4 to Declaration of Benjamin Heikali in Support of Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-5
21. Proposed Order Granting Lawrence Jarnes's Motion for (1) Appointment as Lead Plaintiff and (2) Approval of Lead Counsel, ECF No. 34-6
22. Notice of Motion and Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel; Memorandum of Points and Authorities in Support, ECF No. 38
23. Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39
24. Exhibit A to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-1
25. Exhibit B to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-2
26. Exhibit C to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-3
27. Exhibit D to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-4
28. Exhibit E to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-5
29. Exhibit F to Declaration of Jennifer Pafiti in Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel, ECF No. 39-6
30. Notice of Lawrence Jarnes's Non-Opposition to Competing Lead Plaintiff Motions, ECF No. 42
31. Memorandum of Points and Authorities: (1) in Further Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Counsel; and (2) in Opposition to Competing Motion, ECF No. 43
32. Adam M. Butt's Opposition to Competing Motions for Appointment as Lead Plaintiff, ECF No. 46
33. Reply to Competing Motions for Appointment of Lead Plaintiff and Approval of Selection of Counsel, ECF No. 47
34. Reply Memorandum of Law: (1) in Further Support of Motion of the Zoom Investor Group for Appointment as Lead Plaintiff and Approval of Co-Lead Counsel; and (2) in Opposition to Competing Motion, ECF No. 49
35. Order re Lead Plaintiff and Lead Counsel, ECF No. 56
36. Notice of Motion and Motion of the Zoom Investor Group for Leave of Court to File Motion for Reconsideration of Order Appointing Lead Plaintiff and Approving Lead

- Counsel (Dkt. No. 56); Memorandum of Points and Authorities in Support, ECF No. 58
37. Consolidated Class Action Complaint for Violation of the Federal Securities Laws, ECF No. 63
  38. Exhibit A to Consolidated Class Action Complaint for Violation of the Federal Securities Laws, ECF No. 63-1
  39. Lead Plaintiff's Opposition to Zoom Investor Group's Motion for Reconsideration of Order Appointing Lead Plaintiff and Approving Lead Counsel, ECF No. 70
  40. Order re Reconsideration, ECF No. 74
  41. Defendants' Motion to Dismiss the Consolidated Class Action Complaint, ECF No. 78
  42. Lead Plaintiff's Opposition to Defendants' Motion to Dismiss the Consolidated Class Action Complaint, ECF No. 80
  43. Defendants' Reply ISO Motion to Dismiss the Consolidated Class Action Complaint, ECF No. 82
  44. Order re Motion to Dismiss, ECF No. 86
  45. Defendants' Notice of Motion and Motion for Leave of Court to File Motion for Partial Reconsideration of Motion to Dismiss Order, ECF No. 90
  46. Lead Plaintiff's Opposition to Defendants' Motion for Partial Reconsideration, ECF No. 92
  47. Defendants' Answer to Plaintiff's Consolidated Class Action Complaint, ECF No. 93
  48. Plaintiff's Letter Motion to Compel Discovery, ECF No. 102
  49. Exhibit 1 to Plaintiff's Letter Motion to Compel Discovery, Lead Plaintiff's First Set of Requests for Production of Documents to Defendants, ECF No. 102-1
  50. Exhibit 2 to Plaintiff's Letter Motion to Compel Discovery, Defendants' Responses and Objections to Plaintiff's First Set of Requests for Production of Documents, ECF No. 102-2
  51. Joint Letter Submission Resolving Discovery Disputes, ECF No. 104
  52. Notice of Settlement; Joint Stipulation and Proposed Order to Stay Proceedings and Pre-Trial Deadlines in the Scheduling Order [ECF No. 100], ECF No. 106
  53. Corrected Lead Plaintiff's Notice of Unopposed Motion for Preliminary Approval of Proposed Settlement, and Memorandum of Points and Authorities in Support Thereof, ECF No. 112
  54. Defendants' Statement of Non-Opposition Pursuant to Civil L.R. 7-3(B), ECF No. 114
  55. Notice of Submission of Revised Notice Plan and Proposed Order Preliminarily Approving Settlement and Providing for Notice, ECF No. 125
  56. Lead Plaintiff's Notice of Renewed Unopposed Motion for Preliminary Approval of Proposed Settlement and Memorandum of Points and Authorities in Support Thereof, ECF No. 127
  57. Declaration of Shawn A. Williams in Support of Lead Plaintiff's Renewed Unopposed Motion for Preliminary Approval of Proposed Settlement, ECF No. 127-1
  58. Exhibit 1 to Declaration of Shawn A. Williams in Support of Lead Plaintiff's Renewed Unopposed Motion for Preliminary Approval of Proposed Settlement, Stipulation of Settlement, ECF No. 127-2
  59. Exhibit 2 to Declaration of Shawn A. Williams in Support of Lead Plaintiff's Renewed Unopposed Motion for Preliminary Approval of Proposed Settlement, ECF No. 127-3
  60. Declaration of Peter Crudo Regarding Notice and Administration, ECF No. 127-4
  61. Declaration of Carla Peak Regarding Settlement Notice Plan, ECF No. 127-5

62. Proposed Order Preliminarily Approving Settlement and Providing for Notice, ECF No. 127-6
63. Order re Preliminary Approval and Notice, ECF No. 128

# **EXHIBIT C**

*In re Zoom Securities Litigation*  
Case No. 3:20-cv-02353-JD  
United States District Court for the Northern District of California

**EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN**

**EXHIBIT C**

List of Cases Included in Rate Study<sup>1</sup>

1. *In re Google Play Dev. Antitrust Litig.*, No. 20-CV-05792-JD, 2024 WL 150585 (N.D. Cal. Jan. 11, 2024)
2. *Suarez v. Bank of Am., Nat'l Ass'n*, No. 18-CV-01202-LB, 2024 WL 150721 (N.D. Cal. Jan. 11, 2024)
3. *Harbour v. California Health & Wellness Plan*, No. 5:21-CV-03322-EJD, 2024 WL 171192 (N.D. Cal. Jan. 16, 2024)
4. *Ward v. United Airlines, Inc.*, No. C 15-02309 WHA, 2024 WL 269149 (N.D. Cal. Jan. 24, 2024)
5. *In re PFA Ins. Mktg. Litig.*, No. 4:18-CV-03771 YGR, 2024 WL 1145209 (N.D. Cal. Feb. 5, 2024)
6. *Berman v. Freedom Fin. Network*, No. 4:18-cv-01060 (N.D. Cal. Feb. 23, 2024)
7. *Amans v. Tesla, Inc.*, No. 21-CV-03681-VC, 2024 WL 1024735 (N.D. Cal. Mar. 8, 2024)
8. *Stewart v. Accurate Background, LLC*, No. 22-CV-01926-EJD, 2024 WL 1221968 (N.D. Cal. Mar. 20, 2024)
9. *Hardy v. Embark Tech., Inc.*, No. 3:22-CV-02090-JSC, 2024 WL 1354416 (N.D. Cal. Mar. 29, 2024)\*
10. *Miller v. Travel Guard Grp., Inc.*, No. 21-CV-09751-TLT, 2024 WL 5341150 (N.D. Cal. Apr. 9, 2024)
11. *In re Google Location Hist. Litig.*, No. 5:18-CV-05062-EJD, 2024 WL 1975462 (N.D. Cal. May 3, 2024)
12. *Hunt v. Bloom Energy Corp.*, No. 19-CV-02935-HSG, 2024 WL 1995840 (N.D. Cal. May 6, 2024)\*

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<sup>1</sup> Securities class actions are marked with a \*.

13. *Gatchalian v. Atl. Recovery Sols., LLC*, No. 3:22-CV-04108-JSC, 2024 WL 2112862 (N.D. Cal. May 9, 2024)
14. *Roman v. Jan-Pro Franchising Int'l, Inc.*, No. 3:16-CV-05961-WHA, 2024 WL 2412387 (N.D. Cal. May 23, 2024)
15. *Stevenson v. Allstate Ins. Co.*, No. 4:15-CV-4788 (N.D. Cal. May 28, 2024)
16. *Sales v. United Rd. Servs., Inc.*, No. 19-CV-08404-JST, 2024 WL 4177937 (N.D. Cal. Sept. 11, 2024)
17. *In re Apple Inc. Sec. Litig.*, No. 4:19-CV-02033-YGR, 2024 WL 4246282 (N.D. Cal. Sept. 18, 2024)\*
18. *Perez v. Discover Bank*, No. 20-CV-06896-SI, 2024 WL 4340397 (N.D. Cal. Sept. 23, 2024)
19. *In re Alphabet, Inc. Sec. Litig.*, No. 18-CV-06245-TLT, 2024 WL 4354988 (N.D. Cal. Sept. 30, 2024)\*
20. *Mendoza v. Trans Valley Transp.*, No. 22-CV-07164-TLT, 2024 WL 5339181 (N.D. Cal. Oct. 9, 2024)
21. *Tabak v. Apple, Inc.*, No. 19-CV-02455-JST, 2024 WL 4642877 (N.D. Cal. Oct. 30, 2024)
22. *Katz-Lacabe v. Oracle Am., Inc.*, No. 3:22-CV-04792-RS, 2024 WL 4804974 (N.D. Cal. Nov. 15, 2024), *appeal dismissed*, No. 24-7650, 2025 WL 1703624 (9th Cir. Apr. 3, 2025)
23. *Bernstein v. Ginkgo Bioworks Holdings, Inc.*, No. 4:21-CV-08943-KAW, 2024 WL 5112227 (N.D. Cal. Dec. 13, 2024)\*
24. *Smith-Washington v. TaxAct, Inc.*, No. 23-CV-00830-VC, 2024 WL 5415448 (N.D. Cal. Dec. 30, 2024)



# **EXHIBIT D**

*In re Zoom Securities Litigation*  
Case No. 3:20-cv-02353-JD  
United States District Court for the Northern District of California

**EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN**

**EXHIBIT D**

List of Cases with Multipliers of 4 or More

1. *In re Merry-Go-Round Enters., Inc.*, 244 B.R. 327, 335–45 (Bankr. D. Md. 2000) (“Based on Fidelity’s analysis which assumes a \$300 blended hourly rate would be reasonable, the contingent fee requested by Snyder, Weiner, as modified, of \$71.2 million would be 19.6 times the lodestar starting point . . . Snyder, Weiner will be awarded its requested fee in the amount of \$71.2 million for professional services as special litigation counsel for the Chapter 7 Trustee.”) (bankruptcy).
2. *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. CIV.A. 03-457, 2005 WL 1213926, at \*18 (E.D. Pa. May 19, 2005) (“The Court further notes that the high lodestar multiplier (15.6) which results from the Court’s award of attorneys’ fees in this case is neutralized with respect to the reasonableness of a percentage fee award of 20% by the extraordinary support Plaintiffs have shown for counsel’s request for fees.”).
3. *Vidrio v. United Airlines, Inc.*, No. CV 15-7985 PSG (MRWX), 2023 WL 11932248, at \*11 (C.D. Cal. June 29, 2023) (“Comparing the lodestar with the requested fee, the resulting multiplier is approximately 15. . . . The Court finds that Class Counsel has achieved an extraordinary result, which justifies their attorneys’ fees request and the exceptional lodestar multiplier.”).
4. *Glendora Cmty. Redevelopment Agency v. Demeter*, 155 Cal. App. 3d 465, 479 (Ct. App. 1984) (“The contention of [appellant] is that the fee sought is more than 12 times the fee for which services at an hourly rate would have been obtained from an attorney specializing in condemnation (including \$8,000 for costs on appeal). Such calculations are based upon hindsight rather than reasonable expectation.”) (condemnation proceeding).
5. *In re Doral Fin. Corp. Sec. Litig.*, No. 1:05-md-01706, ECF No. 107 at 5 (S.D.N.Y. July 17, 2007) (“Lead Plaintiff’s counsel’s total lodestar is \$1,917,094.50. A 15.25% fee represents a reasonable multiplier of 10.26. Given the public policy and judicial economy interests that support the expeditious settlement of cases . . . the requested fee is reasonable.”).
6. *Weiss v. Mercedes-Benz*, 899 F. Supp. 1297 (D. N.J. 1995), *aff’d*, 66 F.3d 314 (3d Cir. 1995), as reported in *In re Prudential Ins. Co. of Am. Sales Pracs. Litig.*, 962 F. Supp. 572, 592 (D.N.J. 1997) (stating that *Weiss* court had “award[ed] fee that resulted in a multiple of 9.3 times the lodestar and an average hourly rate of \$2,779.63”), *vacated on*

*other grounds sub nom. In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Actions*, 148 F.3d 283 (3d Cir. 1998).

7. *Farrell v. Bank of Am. Corp., N.A.*, 827 Fed. Appx. 628, 636 (9th Cir. 2020) (J. Kleinfeld dissenting) (“A lodestar calculated using class counsel’s own submitted numbers . . . amounted to \$1,428,047.50. . . . [The] court awarded about ten times that much to class counsel”).
8. *Skochin v. Genworth Fin., Inc.*, No. 3:19-CV-49, 2020 WL 6536140, at \*11 (E.D. Va. Nov. 5, 2020) (awarding fees of \$2 million and 15% of the Settlement Class’s net damage awards with a cap of \$24.5 million, representing 9.05 multiplier).
9. *Health Republic Ins. Co. v. United States*, 173 Fed. Cl. 508, 527 (2024), *amended*, No. 16-259, 2025 WL 1565024 (Fed. Cl. June 3, 2025) (“[A] 2.5-percent fee award is reasonable, and the corresponding 9.56 multiplier based on a reduced lodestar is justified under the circumstances of these cases.”).
10. *Conley v. Sears, Roebuck & Co.*, 222 B.R. 181, 182 (D. Mass. 1998) (“If a lodestar approach were used, the actual amount of attorney’s fees of class counsel calculated by multiplying the number of hours worked by the hourly billing rate totals \$826,665.00, such that the requested attorney’s fees would constitute a lodestar multiplier of 8.9 percent. After hearing, and some hand-wringing, the Court concludes that the fee is not unreasonable under the common fund doctrine.”) (class action within bankruptcy).
11. *Cosgrove v. Sullivan*, 759 F. Supp. 1667, 167 n.1 (S.D.N.Y. 1991) (“Under these circumstances, we set the prevailing counsel’s fee at \$1,000,000.00...[t]he total ‘lodestar’ in this case, which represents hours worked multiplied by a reasonable hourly rate, is \$114,398.00.”) (8.74 multiplier).
12. *Halcom v. Genworth Life Ins. Co.*, No. 3:21-CV-19, 2022 WL 2317435, at \*13 (E.D. Va. June 28, 2022) (“Taking all of these considerations into account, the 8.4x multiplier is acceptable and the requested attorney fees are reasonable.”).
13. *Muchnick v. First Fed. Sav. & Loan Ass’n of Phila.*, No. CIV.A. 86-1104, 1986 WL 10791, at \*1 (E.D. Pa. Sept. 30, 1986) (“Although the lodestar in this case is approximately \$30,000.00, counsel seeks an attorneys’ fee of \$250,000.00 . . . I conclude that the requested fee is eminently reasonable under the circumstances of this case and can be justified under the lodestar method of calculation”) (8.33 multiplier).
14. *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, Civil Action No. 05-11148-PBS, 2009 WL 2408560, at \*2 (D. Mass. Aug. 3, 2009) (“Balancing all the factors under the crosscheck approach, I award the amount of \$70,000,000, which represents a multiplier of about 8.3 times lodestar, and about 20 percent of the common fund.”).
15. *Santos v. Camacho*, No. CIV. 04-00006, 2008 WL 8602098, at\*39 (D. Guam Apr. 23,

2008) (“Based on the significant results achieved through the efforts of Class Counsel in creating the funds for settlement and in light of case law, the court should find that this factor weighs strongly in favor of granting counsel a multiplier of 8.”), *aff’d Simpao v. Gov’t of Guam*, 369 F. App’x 837, 840 (9th Cir. 2010).

16. *Yuzary v. HSBC Bank USA, N.A.*, No. 12 CIV. 3693 PGG, 2013 WL 5492998, at \*11 (S.D.N.Y. Oct. 2, 2013) (“Here, the lodestar sought by Class Counsel, approximately 7.6 times, falls within the range granted by courts and equals the 31.7% being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs’ counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.”).
17. *Hainey v. Parrott*, No. 1:02-CV-733, 2007 WL 3308027, at \*1-2 (S.D. Ohio Nov. 6, 2007) (“[C]ounsel’s lodestar fee calculation is approximately \$241,000...[i]n consideration of the above factors, the Court finds that an award of attorney’s fees of 30% of the common fund, or \$1.8 million, is appropriate in this case.”) (7.47 effective multiplier).
18. *In re Dell Techs. Inc. Class V S’holders Litig.*, 300 A.3d 679, 715 (Del. Ch. 2023), *as revised* (Aug. 21, 2023), *aff’d*, 326 A.3d 686 (Del. 2024) (observing that the “multiple to lodestar of 7x in this case would not raise a federal eyebrow”).
19. *In re Boston & Maine Corp. v. Sheehan, Phinney, Bass & Green, P.A.*, 778 F.2d 890 (1st Cir. 1985) (awarding a “final fee of \$232,310” contrasted with “hourly fees of \$33,110,” implying a ~7.0 multiplier) (bankruptcy).
20. *In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) (“Based on the \$31,660,328.75 proposed fee award and the \$4,549,824.75 lodestar, we conclude that plaintiffs’ counsel requests approval of a fee award with a 6.96 multiplier.”).
21. *Steiner v. Amer. Broad. Co., Inc.*, 248 F. App’x 780, 783 (9th Cir. 2007) (“Based on class counsel’s total hours, the lodestar multiplier was approximately 6.85. Although this multiplier is higher than those in many common fund cases, it still falls well within the range of multipliers that courts have allowed.”) (internal citations omitted).
22. *Ramirez v. Lovin’ Oven Catering Suffolk, Inc.*, No. 11 CIV. 0520 JLC, 2012 WL 651640 (S.D.N.Y. Feb. 24, 2012) (granting fees equal to 6.8 times lodestar).
23. *Riveras v. Bilboa Rest. Corp.*, No. 17-CV-4430-LTS-BCM, 2018 WL 8967112, at \*1 (S.D.N.Y. Dec. 14, 2018) (finding 6.7 multiplier reasonable in FLSA action).
24. *Elec. Welfare Tr. Fund v. United States*, 171 Fed. Cl. 362, 388–89 (2024) (“Class Counsel’s proposed fee of 25% net expenses ‘represents a multiplier of approximately 6.63 on Counsel’s total lodestar.’ Though a 6.63 multiplier is higher than the normal ‘range of 1 to 4’ acknowledged in *Health Republic Ins. Co.*, it is nonetheless reasonable and consistent with the principles established by the Federal Circuit.”) (internal citations

and footnote omitted).

25. *In re UnitedHealth Grp. Inc. PSLRA Litig.*, 643 F. Supp. 2d 1094, 1106 (D. Minn. 2009) (“Using the Court-calculated lodestar, this fee would represent a multiplier of nearly 6.5. The Court finds this multiplier appropriate.”).
26. *Nieman v. Duke Energy Corp.*, No. 312CV00456MOCDS, 2015 WL 13609363, at \*2 (W.D.N.C. Nov. 2, 2015) (“The amount of the settlement and the efficiency of counsel in reaching such a resolution reinforce an upward variance from a 4.5 multiplier, but not an 8.0 multiplier. Considering all of the arguments presented, the court finds that the work accomplished in this case—which was substantial—is reasonably compensated by an 18% fee when the *Johnson* factors are considered and then crosschecked.”) (6.43 multiplier).
27. *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 482 (S.D.N.Y. 2013) (“Here, the lodestar sought by Class Counsel, approximately 6.3 times, falls within the range granted by courts and equals the one-third percentage being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs’ counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.”).
28. *Spartanburg Reg’l Health Servs. Dist., Inc. v. Hillenbrand Indus., Inc.*, No. 7:03-cv-02141, ECF Nos. 377 (D. S.C. Aug. 15, 2006) (approving fee request noting multiplier “slightly above six”); ECF No. 338-5 (providing data showing 6.22 multiplier).
29. *Stevens v. SEI Invs. Co.*, No. CV 18-4205, 2020 WL 996418, at \*13 (E.D. Pa. Feb. 28, 2020) (“Class Counsel’s request for \$2,266,666.00 (one-third of the settlement amount) will result in Class Counsel receiving approximately 6.16 times the lodestar. Courts frequently approve attorneys’ fees awards for amounts in excess of the calculated lodestar. Indeed, multiples ranging from 1 to 8 are often used in common fund cases.”).
30. *Kane Cty., Utah v. United States*, 145 Fed. Cl. 15, 20 (2019) (“In order to equal one third of the total recovery, this lodestar amount must be subjected to a multiplier of approximately 6.13, which is within the range courts have approved in common fund cases.”).
31. *Wenzel v. Colvin*, No. EDCV 11-0338 JEM, 2014 WL 3810247, at \*4 (C.D. Cal. Aug. 1, 2014) (“The \$1,000 per hour rate constitutes a multiplier of 6.06 over counsel’s normal hourly rate, consistent with cases that reward excellent results.”).
32. *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at \*17 (S.D.N.Y. Apr. 26, 2016) (“The loadstar calculation submitted by Class Counsel totals over \$41 million as of April 1, reflecting over 93,000 hours of work by Class Counsel. This amount is equivalent to a loadstar multiple of just over 6.”).
33. *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007) (“From

the Court’s analysis of the previous factors, the Court has found that approximately 18% is a reasonable award, which would yield a lodestar multiplier of six.”).

34. *In re Krispy Kreme Doughnuts, Inc. Sec. Litig.*, No. 1:04-cv-00416, ECF No. 203 (M.D. N.C. Feb. 15, 2007) (approving fee request); ECF No. 193 at 17 (stating fee request embodied multiplier of “approximately 6”).
35. *Ladewig v. Ariz. Dep’t of Revenue*, 204 Ariz. 352, 359, 63 P.3d 1089, 1096 (Ariz. Tax Ct. 2003) (“In this case, the Court believes that in light of the lengthy delay in recovery, and the high risks assumed by counsel, that a lodestar multiplier of 6 is appropriate.”).
36. *In re RJR Nabisco, Inc. Sec. Litig.*, No. 88 Civ. 7905(MBM), 1992 WL 210138, at \*5–6 (S.D. N.Y. Aug. 14, 1992) (“[T]he requested fees total six times the value of the time spent by plaintiffs’ counsel, what is referred to as the lodestar amount, which amount he says equals the total fees of all defense counsel. . . . [T]he award of a percentage fee in common fund cases such as this is consistent with the better and increasingly prevailing view in such cases, the requested percentage lies well within the limits awarded in similar cases, plaintiffs’ counsel have not taken a free ride on the efforts of a government agency and the settlement was skillfully negotiated.”).
37. *Perera v. Chiron Corp.*, No. 95-20725-SW, (N.D. Cal. 1999) (ECF. No. 108) (“[T]his Court believes that a multiplier of 5.96 is not unreasonable given the riskiness of this litigation . . .”).
38. *Bekker v. Neuberger Berman Grp. 401(k) Plan Inv. Comm.*, 504 F. Supp. 3d 265, 271 (S.D.N.Y. 2020) (“Class Counsel’s requested fee represents a lodestar multiplier of 5.85, which is within the range of acceptable multipliers.”).
39. *Williams v. Rohm & Haas Pension Plan*, No. 04-0078-SEB, 2010 WL 4723725 (S.D. Ind. Nov. 12, 2010), *aff’d*, 658 F.3d 629 (7th Cir. 2011) (awarding fees of \$43.5 million, representing 5.85 multiplier).
40. *Rogowski v. State Farm Life Ins. Co.*, No. 4:22-CV-00203-RK, 2023 WL 5125113, at \*5 n.8 (W.D. Mo. Apr. 18, 2023). (“Accepting Class Counsel’s updated lodestar multiplier of 5.75 . . . while high, the lodestar multiplier is not unreasonably so.”).
41. *In re Mercedes-Benz Emissions Litig.*, No. 216CV881KMESK, 2021 WL 7833193, at \*16 (D.N.J. Aug. 2, 2021) (“The requested fee award results in applying a multiplier of 5.67, within the range of multipliers typically awarded in the Third Circuit.”), *adopted in full*, *In re Mercedes-Benz Emissions Litig.*, No. 2:16-cv-00881 (D.N.J. Sept. 20, 2021), ECF No. 345.
42. *Athale v. Sinotech Energy Ltd.*, No. 11 CIV. 05831 (AJN), 2013 WL 11310686, at \*9 (S.D.N.Y. Sept. 4, 2013) (“This amounts to a lodestar multiplier of 5.65, which although high, is not unreasonable under the particular facts of this case.”).

43. *In re Charter Commc'ns, Inc., Sec. Litig.*, No. 4:02-CV-1186 CAS, 2005 WL 4045741, at \*22 (E.D. Mo. June 30, 2005) (“Here fees of 20% of the settlement yield a 5.61 multiplier, which is within the range of multipliers awarded in comparable complex cases.”).
44. *Roman v. Jan-Pro Franchising Int’l, Inc.*, No. 3:16-CV-05961-WHA, 2024 WL 2412387, at \*5 (N.D. Cal. May 23, 2024) (“[I]n light of the strong result achieved for the class, this order finds that an upward deviation from the 25% benchmark is appropriate such that class counsel should be awarded 30% of the common fund settlement which would result in a lodestar multiplier of 5.59.”).
45. *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 198 (S.D.N.Y. 1997) (“Under such circumstances, a 5.5 times lodestar based on the \$3,482,571.75 time charges appears reasonable.”).
46. *Kang v. Wells Fargo Bank, N.A.*, No. 17-CV-06220-BLF, 2021 WL 5826230, at \*18 (N.D. Cal. Dec. 8, 2021) (awarding fees of \$21,053,146.92, representing 5.49 multiplier).
47. *Geneva Rock Prod., Inc. v. United States*, 119 Fed. Cl. 581, 595 (2015), *rev’d on other grounds*, *Longnecker Prop. v. United States*, No. 2015-5045, 2016 WL 9445914 (Fed. Cir. Nov. 14, 2016) (“In this case, an award 5.39 times the lodestar is reasonable under RCFC 23(h), given the complexity of the litigation, the diligent and skillful work by class counsel, and the pendency of the case for over six years.”).
48. *Arrington v. Optimum Healthcare IT, LLC.*, No. CV 17-3950, 2018 WL 5631625, at \*10 (E.D. Pa. Oct. 31, 2018) (“When calculated against the requested fee of \$1,633,333.33, the lodestar multiplier is 5.3. . . . However, in this case, class counsel undertook significant risk to achieve a substantial settlement amount, and should not be penalized for settling the case early in the litigation. We are satisfied with the reasonableness of the requested fee and we will approve class counsel’s request for \$1,633,333.33 in attorneys’ fees.”).
49. *Rawa v. Monsanto Co.*, No. 4:17CV01252 AGF, 2018 WL 2389040, at \*9 (E.D. Mo. May 25, 2018), on appeal (noting that fee award had “corresponding lodestar multiplier of 5.3” that was “quite high compared to similar cases in this circuit” but finding it not “too high”).
50. *Davis v. J.P. Morgan Chase & Co.*, 827 F. Supp. 2d 172, 185 (W.D.N.Y. 2011) (“In this case, dividing the \$14 million fee request by the lodestar figure yields a multiplier of about 5.3. A review of the case law indicates that while that figure is toward the high end of acceptable multipliers, it is not atypical for similar fee-award cases.”).
51. *Merkner v. AK Steel Corp.*, No. 1:09-CV-423-TSB, 2011 WL 13202629, at \*5 (S.D. Ohio Jan. 10, 2011) (“Applying the rates requested with regard to the hours reflected in the Declarations of Mr. Coleman and Ms. Wallace yields a lodestar figure of \$1,699,467.



In light of the \$9.1 million sought, the ‘lodestar multiplier’ would be 5.3. This multiplier is acceptable under the facts and circumstances of this case.”).

52. *Di Giacomo v. Plains All Am. Pipeline*, No. CIV.A.H-99-4137, 2001 WL 34633373, at \*11 (S.D. Tex. Dec. 19, 2001) (“This court finds that 5.3 is an acceptable multiplier in light of the particular facts of this case, discussed more fully below.”).
53. *Arp v. Hohla & Wyss Enters., LLC*, No. 3:18-CV-119, 2020 WL 6498956, at \*7 (S.D. Ohio Nov. 5, 2020) (“The multiplier on Class Counsel’s lodestar is approximately 5.29 before accounting for any additional work. This is within the acceptable range.”).
54. *Pinzon v. Jony Food Corp.*, No. 18-CV-105 (RA), 2018 WL 2371737, at \*3 (S.D.N.Y. May 24, 2018) (“Although it is a close question, the settlement here falls within a reasonable range. According to the documentation and calculations submitted by Plaintiff’s counsel, their lodestar amounts to \$5,053. Even accepting the hours and fees requested by Plaintiff’s counsel as accurate and reasonable, the fee award requested here has a lodestar multiplier of 5.23. This multiplier is on the high end of those generally allowed in this Circuit, but it is not unheard of ... The Court thus approves the proposed attorneys’ fees under the percentage of the fund method.”).
55. *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 347 (S.D.N.Y. 2014) (noting that, “A fee award of 25% of the fund or \$11,475,000 would represent a multiplier of 5.2 of the lodestar” and approving 25% award).
56. *Craft v. Cnty. of San Bernardino*, 624 F. Supp. 2d 1113, 1123 (C.D. Cal. 2008) (“The plaintiffs’ request in this case for 25% of the class fund would result in a fee of \$6,375,000, which is a multiplier of approximately 5.2 times the \$1.2 Million lodestar in this case. The Court has concluded that it will award Class Counsel 25% of the class fund, and addresses the reasons for doing so below.”).
57. *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732, 791 (S.D. Tex. 2008) (“[T]he Court finds that the exceptional obstacles to recovery that were present here, and the remarkable success obtained by Lead Counsel’s skill and experience make this a rare and exceptional case warranting the application of the requested 5.2 multiplier under a lodestar cross-check or enhancement under a lodestar analysis.”) (internal quotation marks and citation omitted).
58. *Zeltser v. Merrill Lynch & Co.*, No. 13 CIV. 1531 FM, 2014 WL 4816134, at \*10 (S.D.N.Y. Sept. 23, 2014) (stating that “the lodestar sought by Class Counsel, approximately 5.1 times the fees sought, falls within the range granted by courts” and approving award).
59. *Ferrick v. Spotify USA Inc.*, No. 16-CV-8412 (AJN), 2018 WL 2324076, at \*10 (S.D.N.Y. May 22, 2018) (finding that fee amounting to a 5.02 multiplier would “adequately compensate Class Counsel, and it recognizes the complexity of the case, the



risks involved in the litigation, the efforts of Class Counsel and the quality of representation provided, and the benefits to the class from the settlement”).

60. *In re Fernald Litig.*, No. C-1-85-149, 1989 WL 267038, at \*5 (S.D. Ohio Sept. 29, 1989) (“We conclude, therefore, that plaintiffs’ class counsel are entitled to twenty (20%) percent of the common fund created or an equivalent multiplier of five.”).
61. *Fleisher v. Phoenix Life Ins. Co.*, No. 11-CV-8405 (CM), 2015 WL 10847814, at \*18 (S.D.N.Y. Sept. 9, 2015) (“Based on the requested fee (\$13,500,000), class counsel’s aggregate lodestar yields a ‘crosscheck’ multiplier of 4.87. This is well within the range of crosscheck multipliers awarded in this circuit.”).
62. *Perez v. Rash Curtis & Assocs.*, No. 4:16-CV-03396-YGR, 2021 WL 4503314, at \*5 (N.D. Cal. Oct. 1, 2021) (“That said, and given the recovery to the class, the Court will authorize distribution of thirty-seven percent of the Settlement Amount to account for the fact that one of the two cases did in fact go to trial and under the agreement with plaintiff Perez, class counsel could have sought authorization of forty percent for that matter. Thirty-seven percent totals \$27,972,000 which increases class counsel’s lodestar to 4.8 and will address, in part, class counsel’s independent decision to enter into a litigation funding agreement.”).
63. *Meijer, Inc. v. 3M*, No. CIV.A. 04-5871, 2006 WL 2382718, at \*24 (E.D. Pa. Aug. 14, 2006) (“[T]he Court finds that, given the facts of this case, the requested lodestar multiplier of 4.77 is acceptable and does not call for a reduction in Plaintiffs’ Counsel’s requested attorneys’ fees award.”).
64. *In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d 617, 633 (N.D. Cal. 2021), *appeal dismissed*, No. 21-15555, 2021 WL 2660668 (9th Cir. June 22, 2021), and *aff’d*, No. 21-15553, 2022 WL 822923 (9th Cir. Mar. 17, 2022) (“Reducing the fee here to \$97,500,000, reduces the multiplier to 4.71. This is more in line with comparable settlements, still sufficiently and appropriately generous, and more reasonable in the circumstances here. The results obtained and the risks at trial warrant a higher-end multiplier of 4.71, but not more.”).
65. *Cornwell v. Credit Suisse Grp.*, No. 08-CV-03758(VM), 2011 WL 13263367, at \*2 (S.D.N.Y. July 20, 2011) (“Lead Plaintiffs’ counsel’s total lodestar is \$4,049,631.50. A 27.5% fee represents a multiplier of 4.7. Given the public policy and judicial economy interests that support the expeditious settlement of cases, the requested fee is reasonable.”) (citation omitted).
66. *In re Xcel Energy, Inc., Sec., Derivative & “ERISA” Litig.*, 364 F. Supp. 2d 980, 999 (D. Minn. 2005) (approving lodestar multiplier of 4.7 for securities class action component, because “[u]nder these circumstances, the court concludes that the 25% attorney fee, when cross-checked against a lodestar multiplier of 4.7, is reasonable”; also approving lodestar multiplier of 2.16 for ERISA component).

67. *Bodnar v. Bank of Am., N.A.*, No. CV 14-3224, 2016 WL 4582084, at \*6 (E.D. Pa. Aug. 4, 2016) (“The collective lodestar for Class Counsel is \$1,933,795.95. Accordingly, an award of 33% of the Settlement Fund or \$9,075,000 results in a multiplier here of 4.69. Given the nature, complexity, and potential duration of this Action, as detailed above, the risk of non-recovery, the value of the social benefit, and the extraordinary results in light of the obstacles, the court finds that the multiplier is appropriate and reasonable, including when compared to awards in other cases in this court and Circuit.”).
68. *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) (“Finally, in ‘cross-checking’ the percentage fee against the lodestar-multiple, it clearly appears that the modest multiplier of 4.65 is fair and reasonable.”).
69. *Flores v. Express Servs., Inc.*, No. CV 14-3298, 2017 WL 1177098, at \*4 (E.D. Pa. Mar. 30, 2017) (“The counsel fee request of \$1,895,362.33 results in a multiplier of 4.6 . . . . This multiplier is reasonable . . .”).
70. *In re Alphabet, Inc. Sec. Litig.*, No. 18-CV-06245-TLT, 2024 WL 4354988, at \*7 (N.D. Cal. Sept. 30, 2024) (“Here, the lodestar multiplier is approximately 4.58, which the Court finds reasonable.”).
71. *Holleran v Rita Medical Sys., Inc.*, No. RG06302394, 2007 WL 7759253 (Cal.Super. Oct. 04, 2007) (“Counsel for Plaintiffs seek fees in the total amount of \$290,000, which represents a multiplier of 4.57. The agreed fees sought are substantially higher than the lodestar, but presumably reflect the contingent risk of the case to class counsel, the benefits of certainty and of limiting its own attorneys’ fees to Angiodynamics, and other factors.”).
72. *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2015 WL 2438274, at \*7 & 8 n.3 (N.D. Cal. May 21, 2015) (stating that, “[c]onsidering all of the facts and circumstances, the Court, in its discretion, concludes that [one firm] deserves a multiplier of 2 and [second firm] deserves a multiplier of 5.5” and noting that net result is a total multiplier of 4.53).
73. *Mun. Auth. of Bloomsburg v. Pennsylvania*, 527 F. Supp. 982, 1000 (M.D. Pa. 1981) (“The multiplier of 4.5 requested by Petitioners will be applied to the lodestar fee despite the facts that such a multiplier is extremely high and appears to be probably without precedent. It is warranted only because of the peculiar facts of this case.”).
74. *Deloach v. Philip Morris Cos.*, No. 1:00CV01235, 2003 WL 23094907, at \*11 (M.D.N.C. Dec. 19, 2003) (“A multiplier of 4.45, in conjunction with an adjusted lodestar of \$15,914,905.50, results in a fee award of \$70,821,329.48. This figure represents a reasonable fee for the services provided by Plaintiffs’ Co-Lead Counsel in this case.”).
75. *Carrigan v. Xerox Corp.*, No. 3:21-CV-1085 (SVN), 2024 WL 1639535, at \*7 (D. Conn.

Apr. 16, 2024) (“While even the 4.423 multiplier is at the higher end of what courts have found to be reasonable, this Court finds that it is reasonable in this case . . .”).

76. *Rabin v. Concord Assets Grp., Inc.*, No. 89 Civ. 6130, 1991 WL 275757 (S.D. N.Y. Dec. 19, 1991) (“The requested attorneys’ fees of \$2,544,122.78 represents a multiplier of 4.4 to the lodestar figure based on time (which this Court finds to have been reasonably expended) and at various hourly rates (which this Court finds to be reasonable for the particular attorneys performing services).”).
77. *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at \*6 (M.D.N.C. Dec. 3, 2018) (“In sum, a 4.39 multiplier is reasonable for this case.”).
78. *Johnson v. Fujitsu Tech. & Bus. of Am., Inc.*, No. 16-CV-03698-NC, 2018 WL 2183253, at \*7 (N.D. Cal. May 11, 2018) (“This amount requires a risk multiplier of 4.375 to reach the \$3.5 million Plaintiffs seek. Though on the high end, this multiplier falls within the range of reasonableness.”).
79. *Monserate v. Tequipment, Inc.*, No. 11 CV 6090 RML, 2012 WL 5830557, at \*4 (E.D.N.Y. Nov. 16, 2012) (“In sum, I find that a fee award of \$465,000 which provides a 4.34 multiplier of the reduced lodestar and constitutes fifteen percent of the \$3,100,000.00 Settlement Fund, is a fair and reasonable fee under *Goldberger* and related cases and should adequately compensate class counsel for its time and effort, for the risk it faced in this case, and for the high quality of its representation. Moreover, that reduced fee award will allow additional monies to be distributed to class members.”).
80. *Demaria v. Horizon Healthcare Servs., Inc.*, No. 2:11-CV-07298 (WJM), 2016 WL 6089713, at \*5 (D.N.J. Oct. 18, 2016) (“Although a lodestar multiplier of 4.3 is large, it is not unreasonable.”).
81. *In re VeriFone Holdings, Inc. Sec. Litig.*, No. C-07-6140 EMC, 2014 WL 12646027, at \*2 (N.D. Cal. Feb. 18, 2014) (“[A]lthough the lodestar cross-check though reveals a high multiplier—4.3 compared to the Ninth Circuit’s observation that over 80% of multipliers fall between 1.0 and 4.0—other courts have awarded multipliers in excess of 4.0, and the Court finds that the multiplier here is acceptable in light of the very substantial risks involved and Lead Plaintiff’s risk and extensive work on the case.”).
82. *Buccellato v. AT & T Operations, Inc.*, No. C10-00463-LHK, 2011 WL 3348055, at \*2 (N.D. Cal. Jun. 30, 2011) (“The resulting multiplier of 4.3 is reasonable in light of the time and labor required, the difficulty of the issues involved, the requisite legal skill and experience necessary, the excellent and quick results.”).
83. *In re AremisSoft Corp. Sec. Litig.*, 210 F.R.D. 109, 135 (D.N.J. 2002) (“Even assuming a value of one dollar per share, the 4.3 lodestar multiplier would be proper in this case.”).
84. *Patti’s Pitas, LLC v. Wells Fargo Merch. Servs., LLC*, No. 1:17-CV-04583 (AKT), 2021 WL 5879167, at \*5 (E.D.N.Y. July 22, 2021) (“Dividing the \$12 million fee request

by Class Counsel's lodestar yields an implied 'multiplier' of approximately 4.26. This is within the range of multipliers approved during lodestar cross checks of percentage-of-fund awards.").

85. *Shannon v. Hidalgo Cnty. Bd. of Comm'rs*, No. 6:08-cv-00369, ECF No. 35 at 3 (D. N.M. June 4, 2009) ("Class Counsel are awarded reasonable attorneys' fees, costs and gross receipts tax in the total amount of \$333,333, to be paid forthwith from the settlement fund.") (4.2 multiplier).
86. *In re Twitter Inc. Sec. Litig.*, No. 416CV05314JSTSK, 2022 WL 17248115, at \*1–2 (N.D. Cal. Nov. 21, 2022) (awarding a 22.5% fee in a \$809.5 million settlement, implying a 4.15 multiplier given the "lodestar value of \$43,931,080.75").
87. *King Drug Co. of Florence, Inc. v. Cephalon, Inc.*, No. 2:06-CV-01797-MSG, 2015 WL 12843830, at \*6 (E.D. Pa. Oct. 15, 2015) ("A 27.5% fee award would equate to a lodestar multiplier of approximately 4.12. Such a multiplier is within the range of those frequently awarded in common fund cases.").
88. *In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593, at \*5 (S.D.N.Y. June 16, 2020) ("A fee award of 20% of the settlement fund, or \$77.3 million, thus represents a multiplier of 4.09 of this lodestar. Although on the high end, a 4.09 multiplier is within the range of what has considered reasonable by courts.").
89. *Koch v. Desert States Emps. & UFCW Unions Pension Plan*, No. CV-20-02187-PHX-DJH, 2021 WL 6063534, at \*7 (D. Ariz. Dec. 22, 2021) ("For the reasons stated in the Court's Order approving the Settlement Agreement and herein, a 4.0 multiplier of the Court's calculated lodestar is appropriate for Class Counsel in this particular case.").
90. *Uschold v. NSMG Shared Servs., LLC*, No. 18-CV-01039-JSC, 2020 WL 3035776, at \*16 (N.D. Cal. June 5, 2020) ("A multiplier of 4 is warranted here based on the contingent nature of the fee agreement and Mr. Benjamin's explanation at the final approval hearing that this action required the majority of his firm's resources and attention since January 2018. The high end multiplier is warranted because it would result in a percentage of recovery of 12.9% of the Gross Settlement Amount, which is below "the usual range" awarded in common fund cases.").
91. *Hillson v. Kelly Servs. Inc.*, No. 2:15-CV-10803, 2017 WL 3446596, at \*6 (E.D. Mich. Aug. 11, 2017) ("Here, as discussed, the risk in this case was considerable but not extraordinary. A multiplier of 4 would seem to adequately account for that risk.").
92. *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-CV-3066-JEC, 2012 WL 12540344, at \*5 (N.D. Ga. Oct. 26, 2012) ("Here, the requested fee would represent a multiplier of approximately four times lodestar, which is well within the range of approved fees.").
93. *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 359-60 (S.D.N.Y. 2003) ("When combined with the attorneys' fees awarded pursuant to the Citigroup Settlement, the

amount sought is equivalent to a lodestar multiple of 4.0. . . . As no objection remains to the amount of costs sought by Lead Counsel, and the expenses do not appear facially unreasonable, the application for reimbursement of expenses is approved.”).

94. *In re Cenco Inc. Sec. Litig.*, 519 F. Supp. 322, 327 (N.D. Ill. 1981) (“Accordingly, the lodestar rate and expenses sought are reasonable. Further, the court finds that a multiple of 4 accurately takes into account the factors discussed above and awards Sachnoff attorneys’ fees in the amount of \$893,450.00 plus \$41,300.00 for paralegals and \$24,783.32 in expenses.”).