Steve W. Berman (pro hac vice)
Thomas E. Loeser (SBN 202724)
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594
Email: *steve@hbsslaw.com*
toml@hbsslaw.com

Christopher R. Pitoun
(SBN 290235)
HAGENS BERMAN SOBOL SHAPIRO LLP
301 N. Lake Avenue, Suite 920
Pasadena, CA 91101
Telephone: (213) 330-7150
Facsimile: (213) 330-7152
christopherp@hbsslaw.com

Rachel E. Fitzpatrick (pro hac vice)
HAGENS BERMAN SOBOL SHAPIRO LLP
11 W. Jefferson Street, Suite 1000
Phoenix, AZ 85003
Telephone: (602) 840-5900
Facsimile: (602) 840-3012
rachelf@hbsslaw.com

Settlement Class Counsel and Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

RAMTIN ZAKIKHANI, KIMBERLY ELZINGA, THEODORE MADDOX JR., MICHAEL SUMMA, JACQUELINE WASHINGTON, PATTI TALLEY, ANA OLACIREGUI, ELAINE PEACOCK, MELODY IRISH, and DONNA TINSLEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR COMPANY, HYUNDAI MOTOR AMERICA, KIA CORPORATION, and KIA AMERICA, INC.,

Defendants.

Case No. 8:20-cv-01584-SB-JDE

DECLARATION OF STEVE W. BERMAN IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS

I, Steve W. Berman, declare as follows:

1. I am an attorney admitted pro hac vice in this litigation, the managing partner of the law firm Hagens Berman Sobol Shapiro LLP ("Hagens Berman"), and counsel of record for Brenda Evans, Minda Briaddy, and Anthony Vacchio (the "*Evans* Settling Plaintiffs") in *Evans v. Hyundai Motor Company, et al.*, No. 8:22-cv-00300-SB-JDE (C.D. Cal.) ("*Evans*"), as well the plaintiffs in *Zakikhani v. Hyundai Motor Company et al.*, No. 8:20-cv-01584-SB-JDE ("*Zakikhani*"). I could and would competently testify to the matters stated in this Declaration based on my personal knowledge or discussions with counsel in my firm.

2. I submit this Declaration in support of Plaintiffs' Motion for Attorneys' Fees, Cost, and Service Awards, which seeks $8,696,551.50 in attorneys' fees and actual litigation costs up to $239,767.60, in connection with the class action settlement ("Settlement") preliminarily approved by this Court on October 20, 2022. (*Zakikhani* Dkt. 130.)

3. This Court appointed me to serve as Class Counsel alongside Elizabeth A. Fegan of Fegan Scott LLC in its October 20, 2022 Order conditionally approving Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. *Id.*

A. HAGENS BERMAN'S EXPERIENCE AND QUALIFICATIONS

4. As demonstrated by our firm résumé, attached hereto as Exhibit 1, Hagens Berman is among the most experienced and skilled practitioners in the complex litigation field, and has a long and successful track record in such cases. Hagens Berman is a nationally recognized law firm, with offices in Seattle, Berkeley, Boston, Chicago, Los Angeles, New York, Phoenix, San Diego, and London, England. We have been consistently rated by the National Law Journal in the top ten of plaintiffs' firms in the country. The firm has extensive experience litigating complex class actions asserting claims of securities, investment fraud, product liability, tort, antitrust, consumer fraud, employment, environmental, and ERISA cases. Hagens Berman has been approved by courts to serve as class counsel in

hundreds of class actions, including cases in this District. Moreover, the fact that Hagens Berman has demonstrated a willingness and ability to prosecute complex cases such as this was undoubtedly a factor that encouraged Defendants to engage in settlement discussions, and added valuable leverage in the negotiations, ultimately resulting in the recovery for the Class.

5. My firm and I have significant experience prosecuting consumer class actions against automotive companies, including successful actions against Hyundai and Kia. Below is a sampling of such auto cases:

- Appointed as Co-Lead to the Consumer Class Action Leadership Committee in *In re Kia Hyundai Vehicle Theft Marketing, Sales Practices, and Products Liability Litigation*, No. 8:22-ML-22-3052-JVS (KESx) (C.D. Cal.), on behalf of former and current Hyundai and Kia vehicle owners whose vehicles are alleged to be vulnerable to theft because of a design defect. The case is ongoing and was recently consolidated into multi-district litigation before the Hon. James V. Selna.
- Appointed as Co-Lead Counsel in *In re Kia Engine Litigation*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal.), on behalf of former and current Hyundai and Kia vehicle owners alleging a defect in more than four million vehicles equipped with Theta II GDI engines. The case settled and was granted final approval in this District in May 2021. The settlement package, valued at up to $1.3 billion, secured various categories of reimbursement and compensation for costly engine repairs and engine fires, as well as a lifetime transferable warranty against the alleged engine defect.
- Appointed as Co-Lead Counsel in *In re General Motors LLC Ignition Switch Litigation*, No. 14-md-02543-JMF (S.D.N.Y), on behalf of millions of former and current GM vehicle owners and lessees related

to an ignition switch defect concealed by GM that resulted in economic loss, injury, and death. The case settled for $120 million dollars and the district court granted final approval to the settlement in December 2020.

- Appointed as Co-Lead Counsel in *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, No. 8:10-ml-02151-JVS-FMO (C.D. Cal.), on behalf of Toyota owners alleging a defect causes vehicles to undergo sudden, unintended acceleration. The case settled and the settlement package was valued at up to $1.6 billion, which was at the time the largest automotive settlement in history.
- Appointed as Co-Lead Counsel in *In re MyFord Touch Consumer Litigation*, No. 3:13-cv-03072-EMC (N.D. Cal.), on behalf of owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claimed that the system is flawed, putting drivers at risk of an accident while causing economic hardship for owners. In December 2019, the district court finally approved a $17 million dollar settlement for seven state classes of purchasers.
- Appointed as Co-Class Counsel in *Meyer v. Nissan North America, Inc.*, No. BC 263136 (Super. Ct. Cal.), on behalf of Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down. The case settled, providing reimbursement for cleanings or replacements and applicable warranty coverage.
- Appointed as Co-Settlement Class Counsel in *In re Hyundai and Kia Fuel Economy Litigation*, No. 2:13-md-2424-GW-FFM (C.D. Cal.), on behalf of owners after the car manufacturers allegedly overstated the MPG fuel economy ratings on 900,000 of its cars. The case resulted in a $255 million settlement; a lump-sum payment plan worth $400 million

on a cash basis, and worth even more if owners opt for store credit (150 percent of cash award) or new car discount (200 percent of cash award) options. In 2018 and 2019, I successfully petitioned for en banc review of an adverse Ninth Circuit panel decision, argued, and obtained full affirmance of the settlement. *See In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 552 (9th Cir. 2019).

- Appointed to Plaintiffs' Steering Committee in *In re FCA US LLC Monostable Electronic Gearshift Litigation*, No. 2:16-md-02744-DML-DRG (E.D. Mich.), on behalf of owners of Jeep Grand Cherokee, Chrysler 300, and Dodge Charger vehicles alleging Fiat Chrysler fraudulently concealed and failed to remedy a design defect in 811,000 vehicles that can cause cars to roll away after they are parked, causing injuries, accidents, and other serious unintended consequences. The case went to trial in September 2022.
- In *Tershakovec v. Ford Motor Co.*, No. 1:17-cv-21087 (S.D. Fla.), representing owners of certain 2016 Shelby GT350 Mustang models in a case alleging that Ford sold these vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of a transmission and differential coolers can greatly diminish the vehicle's reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode while in use, even when the car is not being tracked. The case is pending.
- Appointed as Class Counsel in *Sheikh v. Tesla Motors, Inc.*, No. 5:17-cv-02193-BLF (N.D. Cal.), on behalf of Tesla owners in a lawsuit against the automaker for knowingly selling nearly 50,000 cars with nonfunctional Enhanced Autopilot AP2.0 software that still has not met Tesla's promises, including inoperative Standard Safety Features on affected models sold in Q4 2016 and Q1 2017. In November 2018, the

district court granted final approval of a $5.4 million nationwide class settlement.

- I also have extensive experience litigating automotive emissions cheating cases, such as: *Volkswagen Diesel Emissions Litig.*, No. 3:15-md-02672-CRB (N.D. Cal.) (Plaintiffs' Steering Committee); *Volkswagen Dealers Litig.*, No. 3:15-md-02672-CRB (N.D. Cal.) (Class Counsel); *Albers v. Mercedes-Benz USA, LLC*, No. 2:16-cv-00881-JLL-JAD (D.N.J.) (Interim Class Counsel); *Counts v. General Motors LLC*, No. 1:16-cv-12541-TLL-PTM (E.D. Mich.); *In re Chrysler-Dodge-Jeep EcoDiesel Mktg. Sales Pracs., & Prods. Liab. Litig.*, No. 3:17-md-02777-EMC (N.D. Cal.) (Plaintiffs' Steering Committee); *Bledsoe v. FCA US LLC*, No. 4:16-cv-14024-TGB-RSW (E.D. Mich.); *In re Duramax Diesel Litig.*, No. 1:17-cv-11661-TLL-PTM (E.D. Mich.).

B. WORK PERFORMED BY HAGENS BERMAN

6. On February 25, 2022, after undertaking an investigation that included a review of publicly available sources of technical information, research into the allegedly defective ABS modules, and discussions with Plaintiffs and numerous putative class members, Hagens Berman filed an action in the Central District of California on behalf of the *Evans* Settling Plaintiffs against Hyundai Motor America ("HMA"), Hyundai Motor Company ("HMC"), Kia Corporation ("KC"), and Kia America, Inc. ("KA") (collectively "Defendants"), asserting claims for violations of the Magnuson-Moss Warranty Act, state law, and common law. *Evans* alleged Defendants' flawed design and/or manufacturing processes resulted in the production and sale of Hyundai and Kia vehicles, including some newly recalled vehicles, with defective Anti-Lock Brake System ("ABS") modules. The alleged defect in these ABS modules make them prone to an electrical short that can result in abnormal ABS functionality, and in some instances, spontaneous engine fire when a vehicle is parked and off, and while in operation.

7. After filing *Evans*, the case was related to *Zakikhani* and transferred to this Court. Thereafter, my firm and counsel in *Zakikhani* agreed to jointly prosecute both *Evans* and *Zakikhani* and filed appearances in each other's respective cases. On September 6, 2022, these cases, along with *Pluskowski, et al. v. Hyundai Motor America, et al.*, No. 8:22-cv-00824 ("*Pluskowski*"), were consolidated under *Zakikhani*. *Zakikhani*, Dkt. 120.

8. My firm immediately joined the ongoing discovery process in *Zakikhani*, working cooperatively with co-counsel to complete necessary discovery on a condensed litigation schedule. Specifically, we assisted with review and analysis of Defendants' document production, much of which was in Korean and required our firm's resources for review and understanding, retaining an expert for class certification, and arguing a pending discovery motion before the Magistrate Judge.

9. Hagens Berman also worked cooperatively with co-counsel to prepare for presentation of the cases to the Hon. Edward A. Infante (Ret.) of JAMS, our mediator for two separate sessions with Defendants on April 25-26, 2022. Our negotiations with Defendants were adversarial and conducted at arms'-length. With the help of Judge Infante, the sessions culminated in an agreement in principle for a nationwide settlement.

10. During this time, given the condensed schedule, we continued to investigate the underlying facts regarding the alleged ABS module defect, take discovery, and develop the evidence necessary to obtain class certification.

11. After reaching general agreement on the broader terms of settlement, Class Counsel spent months meeting and conferring with Defendants' representatives by phone and in writing to hammer out the details of the Settlement Agreement and its related documents.

12. Hagens Berman also assisted with confirmatory discovery, which included research into each of the several fixes provided under the various NHTSA recalls and two additional Rule 30(b)(6) depositions of Defendants.

13. Along with our co-Class Counsel, Hagens Berman assisted in briefing preliminary approval, attended and argued the preliminary approval hearing, and revised the Settlement Agreement at the Court's directive. We also supervised Notice and creation of the Settlement websites.

14. Hagens Berman is currently fielding Class member inquiries regarding the Settlement, and we anticipate continuing to receive and assist Class members throughout the claims process. We are also reviewing and auditing the claims process as such data is produced to us consistent with the Settlement terms.

C. HAGENS BERMAN LODESTAR AND EXPENSES

15. Hagens Berman attorneys and staff keep detailed, contemporaneous time records in all cases, including here. Time is billed in one-tenth of an hour increments, captured and submitted electronically on a daily basis, and audited for accuracy.

16. Hagens Berman's hourly rates are the same as those charged for services in non-contingent matters, and federal courts throughout the country have approved Hagen Berman's standard billing rates and reimbursement of costs as reasonable.[1]

17. As of February 28, 2023, Hagens Berman has spent 1045.8 hours litigating this case, for a total firm lodestar of $713,205. A summary of hours incurred by timekeeper, with respective rates and roles included, is below:

Timekeeper	Role	Rate	Hours	Lodestar
Leonard Aragon	Partner	$800.00	0.40	$320.00
Steve Berman	Partner	$1,285.00	41.90	$53,841.50

[1] *See, e.g.*, *In re Kia Engine Litig.*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal. May 10, 2021), Dkt. 202 at 41-47; *In re McKesson Corp. Derivative Litig.*, No. 4:17-cv-01850-CW (N.D. Cal. Apr. 22, 2020), Dkt. 231-1 at 9-10; *In re Hyundai & Kia Fuel Econ. Litig.*, No. 2:13-ml-02424-GW-FFM (C.D. Cal. Nov. 14, 2019), Dkt. 593 at 1; *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 2:14-cv-00361-AWA-DEM (E.D. Va. April 18, 2018), Dkt. 630 at 6-10; *In re Toyota Motor Corp. Unintended Accel. Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 8:10-ml-02151-JVS-FMO (C.D. Cal. July 24, 2013), Dkt. 3933 at Attachment 2.

Sophia Chao	Staff Attorney	$400.00	7.90	$3,160.00
Jongguk Choi	Staff Attorney	$400.00	162.30	$64,920.00
John DeStefano	Partner	$700.00	1.20	$840.00
Rachel Fitzpatrick	Of Counsel	$550.00	238.80	$131,340.00
Thomas Loeser	Partner	$935.00	401.20	$375,122.00
Sean Matt	Partner	$935.00	8.90	$8,321.50
Jay Mitchell	Staff Attorney	$400.00	72.30	$28,920.00
Christopher O'Hara	Partner	$750.00	21.50	$16,125.00
Abigail Pershing	Associate	$350.00	0.10	$35.00
Christopher Pitoun	Partner	$650.00	1.90	$1,235.00
Erin Cline	Paralegal	$250.00	27.80	$6,950.00
Jennifer Conte	Paralegal	$375.00	2.60	$975.00
Carrie Flexer	Paralegal	$400.00	5.00	$2,000.00
Beth Gibson	Paralegal	$325.00	0.20	$65.00
Nicolle Huerta	Paralegal	$375.00	45.80	$17,175.00
Cindy Johnson	Paralegal	$325.00	2.40	$780.00
Chan Lovell	Paralegal Assistant	$225.00	1.30	$292.50
Bill Stevens	Paralegal	$375.00	0.80	$300.00
Shelby Taylor	Paralegal	$325.00	1.50	$487.50
Total			**1045.80**	**$713,205.00**
	Blended Rate at Current Rates	**$682.00**		

18. As a general rule, our firm implements internal protocols and procedures to strive for efficient, cost-effective, and quality work. We delegate tasks appropriately among partners, associate attorneys, paralegals, and other staff according to complexity, and with the goal to avoid unnecessary or duplicative work.

19. In my professional experience and opinion, the time committed by Class and Plaintiffs' Counsel was necessary to the successful resolution of this litigation, and all attorneys made sure to efficiently allocate work, coordinate assignments, and prevent unnecessary duplication of work.

20. Aside from Hagens Berman's initial investigation, drafting, and filing efforts (which added newly recalled vehicles not already in the *Zakikhani* case), our

work was largely conducted in conjunction with that of *Zakikhani*'s counsel and therefore non-duplicative where both firms' input or work was not required.

21. As of March 16, 2023, Hagens Berman incurred and paid $81,566.92 in costs attributable to this litigation. A summary of these costs by category is below:

SUMMARY OF EXPENSES FOR HAGENS BERMAN SOBOL SHAPIRO LLP

INCEPTION THROUGH MARCH 16, 2023

Expense Category	Amount
Mediation Fees	$10,231.25
Court Reporters/Transcripts	$189.66
Experts and Investigators	$63,446.25
Court Fees/Filing Fees	$3,463.25
Online Services/Legal Research	$105.75
Travel (Airfare, Hotel, Meals, Transportation)	$2,538.56
Outside Copy Service	$1,137.40
Internal Prints/Copies ($0.25 per page)	$198.50
Overnight Shipping (FedEx/UPS)	$256.30
TOTAL EXPENSES:	**$81,566.92**

22. We also incurred an estimated $67,000 in additional expert costs (to experts Susan K. Thompson and Robert H. Klonoff) but have not been invoiced or paid these yet given that the work is ongoing and was incurred in furtherance of the Plaintiffs' motions for final approval and request for attorneys' fees, costs, and service awards.

23. It is Hagens Berman's policy and practice to prepare records from expense invoices, check and credit card records, and other source materials. Based on my oversight of our firm's work in this litigation and my review of these records, I believe they constitute an accurate record of the expenses actually incurred by our firm.

24. In my professional experience and opinion, these costs are typical and reasonable. The largest costs to date are for expert services, which are necessary in an automotive defect case requiring extensive investigation to establish and prosecute the Class members' claims.

25. As with their allocation of work, Class and Plaintiffs' Counsel were careful to share in costs to avoid unnecessary and duplicative expense, including for experts, which was the largest expense.

26. Should the Court wish to review *in camera* any of the detailed time or cost records underlying the amounts recited in this Declaration, they are available.

27. As detailed more fully in paragraphs 37-41 *infra*, Class Counsel is incurring more time and costs currently, and expects to continue incurring these through final approval, the claims administration, and perhaps on appeal.

D. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE

28. Based on Hagens Berman's investigation, the information obtained from Defendants, and the strengths and weaknesses of the Parties' respective claims and defenses, I believe further litigation of the matters resolved by this Settlement would be complex and costly, and subject the Parties to uncertain results. Litigation has been ongoing for several years, and already consumed significant time, money, and resources from the Parties and the Court. While I believe Plaintiffs' claims are valid, there is a recognized element of risk in any litigation. The Settlement here will substantially reduce costs and the expenditure of resources and eliminate the risk of uncertain litigation outcomes.

29. In light of the inherent risks and costs associated with litigation, the Settlement is fair, reasonable, and adequate because it is the product of arm's-length negotiations between sophisticated counsel well-versed in automotive class action litigation, and included confirmatory discovery. The Settlement treats Class members equitably and provides reasonably equivalent consideration in exchange for certain liability releases.

30. I have negotiated other settlements with Defendants and its counsel, all of which were deemed fair, reasonable, and adequate. *See, e.g.*, *In re Hyundai & Kia Fuel Econ. Litig.*, No. 2:13-md-2424-GW-FFM (C.D. Cal.); *In re Kia Engine Litig.*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal. May 10, 2021).

E. THE REQUESTED FEE AND EXPENSE AWARD IS REASONABLE

31. Rule 23(h) of the Federal Rules of Civil Procedure provides in relevant part that "[i]n a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." Class and Plaintiffs' Counsel seek $8,696,551.50 in fees and actual costs up to $239,767.60.

32. The Parties did not negotiate attorneys' fees, costs, or class representative service awards until after reaching agreement on the Settlement. On July 14, 2022, Class Counsel and Defendants' counsel formally negotiated attorneys' fees and costs with the assistance of retired Judge Edward A. Infante. This mediation was unsuccessful.

33. In finalizing the Settlement Agreement, however, Defendants agreed to pay attorneys' fees, costs, and service awards separately, so these would not impact or diminish the full value of the Settlement to the Class. *Zakikhani*, Dkt. 131-1 at ¶ 14.3. There is no "clear sailing" agreement, meaning there is no agreement that Defendants will not oppose fees up to a certain amount. *Id.* Instead, Defendants reserved the right to challenge Class and Plaintiffs' Counsel's fee request, regardless of the amount sought, as well as challenge the out-of-pocket expenses and service awards requested. *Id.* As of this filing, no agreement on attorneys' fees, costs, or service award has been reached by the parties.

34. Hagens Berman prosecuted this litigation solely on a contingent fee for more than a year (and co-Class Counsel for even longer), all at risk of not receiving compensation for their work and expenses on behalf of the Class. Class and Plaintiffs'

Counsel collectively devoted substantial time and resources to this matter, forgoing other legal work for which they could have been compensated.

35. Considering Class and Plaintiffs' Counsel's extensive experience litigating complex class cases, including automotive cases, their quality of work here, the risks assumed in undertaking this case, the uncertainties of further litigation, and the excellent result achieved for the Settlement Classes, I believe the requested fees and expense reimbursement is more than reasonable.

36. To assist in the analysis of Class and Plaintiffs' Counsel's Motion for Attorneys' Fees, Costs, and Service Awards, Plaintiffs retained seasoned attorney, professor, and class action expert Robert H. Klonoff to opine on the reasonableness of the requested attorneys' fees, the requested costs, and the proposed service awards to Plaintiffs. Attached as Exhibit 2, is the Declaration of Robert H. Klonoff. After a thorough review, he also concluded that Class and Plaintiffs' Counsel's fees, costs, and service award requests are reasonable.

37. Notably, this case and Class Counsel's work is ongoing. We are currently fielding Class member communications, preparing final approval papers and preparing for the final fairness hearing, assisting and supervising the Settlement administration, potentially addressing any objections, and potentially defending the Settlement from any objector appeals.

38. Based on Hagens Berman's recent experience with similarly structured settlements—*see, e.g.*, *In re Kia Engine Litig.*, No. 8:17-cv-00838-JLS-JDE (Dkt. 202) (C.D. Cal. May 10, 2021)—we estimate we will spend an additional 1,250 hours assisting Class members with claims administration, as well as reviewing and auditing claims data given the nature of the defect and the Settlement structure.

39. The ABS module defect here can manifest in several ways, including ABS failure or vehicle fire, both of which can have other potential causes. The Settlement structure also provides a variety of benefits requiring differing levels of documentation and action. Both of these factors are expected to increase the oversight

and intervention required by Class Counsel to ensure the Settlement is being administered fairly.

40. The settlement in *In re Kia Engine Litig.*, No. 8:17-cv-00838-JLS-JDE was similarly structured offering a range of benefits with various requirements from Class members, and the alleged engine defect there was similarly nuanced (i.e., tracing manifestation to the alleged defect based on historical records and dealer inspections).

41. Assisting class members in *In re Kia Engine Litigation* was more time-consuming compared to other class administrations, given the documentation required and the coordination with the settlement administrators. Class Counsel underestimated their future work there, and have applied those lessons here by factoring in what Class Counsel believes an accurate estimate of future time.

F. THE LEAD PLAINTIFFS DILIGENTLY SERVED THE CLASS

42. The Court's October 21, 2022 Preliminary Approval Order appointed the following Plaintiffs as Class Representatives for the Hyundai and Kia Settlement Classes: Kimberly Elzinga, Theodore Maddox, Jr., Jacqueline Washington, Patti Talley, Ana Olaciregui, Elaine Peacock, Melody Irish, Donna Tinsley, Ramtin Zakikhani, Brenda Evans, Anthony Vacchio, Minda Briaddy, Adam Pluskowski, Ricky Barber, Lucille Jacob, Carla Ward, Pepper Miller, and Cindy Brady. *Zakikhani*, Dkt. 130.

43. The *Evans* Settling Plaintiffs appointed as Class Representatives here willingly participated in this litigation on behalf of the Class, despite any financial or reputational risks. They understood this commitment required time and cooperation on their part, including through potential written discovery, depositions, and trial. Attached as Exhibits 3-5, are the Declarations of Plaintiffs Brenda Evans, Minda Briaddy, and Anthony Vacchio detailing their work on this case, including their best estimates of time spent, and their support of the Settlement.

44. Throughout the course of this litigation, the *Evans* Settling Plaintiffs provided information, documents, and in some cases their vehicles for inspection, as requested by Class Counsel. They communicated with counsel, reviewed and provided information for pleadings, and generally stayed informed about the case.

45. The *Evans* Settling Plaintiffs consulted with Class Counsel about the Settlement and its terms, and later reviewed the Settlement Agreement itself, on behalf of the Class they represent.

46. In light of the foregoing, we believe it appropriate for the Court to approve service awards to the *Evans* Settling Plaintiffs appointed as Class Representatives given their devotion to the class, without which this Settlement would not be possible.

47. If the Court agrees, the *Evans* Settling Plaintiffs will each receive $2,500 Service Awards paid by Defendants, for a total of $7,500.

48. Throughout the course of this litigation, the *Evans* Settling Plaintiffs have been available for multiple communications and provided information for various pleadings.

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

Executed this 20th day of March, 2023, at Seattle, Washington.

/s/ Steve W. Berman
STEVE W. BERMAN

EXHIBIT 1

HAGENS BERMAN

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

Table of Contents

INTRODUCTION

The Firm

Hagens Berman Sobol Shapiro LLP was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group. The firm initially focused on class action and other types of complex, multi-party litigation, but we have always represented plaintiffs, victims and the underdog. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest. The firm represents plaintiffs including investors, consumers, inventors, workers, the environment, governments, whistleblowers and others.

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

OUR FOCUS. Our focus is to represent plaintiffs/victims in product liability, tort, antitrust, consumer fraud, sexual harassment, securities and investment fraud, employment, whistleblower, intellectual property, environmental, and employee pension protection cases. Our firm is particularly skilled at managing multi-state and nationwide class actions through an organized, coordinated approach that implements an efficient and aggressive prosecutorial strategy to place maximum pressure on defendants.

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

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

AN INTERNATIONAL REACH. The scope of our practice is truly nationwide. We have flourished through our network of offices in nine cities across the United States, including Seattle, Austin, Berkeley, Boston, Chicago, Los Angeles, New York, Phoenix and San Diego and one international office in London, and our eyes are always open to trends of fraud, negligence and wrongdoing that may be taking form anywhere in the world. Our reach is not limited to the cities where we maintain offices. We have cases pending in courts across the country and have a vested interest in fighting global instances of oppression, wrongdoing and injustice.

INTRODUCTION

Locations

SEATTLE
1301 Second Avenue, Suite 2000
Seattle, WA 98101
(206) 623-7292 phone
(206) 623-0594 fax

BERKELEY
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
(510) 725-3000 phone
(510) 725-3001 fax

BOSTON
1 Faneuil Hall Sq., 5th Floor
Boston, MA 02109
(617) 482-3700 phone
(617) 482-3003 fax

LONDON
Hagens Berman EMEA LLP
22 Eastcheap
Billingsgate, London, EC3M 1EU
0203 150 1445 phone

CHICAGO
455 N. Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
(708) 628-4949 phone
(708) 628-4950 fax

LOS ANGELES
301 North Lake Avenue, Suite 920
Pasadena, CA 91101
(213) 330-7150 phone
(213) 330-7152 fax

NEW YORK
68 3rd Street, Suite 249
Brooklyn, NY 11231
(212) 752-5455 phone
(917) 210-3980 fax

PHOENIX
11 West Jefferson Street, Suite 1000
Phoenix, AZ 85003
(602) 840-5900 phone
(602) 840-3012 fax

SAN DIEGO
533 F Street
Suite 207
San Diego, CA 92101
(619) 929-3340 phone

"…the track record of Hagens Berman['s] **Steve Berman is… impressive**, having racked… a $1.6 billion settlement in the Toyota Unintended Acceleration Litigation and a substantial number of really outstanding big-ticket results."

— *Milton I. Shadur, Senior U.S. District Judge, naming Hagens Berman Interim Class Counsel in Stericycle Pricing MDL*

"Class counsel has **consistently demonstrated extraordinary skill and effort.**"

— *U.S. District Judge James Selna, Central District of California, In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation*

"Berman is considered **one of the nation's top class-action lawyers**."

— *Associated Press*

Elite Trial Lawyers

The National Law Journal

The Plaintiffs' Hot List: The Year's Hottest Firms

The National Law Journal

Most Feared Plaintiffs Firms

Law360

"**Landmark consumer cases are business as usual** for Steve Berman."

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

"[A] **clear choice** emerges. That choice is the Hagens Berman firm."

— *U.S. District Court for the Northern District of California, In re Optical Disk Drive Products Antitrust Litigation (appointing the firm lead counsel)*

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

— *U.S. District Court for the Northern District of California, In re Dynamic Random Access Memory Antitrust Litigation (Hagens Berman was co-lead counsel and helped achieve the $325 million class settlement)*

VISA-MASTERCARD ANTITRUST LITIGATION

The firm served as co-lead counsel in what was then the largest antitrust settlement in history – valued at $**27 billion**.

VOLKSWAGEN FRANCHISE DEALERS LITIGATION

The firm served as lead counsel representing VW franchise dealers in this suit related to the automaker's Dieselgate scandal. A **$1.6 billion** settlement was reached, and represents a result of nearly full damages for the class.

VOLKSWAGEN EMISSIONS LITIGATION

Hagens Berman was named a member of the Plaintiffs' Steering Committee and part of the Settlement Negotiating team in this monumental case that culminated in the largest automotive settlement in history – **$17.4 billion**.

TOYOTA UNINTENDED ACCELERATION LITIGATION

Hagens Berman obtained the then largest automotive settlement in history in this class action that recovered **$1.6 billion** for vehicle owners.

STATE OF WASHINGTON, ET AL. V. PHILIP MORRIS, ET AL.

Hagens Berman represented 13 states in the largest recovery in litigation history – **$260 billion**.

E-BOOKS ANTITRUST LITIGATION

Hagens Berman served as co-lead counsel in this matter and secured a combined **$560 million** settlement on behalf of consumers against Apple and five of the nation's largest publishing companies.

LCD ANTITRUST LITIGATION

Hagens Berman served as a member of the Executive Committee representing consumers against multiple defendants in multi-district litigation. The total settlements exceeded **$470 million**.

MCKESSON DRUG LITIGATION

Hagens Berman was lead counsel in these racketeering cases against McKesson for drug pricing fraud that settled for more than **$444 million** on the eve of trials.

DAVITA HEALTHCARE PERSONAL INJURY LITIGATION

A Denver jury awarded a monumental **$383.5 million** jury verdict against GranuFlo dialysis provider DaVita Inc. on June 27, 2018, to families of three patients who suffered cardiac arrests and died after receiving dialysis treatments at DaVita clinics.

DRAM ANTITRUST LITIGATION

The firm was co-lead counsel, and the case settled for **$345 million** in favor of purchasers of dynamic random access memory chips (DRAM).

AVERAGE WHOLESALE PRICE DRUG LITIGATION

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

ENRON ERISA LITIGATION

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

CHARLES SCHWAB SECURITIES LITIGATION

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

Practice Areas

PRACTICE AREAS

Anti-Terrorism

With a long track record of upholding the rights of the voiceless, Hagens Berman fights for justice on behalf of victims of international terrorism. Our anti-terrorism legal team builds on our robust history to forge innovative cases, bringing action against those that support terrorism.

Hagens Berman has always believed in fighting for the rights of those with no voice – those who are victims to tragic circumstances beyond their control. With our guiding principles driving our efforts, the firm has expanded its practice areas to include anti-terrorism litigation.

It's no secret that some businesses and individuals have pled guilty to violating United States laws that prohibit financial transactions with terrorist organizations and foreign states that support terrorism. We believe that the law is one of the most powerful tools to combat terrorism, and our renowned team of litigators brings a fresh perspective to the fight for victims' rights in this complex arena.

Through a deep understanding of both U.S. and international anti-terrorism laws, Hagens Berman builds on its foundation to investigate acts of terrorism and forge ironclad cases against anyone responsible, to help ensure that those at the mercy of the world's most egregious perpetrators of violence are represented with the utmost integrity and determination.

The firm's new practice area carries out our mission of building a safer world through novel applications of the law and steadfast dedication.

Chiquita Bananas

Hagens Berman represents American citizens who were victims of terrorism in Colombia. The victims were harmed by Colombian terrorists that Chiquita Brands International Inc. paid so that it could grow bananas in Colombia in regions that were controlled by the terrorists. Chiquita is one of the world's largest producers and marketers of fruits and vegetables and admitted it paid Colombian terrorist organizations as part of a guilty plea to settle criminal charges brought by the U.S. Department of Justice

Chiquita was placed on corporate probation and paid a $25 million dollar fine because of its conduct in Colombia.

Plaintiffs have sued Chiquita under the U.S. Anti-Terrorism Act, which allows American victims of international terrorism to sue anyone responsible and to recover treble damages and attorney's fees. The claims are pending in the U.S. District Court for the Southern District of Florida as part of the consolidated multi-district litigation to resolve claims related to Chiquita's payments to Colombian terrorist organizations.

PRACTICE AREAS

Antitrust

Hagens Berman works to preserve healthy marketplace competition and fair trade by protecting consumers and businesses that purchase goods and services from price fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation. Our attorneys have a deep understanding of the legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive anti-competitive practices.

Hagens Berman represents millions of consumers in several high-profile class-action lawsuits, and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as debit and credit card services, personal computer components, electric and gas power, airlines, and internet services, and we have prevailed against some of the world's largest corporations.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman has served as lead or co-lead counsel in landmark litigation challenging anti-competitive practices, in the Paxil Direct Purchaser Litigation ($100 million), Relafen Antitrust Litigation ($75 million), Tricor Indirect Purchaser Antitrust Litigation ($65.7 million), and Augmentin Antitrust Litigation ($29 million). Representative antitrust successes on behalf of our clients include:

Visa/MasterCard

Helped lead this record-breaking antitrust case against credit card giants Visa and MasterCard that challenged charges imposed in connection with debit cards.

RESULT: $3.05 billion settlement and injunctive relief valued at more than $20 billion.

NCAA: Scholarships/Grants-In-Aid (GIAs)

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming these entities violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The firm continues to fight on behalf of student-athletes to level the playing field and bring fairness to college sports and players.

RESULT: $208.9 million settlement, bringing an estimated average amount of $6,500 to each eligible class member who played his or her sport for four years.

Apple E-books

With state attorneys general, the firm secured a $166 million settlement with publishing companies that conspired with Apple to fix e-book prices. The firm then look on Apple for its part in the price-fixing conspiracy. In the final stage in the lawsuit, the Supreme Court denied appeal from Apple, bringing the consumer payback amount to more than twice the amount of losses suffered by the class of e-book purchasers. This represents one of the most successful recovery of damages in any antitrust lawsuit in the country.

RESULT: $560 million total settlements.

PRACTICE AREAS

Antitrust

Animation Workers Antitrust

Hagens Berman represents a nationwide class of animators and other artistic workers in an antitrust class-action case filed against defendants Pixar, Lucasfilm and its division Industrial Light & Magic, DreamWorks Animation, The Walt Disney Company, Sony Pictures Animation, Sony Pictures Imageworks, Blue Sky Studios, ImageMovers LLC, ImageMovers Digital LLC and others.

RESULT: Total settlements have reached $168 million, resulting in a payment of more than $13,000 per class member.

TFT LCDs

Hagens Berman Sobol Shapiro filed a class-action lawsuit against several major manufacturers of TFT LCD products, claiming the companies engaged in a conspiracy to fix, raise, maintain and stabilize the price of televisions, desktop and notebook computer monitors, mobile phones, personal digital assistants (PDAs) and other devices. After years of representing consumers against multiple defendants in multi-district litigation, the case against Toshiba went to trial. Toshiba was found guilty of price-fixing in 2012, and settled.

RESULT: $470 million in total settlements.

DRAM

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

RESULT: $375 million settlement.

Optical Disk Drives

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

RESULT: $180 million in total settlements reclaimed for consumers.

Lithium Ion Batteries

Hagens Berman filed a class-action lawsuit against some of the largest electronics manufacturers including Sony, Samsung and Panasonic for illegally fixing the price of lithium ion batteries, pushing costs higher for consumers. Defendants collectively controlled between 60 to 90 percent of the market for lithium-ion batteries between 2000 and 2011 and used that power to fix battery prices.

RESULT: $65 million in total settlements against multiple defendants.

AC Nielsen

Represented Information Resources, Inc. ("IRI"), in a suit claiming that AC Nielsen's anti-competitive practices caused IRI to suffer significant losses.

RESULT: $55 million settlement.

Dairy Products

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

RESULT: $52 million settlement on behalf of consumers in 15 states and the District of Columbia who purchased dairy products.

Toys "R" Us Baby Products

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

RESULT: $35.5 million settlement.

PRACTICE AREAS

Antitrust

EA Madden

Class action claimed that video game giant Electronic Arts used exclusive licensing agreements with various football organizations to nearly double the price of several of its games.

RESULT: $27 million settlement and imposed limits on EA's ability to pursue exclusive licensing agreements.

Resistors Antitrust Litigation

Hagens Berman is co-lead lead counsel, representing direct purchasers of linear resistors (a device in electronics used to limit electric current) against an alleged cartel of manufacturers who conspired to limit linear resistor price competition for nearly a decade. The case is in its early stages and discovery is ongoing.

Nespresso

Hagens Berman has assumed responsibility for a large antitrust case against Nespresso, a leading single-serve espresso and coffee maker, for its anticompetitive efforts to exclude environmentally friendly, biodegradable coffee capsules from the market.

In May 2010, our client Ethical Coffee Company ("ECC") sought to introduce an environmentally sound and more economical coffee capsule to be used in Nespresso's widely used coffee makers. It manufactured a single-use coffee capsule that did not contain harmful aluminum found in Nespresso's capsules. Nespresso knew that ECC posed a formidable challenge to its business model, which relied on captive consumers buying coffee capsules only from Nespresso. With a captive market, Nespresso could continue to charge consumers an inflated price, and continue to use the aluminum capsules that harm the environment.

The U.S. Court has already ruled that these claims can proceed to discovery. Hagens Berman anticipates damages associated with Nespresso's actions to be in the hundreds of millions of dollars.

PRACTICE AREAS

Automotive - Non-Emissions Cases

In litigating cases we strive to make an impact for a large volume of consumers, especially those who fall victim to the gross negligence and oversight of some of the nation's largest entities: automakers. Hagens Berman's automotive litigation team has been named a 2016 Practice Group of the Year by Law360, highlighting its "eye toward landmark matters and general excellence," in this area of law.

The federal court overseeing the massive multi-district litigation against Toyota appointed the firm to co-lead one of the largest consolidations of class-action cases in U.S. history. The litigation combined more than 300 state and federal suits concerning acceleration defects tainting Toyota vehicles. Hagens Berman and its two co-lead firms were selected from more than 70 law firms applying for the role. Since then, the firm's automotive practice area has grown by leaps and bounds, pioneering new investigations into defects, false marketing and safety hazards affecting millions of drivers across the nation.

The firm was recently named to the National Law Journal's list of Elite Trial Lawyers for its work fighting corporate wrongdoing in the automotive industry. The firm's auto team members who worked on Toyota were also named finalists for Public Justice's Trial Lawyer of the Year award.

General Motors Ignition Switch Litigation

Co-lead counsel in high-profile case on behalf of millions of owners of recalled GM vehicles affected by a safety defect linked to more than 120 fatalities. The suit alleges GM did not take appropriate measures, despite having prior knowledge of the defect. The case is pending, and most recently, the Supreme Court refused to hear GM's appeal regarding the pending suits when it claimed the cases were barred by its 2009 bankruptcy.

Toyota Sudden, Unintended Acceleration Litigation

Co-lead counsel for the economic loss class in this lawsuit filed on behalf of Toyota owners alleging a defect causes vehicles to undergo sudden, unintended acceleration. In addition to safety risks, consumers suffered economic loss from decreased value of Toyota vehicles following media coverage of the alleged defect.

RESULT: Settlement package valued at up to $1.6 billion, which was at the time the largest automotive settlement in history.

MyFord Touch

Hagens Berman represents owners of Ford vehicles equipped with MyFord Touch, an in-car communication and entertainment package, who claim that the system is flawed, putting drivers at risk of an accident while causing economic hardship for owners. The complaint cites internal Ford documents that purportedly show that 500 of every 1,000 vehicles have issues involving MyFord Touch due to software bugs, and failures of the software process and architecture. Owners report that Ford has been unable to fix the problem, even after repeated visits. A federal judge overseeing the case recently certified nine subclasses of owners of affected vehicles in various states.

Nissan Quest Accelerator Litigation

Represented Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down.
RESULT: Settlement providing reimbursement for cleanings or replacements and applicable warranty coverage.

Hyundai Kia MPG

Hagens Berman sued Hyundai and Kia on behalf of owners after the car manufacturers overstated the MPG fuel economy ratings on 900,000 of its cars. The suit seeks to give owners the ability to recover a lump-sum award for the lifetime extra fuel costs, rather than applying every year for that year's losses.
RESULT: $255 million settlement. Lump-sum payment plan worth $400 million on a cash basis, and worth even more if owners opt for store credit (150 percent of cash award) or new car discount (200 percent of cash award) options.

PRACTICE AREAS

Automotive - Non-Emissions Cases

BMW i3 REx

Hagens Berman is representing BMW owners in a national class-action lawsuit, following reports that BMW's i3 REx model electric cars contain a defect that causes them to suddenly and without warning lose speed and power mid-drive, putting drivers and passengers at risk of crash and injury.

Fiat Chrysler Gear Shifter Rollaway Defect

Hagens Berman has filed a national class-action lawsuit representing owners of Jeep Grand Cherokee, Chrysler 300 and Dodge Charger vehicles. The lawsuit states that Fiat Chrysler fraudulently concealed and failed to remedy a design defect in 811,000 vehicles that can cause cars to roll away after they are parked, causing injuries, accidents and other serious unintended consequences.

Ford Shelby GT350 Mustang Overheating

Hagens Berman represents owners of certain 2016 Shelby GT350 Mustang models in a case alleging that Ford has sold these vehicles as track cars built to reach and sustain high speeds, but failed to disclose that the absence of a transmission and differential coolers can greatly diminish the vehicle's reported track capabilities. Shelby owners are reporting that this defect causes the vehicle to overheat and go into limp mode, while in use, even when the car is not being tracked

Tesla AP2 Defect

The firm represents Tesla owners in a lawsuit against the automaker for knowingly selling nearly 50,000 cars with nonfunctional Enhanced Autopilot AP2.0 software that still has not met Tesla's promises, including inoperative Standard Safety Features on affected models sold in Q4 2016 and Q1 2017.

PRACTICE AREAS

Automotive - Emissions Litigation

Having played a lead role in the record-breaking Volkswagen diesel emissions case, Hagens Berman knew the story wasn't over. Since the Dieselgate scandal began, the firm has uniquely dedicated resources to uncovering cheating devices used by other automakers. The firm has become a trailblazer in this highly specialized realm, outpacing federal agencies in unmasking fraud in emissions reporting.

When news broke in 2015 of Volkswagen's massive diesel emissions-cheating scandal, Hagens Berman was the first firm in the nation to file suit against the automaker for its egregious fraud, going on to represent thousands of owners in litigation and take a leading role on the Plaintiffs' Steering Committee that would finalize a $14.7 billion, record-breaking settlement for owners. Since this case emerged, Hagens Berman has been on the forefront of emissions litigation, relying on our legal team's steadfast and intensive investigative skills to unearth many other emissions-cheating schemes perpetrated by General Motors, Fiat Chrysler, Mercedes and other automakers, staying one step ahead of government regulators in our pursuit of car manufacturers that have violated emissions standards and regulations, as well as consumer confidence.

Hagens Berman's managing partner, Steve Berman, has dedicated the firm's resources to upholding the rights of consumers and the environment, becoming a one-man EPA. The firm is uniquely dedicated to this cause, and is the only firm that has purchased an emission testing machine to determine if other diesel car manufacturers install similar cheating devices, bringing new cases based on the firm's own research, time and testing.

Volkswagen Diesel Emissions Litigation

Hagens Berman was the first firm in the nation to file a lawsuit against Volkswagen for its emissions fraud, seeking swift remedies for consumers affected by Volkswagen's fraud and violation of state regulations. The firm was named to the Plaintiffs' Steering Committee leading the national fight against VW, Porsche and Audi on behalf of owners and lessors of affected vehicles, and also served as part of the Settlement Negotiating team.

RESULT: The largest automotive settlement in history, $14.7 billion.

Volkswagen Dealers Litigation

Hagens Berman served as lead counsel in a first-of-its-kind lawsuit brought by a franchise dealer. Three family-owned Volkswagen dealers filed a class action against VW stating that it intentionally defrauded dealers by installing so-called "defeat devices" in its diesel cars, and separately carried out a systematic, illegal pricing and allocation scheme that favored some dealers over others and illegally channeled financing business to VW affiliate, Volkswagen Credit, Inc. The settlement garnered nearly unanimous approval of dealers, with 99 percent participation in the settlement.

RESULT: $1.67 billion in benefits to Volkswagen dealers.

Mercedes BlueTEC Emissions Litigation

Judge Jose L. Linares appointed the firm as interim class counsel in this class-action case against Mercedes concerning emissions of its BlueTEC diesel vehicles. Hagens Berman currently represents thousands of vehicle owners who were told by Mercedes that their diesel cars were "the world's cleanest and most advanced diesel," when in fact testing at highway speeds, at low temperatures, and at variable speeds, indicate a systemic failure to meet emissions standards. Low temperature testing at highway speeds for example, produced emissions that were 8.1 to 19.7 times the highway emissions standard. The lawsuit adds that testing at low temperatures at variable speeds produced emissions as high as 30.8 times the standard.

PRACTICE AREAS

Automotive - Emissions Litigation

Chevy Cruze Diesel Emissions Litigation

Hagens Berman filed a class-action lawsuit against Chevrolet (a division of General Motors) for installing emissions-cheating software in Cruze Clean Turbo Diesel cars, forcing consumers to pay high premiums for vehicles that pollute at illegal levels. While Chevy marketed these cars as a clean option, the firm's testing has revealed emissions released at up to 13 times the federal standard. In a recent ruling, U.S. District Judge Thomas L. Ludington upheld claims brought by owners.

Audi Emissions Litigation

Hagens Berman unearthed additional emissions-cheating by Audi, affecting its gasoline 3.0-liter vehicles. The firm's investigation shows that the newly discovered defeat device is installed in gasoline engines and changes how the transmission operates when testing is detected to lower CO2 emissions, but otherwise allows excessive CO2 emissions in normal, on-road driving.

Fiat Chrysler EcoDiesel Emissions Litigation

The firm is leading charges against Fiat Chrysler that it sold hundreds of thousands of EcoDiesel-branded vehicles that release illegally high levels of NOx emissions, despite explicitly selling these "Eco" diesels to consumers who wanted a more environmentally friendly vehicle. Hagens Berman was the first firm in the nation to uncover this scheme and file against Fiat Chrysler on behalf of owners of Dodge RAM 1500 and Jeep Grand Cherokee EcoDiesel vehicles. Following the firm's groundbreaking suit, the EPA took notice, filing formal accusations against Fiat Chrysler.

Dodge RAM 2500/3500 Diesel Emissions Litigation

According to the firm's investigation, Dodge has sold hundreds of thousands of Dodge RAM 2500 and 3500 trucks equipped with Cummins diesel engines that release illegally high levels of NOx emissions at up to 14 times the legal limit. This defect causes certain parts to wear out more quickly, potentially costing owners between $3,000 and 5,000 to fix. The firm is leading a national class action against Fiat Chrysler for knowingly inducing consumers to pay premium prices for vehicles that fail to comply with federal regulations, and ultimately lead to higher costs of repairs for purchasers.

General Motors Duramax Emissions Litigation

Hagens Berman recently pioneered another instance of diesel emissions fraud. The firm's independent testing revealed that GM had installed multiple emissions-masking defeat devices in its Duramax trucks, including Chevy Silverado and GMC Sierra models, in a cover-up akin to Volkswagen's Dieselgate concealment. In real world conditions the trucks emit 2 to 5 times the legal limit of deadly NOx pollutants, and the emissions cheating devices are installed in an estimated 705,000 affected vehicles.

PRACTICE AREAS

Civil and Human Rights

Hagens Berman has represented individuals and organizations in difficult civil rights challenges that have arisen in the past two decades. In doing so, we have managed cases presenting complex legal and factual issues that are often related to highly charged political and historical events. Our clients have included such diverse communities as World War II prisoners of war, conscripted civilians and entire villages.

In this cutting-edge practice area, the firm vigilantly keeps abreast of new state and national legislation and case-law developments. We achieve positive precedents by zealously prosecuting in our clients' interests. Some examples of our work in this area include:

World Trade Organization Protests

During the 1999 World Trade Organization (WTO) protests in Seattle, tens of thousands of Seattle citizens became targets after Seattle officials banned all forms of peaceful protest. Seattle police attacked anyone found in the designated "no protest" zones with rubber bullets and tear gas. Hundreds of peaceful protesters were arrested and incarcerated without probable cause for up to four days. The firm won a jury trial on liability and ultimately secured a settlement from Seattle officials after filing a class action alleging violations of the First and Fourth Amendments.

Hungarian Gold Train

Following the firm's representation of former forced and enslaved laborers for German companies in the Nazi Slave Labor Litigation, Hagens Berman led a team of lawyers against the U.S. on behalf of Hungarian Holocaust survivors in the Hungarian Gold Train case. The suit claimed that, during the waning days of World War II, the Hungarian Nazi government loaded plaintiffs' valuable personal property onto a train, which the U.S. Army later seized, never returning the property to its owners and heirs.

Dole Bananas

Hagens Berman filed suit against the Dole Food Company, alleging that it misled consumers about its environmental record. The complaint alleged that Dole purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents. Dole ultimately agreed to take action to improve environmental conditions, collaborating with a non-profit group on a water filtration project for local communities.

PRACTICE AREAS

Consumer Protection - General Class Litigation

Hagens Berman is a leader in protecting consumers, representing millions in large-scale cases that challenge unfair, deceptive and fraudulent practices.

We realize that consumers suffer the brunt of corporate wrongdoing and have little power to hold companies responsible or to change those tactics. We believe that when backed by a tenacious spirit and determination, class action cases have the ability to serve as a powerful line of defense in consumer protection.

Hagens Berman pursues class litigation on behalf of clients to confront fraudulent practices that consumers alone cannot effectively dispute. We make consumers' concerns a priority, collecting consumer complaints against suspected companies and exploring all avenues for prosecution.

Hagens Berman's legacy of protecting consumer rights reflects the wide spectrum of scams that occur in the marketplace. The cases that we have led have challenged a variety of practices such as:

- False, deceptive advertising of consumer products and services
- False billing and over-charging by credit card companies, banks, telecommunications providers, power companies, hospitals, insurance plans, shipping companies, airlines and Internet companies
- Deceptive practices in selling insurance and financial products and services such as life insurance and annuities
- Predatory and other unfair lending practices, and fraudulent activities related to home purchases

A few case examples are:

- **Expedia Hotel Taxes and Service Fees Litigation**
  Hagens Berman led a nationwide class-action suit arising from bundled "taxes and service fees" that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act and its contractual commitment to charge as service fees only "costs incurred in servicing" a given reservation.
  RESULT: Summary judgment in the amount of $184 million. The case settled for cash and consumer credits totaling $123.4 million.

- **Stericycle**
  The firm served as court-appointed lead counsel in a class-action lawsuit against Stericycle alleging that the company violated contracts and defrauded them by hundreds of millions of dollars through an automatic price-increasing scheme. In February of 2017, a federal judge certified a nationwide consumer class. The class had more than 246,000 class members, with damages estimated preliminarily at $608 million.
  RESULT: $295 million settlement

- **Tenet Healthcare**
  In a pioneering suit filed by Hagens Berman, plaintiffs alleged that Tenet Healthcare charged excessive prices to uninsured patients at 114 hospitals owned and operated by Tenet subsidiaries in 16 different states.
  RESULT: Tenet settled and agreed to refund to class members amounts paid in excess of certain thresholds over a four-and-a-half year period.

PRACTICE AREAS

Consumer Protection - General Class Litigation

Wells Fargo Force-Placed Insurance

Hagens Berman brought a case against Wells Fargo alleging it used "force-placed" insurance clauses in mortgage agreements, a practice that enables the bank to charge homeowners insurance premiums up to 10 times higher than normal rates. RESULT: Hagens Berman reached a settlement in this case, under which all class members will be sent checks for more than double the amount of commissions that Wells Fargo wrongfully extracted from the force placement of insurance on class members' properties.

Consumer Insurance Litigation

Hagens Berman has pioneered theories to ensure that in first- and third-party contexts consumers and health plans always receive the treatment and benefits to which they are entitled. Many of our cases have succeeded in expanding coverage owed and providing more benefits; recovering underpayments of benefits; and returning uninsured/underinsured premiums from the misleading tactics of the insurer.

PRACTICE AREAS

Consumer Protection - Drug and Supplement Litigation

Hagens Berman aggressively pursues pharmaceutical industry litigation, fighting against waste, fraud and abuse in healthcare. For decades, pharmaceutical manufacturers have been among the most profitable companies in America. But while pharmaceutical companies become richer, consumers, health plans and insurers pay higher costs for prescription and over-the-counter drugs and supplements. We shine the light of public scrutiny on this industry's practices and represent individuals, direct and indirect purchasers, and the nation's most forward-thinking public-interest groups.

The firm's pharmaceutical and dietary supplement litigation practice is second to none in the nation in terms of expertise, commitment and landmark results. Hagens Berman's attorneys have argued suits against dozens of major drug companies and the firm's aggressive prosecution of pharmaceutical industry litigation has recovered more than $1 billion in gross settlement funds.

RECENT ANTITRUST RESOLUTIONS

In the last few years, Hagens Berman – as lead or co-lead class counsel – has garnered significant settlements in several antitrust cases involving prescription drugs. In each case, the plaintiffs alleged that a manufacturer of a brand-name drug violated federal or state antitrust laws by delaying generic competitors from coming to market, forcing purchasers to buy the more expensive brand name version instead of the generic equivalent. Examples of our recent successes include:

Flonase Antitrust Litigation

Hagens Berman represented purchasers in this case alleging pharmaceutical giant GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase, all to overcharge consumers and purchasers of the drug, which would have been priced lower had a generic competitor been allowed to come to market.

RESULT: $150 million class settlement.

Prograf Antitrust Litigation

Hagens Berman represented purchasers who alleged Astellas Pharma US, Inc. unlawfully maintained its monopoly and prevented generic competition for Prograf, an immunosuppressant used to help prevent organ rejection in transplant patients, harming purchasers by forcing them to pay inflated brand name prices for longer than they should have absent the anticompetitive conduct.

RESULT: The parties' motion for final approval of the $98 million class settlement is under advisement with the court.

Relafen Antitrust Litigation

Hagens Berman filed a class-action lawsuit against GlaxoSmithKline, SmithKline Beecham Corporation, Beecham Group PLC and SmithKline Beecham PLC, on behalf of consumers and third-party payors who purchased the drug Relafen or its generic alternatives. The suit alleged that the companies who manufacture and sell Relafen unlawfully obtained a patent which allowed them to enforce a monopoly over Relafen and prevented competition by generic prescription drugs, causing consumers to pay inflated prices for the drug.

RESULT: Under the terms of the settlement, the defendants will pay damages of $75 million to those included in the class. Of the total settlement amount, $25 million will be allocated to consumers and $50 million will be used to pay the claims of insurers and other third-party payors.

PRACTICE AREAS

Consumer Protection - Drug and Supplement Litigation

Skelaxin Antitrust Litigation

The firm represented purchasers in this case alleging King Pharmaceuticals LLC and Mutual Pharmaceutical Company alleging conspired to suppress generic competition and preserve King's monopoly in the market for the brand name muscle relaxant Skelaxin.

RESULT: $73 million class settlement.

Tricor Antitrust

In June 2005, Hagens Berman filed an antitrust lawsuit on behalf of a class of consumers and third party payors against pharmaceutical manufacturers Abbott Laboratories and Fournier Industries concerning the brand name cholesterol drug Tricor. HBSS was appointed co-lead class counsel by the Court.

RESULT: $65.7 million recovery for consumers and third party payers who sued Abbott Laboratories and Fournier Industies in an antitrust action concerning the cholesterol drug Tricor.

FRAUDULENT DRUG PRICING RESOLUTIONS

Hagens Berman has led many complex cases that take on fraud and inflated drug prices throughout the U.S. This includes sweeping manipulation of the average wholesale price benchmark used to set prices for prescription drugs nationwide, fraudulent marketing of prescription drugs and the rampant use of co-pay subsidy cards that drive up healthcare costs. These efforts have led to several significant settlements:

McKesson and First DataBank Drug Litigation

The firm discovered a far-reaching fraud by McKesson and became lead counsel in this RICO case against McKesson and First DataBank, alleging the companies fraudulently inflated prices of more than 400 prescription drugs.

RESULT: $350 million settlement and a four percent rollback on the prices of 95 percent of the nation's retail branded drugs, the net impact of which could be in the billions of dollars. The states and federal government then used Hagens Berman's work to bring additional suits. Hagens Berman represented several states and obtained settlements three to seven times more than that of the Attorneys General. Almost $1 billion was recovered from the McKesson fraud.

Average Wholesale Price Drug Litigation

Hagens Berman served as co-lead counsel and lead trial counsel in this sprawling litigation against most of the nation's largest pharma companies, which alleges defendants artificially inflated Average Wholesale Price.

RESULT: Approximately $338 million in class settlements. Hagens Berman's work in this area led to many state governments filing suit and hundreds of millions in additional recovery.

FRAUDULENT MARKETING RESOLUTIONS

Hagens Berman also litigates against drug companies that fraudulently promote drugs for uses not approved by the Food and Drug Administration (FDA), commonly known as "off-label" uses. We also litigate cases against dietary supplement manufacturers for making false claims about their products. Recent successes include:

Neurontin Third Party Payor Litigation

Hagens Berman served as co-lead trial counsel in this case alleging that Pfizer fraudulently and unlawfully promoted the drug Neurontin for uses unapproved by the FDA.

RESULT: A jury returned a $47 million verdict in favor of a single third-party payor plaintiff, automatically trebled to $142 million, and the court recently approved a $325 million class settlement.

Lupron

Hagens Berman prosecuted a lawsuit against TAP Pharmaceuticals Products, Inc. on behalf of a class of consumers and third-party payors who purchased the drug Lupron. The suit charged that TAP Pharmaceutical Products, Inc., Abbott Laboratories and Takeda Pharmaceutical Company Limited conspired to fraudulently market, sell and distribute Lupron, causing consumers to pay inflated prices for the drug.

RESULT: Judge Richard Stearns issued a preliminary approval of the proposed settlement between TAP Pharmaceuticals and the class. Under the terms of the settlement, $150 million will be paid by TAP on behalf of all defendants.

PRACTICE AREAS

Consumer Protection - Drug and Supplement Litigation

Celebrex/Bextra

Hagens Berman filed a class-action lawsuit against Pfizer on behalf of individual consumers and third-party payors who paid for the drug Bextra. The firm was praised by Judge Breyer for its "unstinting" efforts on behalf of the class, adding, "The attorneys on both sides were sophisticated, skilled, professional counsel whose object was to zealously pursue their clients' interest, but not at the cost of abandoning the appropriate litigation goals, which were to see, whether or not, based upon the merits of the cases, a settlement could be achieved."

RESULT: $89 million settlement.

Vioxx Third Party Payor Marketing and Sales Practices Litigation

The firm served as lead counsel for third party payors in the Vioxx MDL, alleging that Merck & Co. misled physicians, consumers and health benefit providers when it touted Vioxx as a superior product to other non-steroidal anti-inflammatory drugs. According to the lawsuit,

The drug had no benefits over less expensive medications, but carried increased risk of causing cardiovascular events.

RESULT: $80 million settlement.

Serono Drug Litigation

Hagens Berman served as lead counsel for a class of consumers and third party payors in a suit alleging that global biotechnology company Serono, Inc. schemed to substantially increase sales of the AIDS drug Serostim by duping patients diagnosed with HIV into believing they suffered from AIDS-wasting and needed the drug to treat that condition.

RESULT: $24 million settlement.

Bayer Combination Aspirin/Supplement Litigation

Hagens Berman served as lead counsel on behalf of consumers in a suit alleging that Bayer Healthcare LLC deceptively marketed Bayer® Women's Low-Dose Aspirin + Calcium, an 81 mg aspirin pill combined with calcium, and Bayer® Aspirin With Heart Advantage, an 81 mg aspirin pill combined with phytosterols. Plaintiffs alleged that Bayer overcharged consumers for these products or that these products should not have been sold, because these products were not FDA-approved, could not provide all advertised health benefits, and were inappropriate for long-term use.

RESULT: $15 million settlement.

OTHER LANDMARK CASES

New England Compounding Center Meningitis Outbreak

In 2012, the Center for Disease Control confirmed that New England Compounding Center sold at least 17,000 potentially tainted steroid shots to 75 clinics in 23 states across the country, resulting in more than 64 deaths and 751 cases of fungal meningitis, stroke or paraspinal/peripheral joint infection. HBSS attorneys Thomas M. Sobol and Kristen A. Johnson serve as Court-appointed Lead Counsel for the Plaintiffs' Steering Committee on behalf of plaintiff-victims in MDL 2419 consolidated before The Honorable Ray W. Zobel in the United States District Court for the District of Massachusetts.

RESULT: $100 million settlement.

PRACTICE AREAS

Employment Litigation

Hagens Berman takes special interest in protecting workers from exploitation or abuse. We take on race and gender discrimination, immigrant worker issues, wage and hour issues, on-the-job injury settlements and other crucial workplace issues.

Often, employees accept labor abuses or a curbing of their rights because they don't know the law, respect their superiors or fear for their jobs. We act on behalf of employees who may lack the individual power to bring about meaningful change in the workplace. We take a comprehensive approach to rooting out systemic employee abuses through in-depth investigation, knowledgeable experts and fervent exploration of prosecution strategies. Hagens Berman is a firm well-versed in taking on complicated employee policies and bringing about significant results. Representative cases include:

CB Richard Ellis Sexual Harassment Litigation

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

RESULT: An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to $150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

Costco Wholesale Corporation Wage & Hour Litigation

Filed a class action against Costco Wholesale Corporation on behalf of 2,000 current and former ancillary department employees, alleging that the company misclassified them as "exempt" executives, denying these employees overtime compensation, meal breaks and other employment benefits.

RESULT: $15 million cash settlement on behalf of the class.

Washington State Ferry Workers Wage Litigation

Represented "on-call" seamen who alleged that they were not paid for being "on call" in violation of federal and state law.

RESULT: Better working conditions for the employees and rearrangement in work assignments and the "on-call" system.

SunDance Rehabilitation Corporation

Filed a class action against SunDance challenging illegal wage manipulation, inconsistent contracts and other compensation tricks used to force caregivers to work unpaid overtime.

RESULT: $3 million settlement of stock to be distributed out of the company's bankruptcy estate.

Schneider National Carriers - Regional Drivers

The firm represents a certified class of regional drivers in a suit filed against Schneider National Carriers, claiming that the company failed to pay its workers for all of their on duty time devoted to a variety of work tasks, including vehicle inspections, fueling, and waiting on customers and assignments. The suit also claims that the company does not provide proper meal and rest breaks and the company is liable for substantial penalties under the California Labor Code.

RESULT: A $28 million settlement on behalf of drivers.

Schneider National Carriers - Mechanics

Hagens Berman filed a class-action lawsuit alleging that Schneider National Carriers failed to provide mechanics with proper overtime compensation, meal and rest break premiums, and accurate wage statements as required by California law.

RESULT: In March of 2013, the case was settled on terms mutually acceptable to the parties.

PRACTICE AREAS

Employment Litigation

Swift Transportation Co. of Arizona LLC

The firm represents a certified class of Washington-based truck drivers against Swift Transportation. The suit alleges that Swift failed to pay the drivers overtime and other earned wages in violation of Washington state law.

An agreement to settle the case was granted preliminary approval in October 2018. Final approval is pending.

PRACTICE AREAS

Environmental Litigation

Since Hagens Berman's founding, the firm has sought to work toward one simple goal: work for the greater good. Hagens Berman has established a nationally recognized environmental litigation practice, having handled several landmark cases in the Northwest, the nation and internationally.

Hagens Berman believes that protecting and restoring our environment from damage caused by irresponsible and illegal corporate action is some of the most rewarding work a law firm can do. As our firm has grown, we have established an internationally recognized environmental litigation practice.

SCIENCE AND THE LAW

Hagens Berman's success in environmental litigation stems from a deep understanding of the medical and environmental science that measures potential hazards. That expertise is translated into the courtroom as our attorneys explain those hazards to a judge or jury in easily understood terms.

ENVIRONMENTAL EXPERTS

Our firm's fostered deep relationships with top-notch environmental experts result in resonating arguments and court victories, as well as thoroughly researched and vetted investigations.

REAL IMPACTS

Environmental law is a priority at our firm and we have taken an active role in expanding this practice area. In 2003, Steve Berman and his wife Kathy worked with the University of Washington to create the Kathy and Steve Berman Environmental Law Clinic, giving law students the training and opportunities needed to become hands-on advocates for the environment.

Hagens Berman's significant environmental cases include:

Exxon Valdez Oil Spill Litigation

Hagens Berman represented various classes of claimants, including fisherman and businesses located in Prince William Sound and other impacted areas who were damaged by one of the worst oil spills in United States history.
RESULT: A $5 billion judgment was awarded by a federal jury, and a $98 million settlement was achieved with Alyeska, the oil company consortium that owned the output of the pipeline.

Chinook Ferry Litigation

The firm represented a class of property owners who challenged Washington State Ferries' high-speed operation of a new generation of fast ferries in an environmentally sensitive area of Puget Sound. Two of the ferries at issue caused environmental havoc and property damage, compelling property owners to act. A SEPA study conducted in response to the suit confirmed the adverse environmental impacts of the fast ferry service
RESULT: A $4.4 million settlement resulted that is among the most favorable in the annals of class litigation in Washington state.

Grand Canyon Litigation

The firm represented the Sierra Club in a challenge to a Forest Service decision to allow commercial development on the southern edge of the Grand Canyon National Park.
RESULT: The trial court enjoined the project.

Kerr-McGee Radiation Case

The firm brought a class action on behalf of residents of West Chicago, Illinois who were exposed to radioactive uranium tailings from a rare earth facility operated by Kerr-McGee.
RESULT: A medical monitoring settlement valued in excess of $5 million

Skagit Valley Flood Litigation

Hagens Berman represented farmers, homeowners and businesses who claimed damages as a result of the 1990 flooding of this community. The case was in litigation for ten years and involved a jury trial of more than five months.
RESULT: Following the entry of 53 verdicts against Skagit County, the trial court entered judgments exceeding $6.3 million. Ultimately, the State Supreme Court reversed this judgment. Despite this reversal, the firm is proud of this representation and believes that the Supreme Court erred.

PRACTICE AREAS

Environmental Litigation

Idaho Grass Burning Case

In 2002, Hagens Berman brought a class-action lawsuit on behalf of Idaho residents who claimed grass-burning farmers released more than 785 tons of pollutants into the air, including concentrations of polycyclic aromatic hydrocarbons (PAHs), proven carcinogens. Burning the fields annually caused serious health problems, especially to those with respiratory ailments such as cystic fibrosis and asthma. The suit also asserted that Idaho's grass burning policies are far below the standards of other states such as neighboring Washington, where farmers use other techniques to remove grass residue from the fields.

RESULT: The lawsuit settled in 2006 under confidential terms.

Dole Bananas Case

The firm took on Dole Food Company Inc. in a class-action lawsuit claiming the world's largest fruit and vegetable company lied to consumers about its environmental record and banana-growing practices. The suit alleged that Dole misrepresented its commitment to the environment in selling bananas from a Guatemalan banana plantation that did not comply with proper environmental practices.

RESULT: The suit culminated in 2013. Dole and non-profit organization Water and Sanitation Health, Inc. collaborated on a water filter project to assist local communities in Guatemala.

Diesel Emissions Litigation

Second to none in uncovering emissions-cheating, the firm has dedicated its time and resources to breaking up the dirty diesel ring. After filing the first lawsuit in the country against Volkswagen, Audi and Porsche for its massive Dieselgate scandal in 2015, the firm went on to unmask emissions-cheating devices installed in vehicles made by Fiat Chrysler, Mercedes and General Motors and continues to investigate diesel cars for excessive, illegal and environmentally harmful levels of emissions.

RESULT: The firm's independently researched active cases have led to investigations by the EPA, DOJ and European authorities.

San Francisco and Oakland Climate Change Litigation

Hagens Berman represents the cities of San Francisco and Oakland, Calif. in two lawsuits filed against BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips alleging that the Big Oil giants are responsible for the cities' costs of protecting themselves from global warming-induced sea level rise, including expenses to construct seawalls to protect the two cities' more than 5 million residents. The newly filed case seek an order requiring defendants to abate the global warming-induced sea level rise by funding an abatement program to build sea walls and other infrastructure. Attorneys for the cities say this abatement fund will be in the billions.

Florida Sugarcane Burning

Hagens Berman filed a class-action lawsuit against the sugar industry's largest entities on behalf of residents of various areas and townships of Florida that have long suffered from the corporations' wildly hazardous and damaging methods of harvesting sugarcane. The lawsuit states that this outdated method of harvesting has wreaked havoc on these Florida communities. The wildly archaic method of harvesting brings devastating toxic smoke and ash, often called "black snow," raining onto poor Florida communities for six months of the year. The lawsuit's defendants, commonly known as Big Sugar, farm sugarcane on approximately 400,000 acres in the area south and southeast of Lake Okeechobee.

Kivalina Global Warming Litigation

A tiny impoverished Alaskan village of Inupiat Eskimos took action against some of the world's largest greenhouse gas offenders, claiming that contributions to global warming are leading to the destruction of their village and causing erosion to the land that will eventually put the entire community under water. Hagens Berman, along with five law firms and two non-profit legal organizations, filed a suit against nine oil companies and 14 electric power companies that emit large quantities of greenhouse gases into the atmosphere. The lawsuit alleged their actions resulted in the destruction of protective ice, exposing the village to severe storms that destroy the ground the village stands on. Relocating the village of Kivalina could cost between $95 and $400 million, an expense the community cannot afford.

Cane Run Power Plant Coal Ash Case

In 2013, Hagens Berman filed a class-action lawsuit against Louisville Gas and Electric Company alleging it illegally dumped waste from a coal-fired power plant onto neighboring property and homes where thousands of Kentucky residents live. According to the complaint, Louisville Gas and Electric Company's Cane Run Power Plant is fueled by the burning of coal, which also produces coal combustion byproducts—primarily fly ash and bottom ash—that contain significant quantities of toxic materials, including arsenic, chromium and lead. The dust spewed by Cane Run contains known carcinogens, posing significant potential health hazards.

PRACTICE AREAS

Governmental Representation

Hagens Berman has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum.

Hagens Berman has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

Big Tobacco

We represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. Only two states took cases to trial – Washington and Minnesota. The firm served as trial counsel for the state of Washington, becoming only one of two private firms in the entire country to take a state case to trial.

Hagens Berman was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's deplorable practice of luring children to tobacco use.

RESULT: $260 billion for state programs, the largest settlement in the history of civil litigation in the U.S.

McKesson Average Wholesale Price Litigation

This litigation is yet another example of fraudulent drug price inflation impacting not just consumers and private health plans, but public health programs such as Medicaid and local government-sponsored plans as well.

RESULT: Hagens Berman has started the AWP class action, which resulted in many states filing cases. The firm represented several of those states in successful litigation.

McKesson Government Litigation

On the heels of Hagens Berman's class action against McKesson, the firm led lawsuits by states (Connecticut, Utah, Virginia, Montana, Arizona).

RESULT: These states obtained recoveries three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained $12.5 million for the City of San Francisco and $82 million for a nationwide class of public payors.

Zyprexa Marketing & Sales Practices Litigation - Connecticut

Hagens Berman served as outside counsel to then-Attorney General Richard Blumenthal in litigation alleging that Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa. The litigation also alleged that Lilly made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

RESULT: $25 million settlement.

General Motors Ignition Switch Litigation

Hagens Berman is pleased to be assisting the Arizona Attorney General in its law enforcement action versus GM, as well as the district attorney of Orange County, California who filed a consumer protection lawsuit against GM, claiming the automaker deliberately endangered motorists and the public by intentionally concealing widespread, serious safety defects.

PRACTICE AREAS

Governmental Representation

State Opioid Litigation

Hagens Berman was hired to assist multiple municipalities in lawsuits brought against large pharmaceutical manufacturers including Purdue Pharma, Cephalon, Janssen Pharmaceuticals, Endo Health Solutions and Actavis charging that these companies and others deceived physicians and consumers about the dangers of prescription painkillers.

The firm was first hired by California governmental entities for the counties of Orange and Santa Clara. The state of Mississippi also retained the firm's counsel in its state suit brought against the manufacturer of opioids. The suit alleges that the pharma companies engaged in tactics to prolong use of opioids despite knowing that opioids were too addictive and debilitating for long-term use for chronic non-cancer pain.

In a third filing, Hagens Berman was retained as trial counsel for the state of Ohio. Filed on May 31, 2017, the firm is assisting the Ohio Attorney General's office in its case against five opioid makers. Ohio Attorney General Mike DeWine stated that "drug companies engaged in fraudulent marketing regarding the risks and benefits of prescription opioids which fueled Ohio's opioid epidemic," and that "these pharmaceutical companies purposely misled doctors about the dangers connected with pain meds that they produced, and that they did so for the purpose of increasing sales."

Municipal Lending

Hagens Berman represents the cities of Los Angeles and Miami in a series of lawsuits filed against the nation's largest banks, including CitiGroup, JP Morgan, Wells Fargo and Bank of America alleging that they engage in systematic discrimination against minority borrowers, resulting in reduced property tax receipts and other damages to the cities. The suits seek damages for the City, claiming that the banks' alleged discriminatory behavior resulted in foreclosures, causing a reduction of property tax revenues and increased municipal service costs.

PRACTICE AREAS

Intellectual Property

The Hagens Berman intellectual property team has deep experience in all aspects of intellectual property litigation. We specialize in complex and significant damages cases against some of the world's largest corporations.

The firm is primarily engaged in patent infringement litigation at this time. We seek to represent intellectual property owners, including inventors, universities, non-practicing entities, and other groups whose patent portfolios represents a significant creative and capital investment.

Our current and recent engagements include the following:

Bombadier Inc.

The firm represented Arctic Cat Inc. in patent infringement litigation against Bombardier Recreational Products and BRP U.S. Inc. The complaint alleges that Bombardier's Sea-Doo personal watercraft infringe Arctic Cat's patents covering temporary steerable thrust technology used when the rider turns in off-throttle situations.

RESULT: Florida U.S. District Judge Beth Bloom issued a final judgment of $46.7 million against defendants, trebling initial damages of $15.5 million awarded in a unanimous jury verdict.

Angry Birds

Hagens Berman represented a Seattle artist who filed a lawsuit against Hartz Mountain Corporation – one of the nation's largest producers of pet-related products – claiming the company illegally sold the artist's trademarked Angry Birds pet toy line to video game giant Rovio Entertainment Ltd, robbing her of millions of dollars of royalty fees.

RESULT: The case settled under confidential terms, which the firm found to be extremely satisfactory for the plaintiff.

Samsung, LG, Apple

The firm represents FlatWorld Interactives LLC in patent litigation against Samsung, LG and Apple. The complaints allege that the defendants' mobile handsets, tablets, media players and other devices infringe a FlatWorld patent covering the use of certain gestures to control touchscreen displays.

RESULT: The case settled.

Oracle

The firm represents Thought Inc. against Oracle Corporation in a suit alleging infringement of seven patents covering various aspects of middleware systems providing application to database mapping, reading and persistence.

Salesforce

The firm represents Applications in Internet Time LLC in patent litigation against Salesforce Inc. The suit alleges that our client's patents cover the core architecture of Salesforce's platform for developing, customizing, and updating cloud-based software applications.

Nintendo

The firm represented Japan-based Shinsedai Company in patent infringement litigation against Nintendo. The suit alleged that our client's patents were infringed by various sports games for the Nintendo Wii.

Unlike other intellectual property firms, Hagens Berman only represents plaintiffs. This reduces the risk of potential conflicts of interest which often create delays in deciding whether or not to take a case at larger firms.

PRACTICE AREAS

Intellectual Property

Electronic Arts

Hagens Berman represents the original software developer of the Electronic Arts (EA) NFL Madden Football video game series in a suit alleging that he is owed royalties on EA Madden NFL titles as well as other derivative products. We prevailed in two trials against EA, and the verdicts were designated as the Top Verdict of the Year (2013) by The Daily Journal. The judgment is on appeal and if upheld will return for a final damages phase.

Hagens Berman is also skilled in other aspects of intellectual property law, including trademark, trade dress, trade secret and copyright litigation.

PRACTICE AREAS

Investor Fraud - Individual and Class Action Litigation

Investing is a speculative business involving assessment of a variety of risks that can only be properly weighed with full disclosure of accurate information. No investor should suffer undue risk or incur losses due to misrepresentations related to their investment decisions.

Our attorneys work for institutional and individual investors defrauded by unscrupulous corporate insiders and mutual funds. The firm vigorously pursues fraud recovery litigation, forcing corporations and mutual funds to answer to deceived investors.

Hagens Berman is one of the country's leading securities litigation firms advising clients in both individual and class-action cases. The firm has experience, dedication and a team with the horsepower required to drive complex cases to exemplary outcomes. Our attorneys are authorities in an array of issues unique to federal and state securities statutes and related laws. We use a variety of highly experienced experts as an integral part of our prosecution team. Successes on behalf of our investor clients include:

Charles Schwab Securities Litigation

Lead counsel, alleging fraud in the management of the Schwab YieldPlus mutual fund.

RESULT: $235 million class settlement for investors.

Oppenheimer

Additional counsel for lead plaintiffs in class action alleging Oppenheimer misled investors regarding its Champion and Core Bond Funds.

RESULT: $100 million for the classes.

Tremont

Co-lead counsel in a case alleging Tremont Group Holdings breached its fiduciary duties by turning over $3.1 billion to Bernard Madoff. On Sept. 14, 2015, after nearly two years of negotiations and mediation, the court granted final approval of the plan of allocation and distribution of the funds which markets estimate could yield investors as much as $1.45 billion.

RESULT: $100 million settlement between investors, Tremont and its affiliates.

Boeing

Uncovered critical production problems with the 777 airliner documented internally by Boeing, but swept under the rug until a pending merger with McDonnell Douglas was completed.

RESULT: Record-breaking settlement of more than $92.5 million.

J.P. Morgan – Madoff

Case alleges that banking and investment giant J.P. Morgan was complicit in aiding Bernard Madoff's Ponzi scheme. Investors claim that J.P. Morgan operated as Bernard L. Madoff Investment Securities LLC's primary banker for more than 20 years.

RESULT: $218 million settlement amount for the class and a total of $2.2 billion paid from JPMorgan that will benefit victims of Madoff's Ponzi scheme.

Morrison Knudsen

Filed a shareholder class action, alleging that MK's senior officers concealed hundreds of millions in losses.

RESULT: More than $63 million for investors.

Raytheon/Washington Group

Charged Raytheon with deliberately misrepresenting the true financial condition of Raytheon Engineers & Constructors division in order to sell this division to the Washington Group at an artificially inflated price.

RESULT: $39 million settlement.

U.S. West

Represented shareholders of U.S. West New Vector in a challenge to the proposed buyout of minority shareholders by U.S. West.

RESULT: The proposed buyout was stayed, and a settlement was achieved, resulting in a $63 million increase in the price of the buyout.

PRACTICE AREAS

Investor Fraud - Individual and Class Action Litigation

Our current casework includes:

Theranos Investor Litigation

Hagens Berman represents Theranos investors in a lawsuit that states that Theranos and its officers set in motion a publicity campaign to raise billions of dollars for Theranos and themselves, and to induce investors to invest in Theranos, all the while knowing that its "revolutionary" blood test technology was essentially a hoax. The suit filed against the company, its CEO Elizabeth Holmes and Ramesh Balwani, alleges that Theranos' statements to investors were built on false statements. At the crux of the court's recent decision to uphold the investor case against Theranos was a finding that while plaintiffs did not directly purchase their securities from defendants, claims made by Theranos, Holmes and Balwani constituted fraud.

Aequitas Investor Litigation

The firm represents a group of investors alleging that national law firm Sidley Austin LLP, Oregon law firm Tonkon Torp LLP and accounting firms Deloitte & Touche LLP and EisnerAmper LLP violated Oregon securities laws by participating or materially aiding in misrepresentations made by Aequitas Management LLC and contributing to a $350 million Ponzi scheme. Investors state, amongst other allegations, that in 2011 Aequitas began purchasing loan receivables from Corinthian College Inc. and had bought the rights to collect $444 million in loans. Investment managers hid the details of the transactions from investors, and deceived them when Corinthian's business was hit with regulatory challenges in 2014. When Corinthcollapsed in May 2015, the investment group and its managers continued to sell securities and used the money to pay off other investors and fund a lavish lifestyle, until Aequitas ultimately imploded in 2017, the investors claim.

China MediaExpress

Hagens Berman represents investors in a case against China MediaExpress, which purported to be the owner of a network of advertising terminals on buses throughout China. The case alleges that the company and its auditor (Deloitte Touche Tohmatsu) participated in accounting fraud that ultimately led to the demise of the company. In early 2014, the court entered a default judgment in the amount of $535 million and certified a proposed class against China Media Express Holdings Inc. The case will proceed separately against Deloitte Touche Tohmatsu.

On May 6, 2015 Hagens Berman obtained a $12 million settlement from Deloitte Touche Tohmatsu, one of the largest settlements against an auditor in a Chinese "reverse merger" case which is now awaiting final approval from the court.

Altisource Asset Management Corporation

The firm was appointed lead counsel in this institutional investor lawsuit brought on behalf of purchasers of Altisource Asset Management Corporation (AAMC). The complaint alleges that AAMC misrepresented or outright concealed its relationship with these companies and the extent to which the interconnected entities engaged in conflicted transactions with themselves. Estimates of class-wide damages are in the hundreds of millions of dollars. The firm recently filed the consolidated complaint and motions to dismiss are pending before the U.S. District Court for the District of the Virgin Islands.

WHISTLEBLOWERS

In an effort to curb Wall Street excesses, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which built vigorous whistleblower protections into the legislation known as the "Wall Street Tip-Off Law." The law empowers the U.S. Securities and Exchange Commission to award between 10 and 30 percent of any monetary sanctions recovered in excess of $1 million to whistleblowers who provide information leading to a successful SEC enforcement. It also provides similar rewards for whistleblowers reporting fraud in the commodities markets.

Hagens Berman represents whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act. Unlike traditional whistleblower firms who have pivoted into this area, Hagens Berman has a strong background and history of success in securities, antitrust and other areas of fraud enforcement, making us an ideal partner for these cases. Our matters before the SEC/CFTC include a range of claims, including market manipulation and fraudulent financial statements.

PRACTICE AREAS

Investor Fraud - Institutional Investor Portfolio Monitoring and Recovery Services

Hagens Berman is a leading provider of specialized securities litigation services to public, private and Taft-Hartley pension funds. We offer proprietary and unparalleled asset protection and recovery services to both foreign and domestic institutions. Our institutional services provide participants with the ability to identify, investigate and react to potential wrongdoing by companies in which the institution invests.

PORTFOLIO MONITORING. Timely information and analysis are the critical ingredients of a successful fraud recovery program. Institutions must receive quick, reliable determinations concerning the source and extent of their losses, the likelihood of recoupment and the best manner for pursuing it. Our Portfolio Monitoring Service provides these services at no cost to participating institutions. The Hagens Berman Portfolio Monitoring Service has three primary components:

TRACKING. Alerts clients of any significant portfolio losses due to suspected fraud.

ANALYSIS. Provide clients with necessary legal and factual analyses regarding possible recovery options, removing from the institution any burden connected with scrutinizing myriad instances of potential wrongdoing and attempt to decipher whether direct, recoverable injuries have resulted.

REPORTING. Attorneys and forensic accounting fraud experts deliver a concise monthly report that furnishes comprehensive answers to these inquiries. On a case-by-case basis, the report specifies each of the securities in which the client lost a significant amount of money, and matches those securities with an analysis of potential fraud likelihood, litigation options and an expert recommendation on how best to proceed for maximum recovery.

Our Portfolio Monitoring Service performs its functions with almost no inconvenience to participating institutions. A client's custodian bank provides us with records detailing the client's transactions from the prior several years and on a regular basis thereafter. Importantly, none of the institution's own personnel is required to share in this task, as we acquire the information directly from the custodian bank.

We provide our Portfolio Monitoring service with no strings attached and allow our clients to act without cost or commitment. In instances where a litigation opportunity arises, we believe our skills make us the ideal choice for such a role, although the client is free to choose others.

When a portfolio loses money because of corporate deception, our litigation services seek to recover a substantial percentage of those losses, thereby increasing a fund's performance metric. As fiduciaries, money managers may not have the ability or desire to risk funds on uncertain litigation using typical hourly-rate law firms. Hagens Berman seeks to minimize the burden on the money manager by pursuing cases on a contingent-fee basis.

PRACTICE AREAS

Personal Injury and Abuse

For nearly two decades, Hagens Berman's blend of professional expertise and commitment to our clients has made our firm one of the most well-respected and successful mass tort and personal injury law firms in the nation. We deliver exceptional results for our clients by obtaining impressive verdicts and settlements in personal injury litigation.

Our attorneys have experience in wrongful death, brain injury and other catastrophic injury cases, as well as deep experience in social work negligence, medical malpractice, nursing home negligence and sexual abuse cases.

Hagens Berman also has unparalleled experience in very specific areas of abuse law, recovering damages on behalf of some of the most vulnerable people in our society.

Sexual Abuse Litigation Hagens Berman has represented a wide spectrum of individuals who have been victims of sexual abuse, including children and developmentally disabled adults. We treat each case individually, with compassion and attention to detail and have the expertise, resources and track record to stand up to the toughest opponents. In the area of sexual abuse, our attorneys have obtained record-breaking verdicts, including the largest personal injury verdict ever upheld by an appellate court in the state of Washington. More about Hagens Berman's sexual abuse practice ca be found on the following page.

Nursing Home Negligence Nursing home negligence is a growing problem throughout the nation. As our population ages, reports of elder abuse and nursing home negligence continue to rise. Today, elder abuse is one of the most rapidly escalating social problems in our society. Hagens Berman is uniquely qualified to represent victims of elder abuse and nursing home negligence. Our attorneys have secured outstanding settlements in this area of the law and have committed to holding nursing homes accountable for wrongdoing.

Social Work Negligence Social workers play a critical role in the daily lives of our nation's most vulnerable citizens. Social workers, assigned to protect children, the developmentally disabled and elderly adults, are responsible for critical aspects of the lives of tens of thousands of citizens who are unable to protect themselves. Many social workers do a fine job. Tragically, many do not. The results are often catastrophic when a social worker fails to monitor and protect his or her vulnerable client. All too often, the failure to protect a child or disabled citizen leads to injury or sexual victimization by predators. With more than $40 million in recoveries on behalf of vulnerable citizens who were neglected by social workers, Hagens Berman is the most experienced, successful and knowledgeable group of attorneys in this dynamic area of the law.

Workplace Injury While many workplace injury claims are precluded by workers compensation laws, many instances of workplace injury are caused by the negligence and dangerous oversight of third parties. In these instances, victims may have valid claims. Hagens Berman's personal injury legal team has successfully brought many workplace injury claims, holding third parties liable for our clients' serious bodily injuries.

Medical Malpractice Litigating a medical malpractice case takes acute specialization and knowledge of medical treatments and medicine. Notwithstanding these facts, Hagens Berman pursues meritorious medical malpractice claims in instances where clients have suffered life-altering personal injuries. Our firm's personal injury attorneys handle medical malpractice cases with the dedication and detail necessary to make victims whole. Hagens Berman is very selective in accepting medical malpractice cases and has been successful in recovering significant compensation for victims of medical error and negligence.

PRACTICE AREAS

Sexual Abuse and Harassment

Hagens Berman's attorneys recently achieved a nationwide sexual harassment settlement on behalf of 16,000 women and also tried the first ever sexual harassment case in Washington state, and has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall. Our firm is committed to protecting and empowering individuals.

At Hagens Berman, we believe no one is above the law, and that no position of power should shield someone from being held accountable.

Right now, we are witnessing the silencing, belittling and abuse that women everywhere in this nation are subjected to. They are subjected to a system that does not respect them. The backlash against the brave survivors who have stepped forward to report sexual assault is unacceptable.

We believe survivors. Our firm's sexual harassment attorneys have protected their rights for decades throughout their legal careers, and we are dedicated to upholding the rights of the most vulnerable. Women should be heard, respected and protected from systemic abuse.

Sexual harassment is present and pervasive in many workplaces, industries and professional environments, and has damaged the lives and careers of countless individuals. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by an authority figure, making it harder to come forward for fear of retaliation.

All too often, acts of sexual harassment and sexual misconduct are protected by systemic cover-ups by companies and organized agreements between those in power. Particular industries are more susceptible to these cover-ups including: entertainment and sports media, STEM, law enforcement, food service, politics, military, tech, finance, hospitality and transportation. But sexual harassment is pervasive in many other environments and is often obscured from view for years.

In these industries, victims are routinely subjected to widespread policies and practices that create an environment promoting quid pro quo arrangements in which victims feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Victims are also often punished for not taking part.

The firm has represented women violated by Harvey Weinstein, as well as USC alumnae abused by the university's former gynecologist, Dr. George Tyndall, tried the first ever sexual harassment case in Washington state, and achieved a nationwide sexual harassment settlement on behalf of 16,000 women.

Representative sexual harassment successes and cases on behalf of our clients include:

› USC, Dr. Tyndall Sexual Harassment

In May of 2018, Hagens Berman filed a class-action lawsuit against the University of Southern California (USC) and Dr. George Tyndall, the full-time gynecologist at USC's student health clinic. Tyndall sexually harassed, violated and engaged in wildly inappropriate behavior with female students who sought his medical care, according to news outlets, which stated he saw tens of thousands of female patients during his time at USC.

Official complaints of Dr. Tyndall's behavior began to surface at USC in the 1990s, but despite the university's knowledge of Dr. Tyndall's behavior, it did not report him to the agency responsible for protecting the public from problem doctors. USC did nothing, for decades, as more and more female students were sent into Dr. Tyndall's office.

The settlement's three-tier structure allows class members to

PRACTICE AREAS

Sexual Abuse and Harassment

choose how much they want to engage with the claims process. Those who do not want to revisit a private, traumatic event can simply keep the guaranteed Tier 1 payment of $2,500. Those who choose to provide additional information in a claim form about their experience with Tyndall and how it affected them are eligible for up to $20,000 and those who choose to provide an interview are eligible for up to $250,000. The special master and her team of experts will evaluate claims and allocate awards to Tier 2 and Tier 3 claimants. This focus on choice ensures that all class members receive compensation while giving each class member the autonomy to decide for herself how involved she wants to be in the settlement process.

The class-action settlement also goes beyond monetary compensation and forces USC to implement real changes to their policies and procedures to help ensure that what happened at USC does not happen again.

RESULT: $215 million settlement

Harvey Weinstein Sexual Harassment

In a first-of-its-kind class-action lawsuit, Hagens Berman represented women on behalf of a class of all victims who were harassed or otherwise assaulted by Harvey Weinstein, seeking to hold him and his co-conspirators accountable for a years-long pattern of sexual harassment and cover-ups.

The lawsuit, filed Nov. 15, 2017, in the U.S. District Court for the Central District of California states that Miramax and The Weinstein Company (which Weinstein co-founded) facilitated Weinstein's organized pattern of predatory behavior, equating to an enterprise that violates the Racketeer Influenced and Corrupt Organizations Act, commonly referred to as the RICO Act, the same law brought against members of the Mafia for organized criminal behavior.

The lawsuit brought various charges against Weinstein and his companies for violating the RICO Act, mail and wire fraud, assault, civil battery, negligent supervision and retention, and intentional infliction of emotional distress.

RESULT: Settlement reached

Fairfax Behavioral Health

Attorneys from Hagens Berman filed a class-action complaint on behalf of a proposed class of hundreds of patients that were arbitrarily strip-searched and video recorded while receiving treatment for mental illness at one of three Fairfax locations in Washington state.

The suit's named plaintiff recalls being ordered to undress for an invasive strip-search when she presented for inpatient admission, even after disclosing her history of sexual abuse to the staff member. She was not given a gown or towel to cover up during the search, and the staff member watched her undress and left the door open where other staff members could see her.

Video cameras were located in the hallway, the holding area outside bathroom, and the room where the strip search was conducted. The cameras recorded her undressing and the strip-search.

The complaint states that Fairfax's practices—and its failure to limit the discretion of its staff—means that a substantial number of its mental health patients do not have reasonable access to inpatient care for mental health disorders.

CB Richard Ellis Sexual Harassment Litigation

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

RESULT: An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to $150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

PRACTICE AREAS

Sexual Abuse and Harassment

King County Child Sex Abuse

Hagens Berman represented the victim of eight years of sexual abuse as a minor, at the hands of her brother-in-law. The lawsuit states that from 2005 to 2012, the case's defendant repeatedly sexually abused Hagens Berman's client. She was only eleven years old when the abuse began and was a minor during the entire duration of the abuse. In 2013, the state of Washington charged Willis with three counts of child molestation, to which he pled guilty. Court documents state, "Joshua Blaine Willis used his position of trust, confidence, or fiduciary responsibility to facilitate the commission of the … offense[s]…"

Court documents in the civil case filed in June of 2017 detail Willis' highly disgusting and horrifying actions including groping and molestation, exposing himself and other highly sexual and inappropriate behavior.

Following the years of sexual abuse, Hagens Berman's client suffers from Post-Traumatic Stress Disorder and the court awarded damages for treatment of her condition and other emotional distress, as well as loss of earning capacity and other economic damages in her "struggle with consistency and stability."

RESULT: $4,031,000 judgment awarded in a King County Superior Court

State of Washington Sexual Assault, DSHS

Our client, a disabled Spokane, Wash. woman, was a patient at Eastern State Hospital. The hospital assigned a male nurse to provide one-on-one care and supervision for our client. The nurse trapped our client in a laundry room and raped her. Hagens Berman determined that the nurse, a state employee, had been reprimanded and accused on previous occasions of sexual assault of vulnerable patients. Hagens Berman initiated a negligence and civil rights lawsuit against the hospital and its administrators for failing to protect our client from a known sexual predator and for allowing that predator to remain on staff with the responsibility to care for vulnerable patients.

RESULT: $2.5 million settlement

Workplace Sexual Harassment & Other Investigations

Sexual harassment is present and pervasive in many workplaces. It affects hundreds of thousands of women and men in the U.S., 51 percent of which are harassed by a supervisor, making it harder to come forward for fear of retaliation.

All too often, sexual harassment in the workplace is protected by systemic cover-ups by companies and those in power. Particular industries are more susceptible to these cover-ups including: commercial real estate, law enforcement, politics, military, tech, entertainment, sports media, finance, restaurants and hospitality, advertising and trucking.

In these industries, employees are routinely subjected to widespread policies that create an environment promoting quid pro quo arrangements in which they feel pressured to take part in sexual acts and feel powerless against unwanted advancements. Employees are also often punished for not taking part.

Hagens Berman is also investigating sexual harassment and abuse in various specific areas of study, including STEM programs. The also maintains a keen watch over various work environments that are statistically prone to instances of misconduct. These include hospitality, college campuses and research labs, boarding schools and the entertainment industry, especially within the area of professional music.

The firm remains committed to uncovering instances of sexual harassment in the workplace, and within fields of study and areas prone to harboring misconduct and abusive behavior.

PRACTICE AREAS

Sports Litigation

Hagens Berman has one of the nation's most highly regarded sports litigation law practices. Our attorneys are the vanguard of new and innovative legal approaches to protect the rights of professional and amateur athletes in cases against large, well-financed interests, including the National Collegiate Athletic Association (NCAA), the National Football League (NFL), the Fédération Internationale de Football Association (FIFA) and other sports governing institutions.

NCAA: Scholarships/Grants-In-Aid (GIAs)

In a first-of-its-kind antitrust action and potentially far-reaching case, Hagens Berman filed a class-action affecting approximately 40,000 Division I collegiate athletes who played men's or women's basketball, or FBS football, brought against the NCAA and its most powerful members, including the Pac-12, Big Ten, Big-12, SEC and ACC, claiming they violated federal antitrust laws by drastically reducing the number of scholarships and financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bare.

The case resulted in a $208.9 million settlement, bringing an estimated average amount of $6,500 to each eligible class member who played his or her sport for four years.

In March of 2019, the firm as co-lead trial counsel on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes, and in a unanimous 9-0 Supreme Court Victory, the injunctive portion of the case also resulted in a monumental victory for plaintiffs. The Court ruled that NCAA college athletes should legally be able to receive compensation from schools or conferences for athletic services other than cash compensation untethered to education-related expenses, prohibiting the NCAA from enforcing rules limiting those payments. The media called the firm's victory in the scholarships case against the NCAA a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), "...the highest court left the NCAA unhoused and naked, with nothing left but its pretensions," (The Washington Post), it "delivered a heavy blow," (AP), and leaves the NCAA "more vulnerable than ever."

NCAA: Concussions

Cases of particular nationwide interest for fans, athletes and the general public involve numerous cases filed by Hagens Berman against the NCAA. Recently, the firm took on the NCAA for its failure to prevent concussions and protect student-athletes who suffered concussions. Steve Berman served as lead counsel in multi-district litigation and led the firm to finalize a settlement bringing sweeping changes to the NCAA's approach to concussion treatment and prevention. The core settlement benefits include a 50-year medical monitoring program overseen by a medical science committee appointed by the court that will screen and track concussions, funded by a $70 million medical monitoring fund, paid by the NCAA and its insurers. Examinations include neurological and neurocognitive assessments to evaluate potential injuries.

The settlement also mandates significant changes to and enforcement of the NCAA's concussion management policies and return-to-play guidelines. All players will now receive a seasonal, baseline test to better assess concussions sustained during the season. All athletes who have sustained a concussion will now need to be cleared before returning to play. A medical professional trained in the diagnosis of concussions will be present at all games involving contact-sports. The settlement also creates reporting mandates for concussions and their treatment.

Player Name, Image & Likeness Rights in Videogames

Hagens Berman attorneys represented student-athletes who claimed that the NCAA illegally used student-athletes' names, images and likenesses in Electronic Arts' popular NCAA Football, Basketball and March Madness video game series reached a

PRACTICE AREAS

Sports Litigation

combined $60 million settlement with the NCAA and EA, marking the first time the NCAA has agreed to a settlement that pays student-athletes for acts related to their participation in athletics. Settlement checks were sent to about 15,000 players, with average amounts of $1,100 and some up to $7,600.

The firm began this case with the knowledge that the NCAA and member schools were resolute in keeping as much control over student-athletes as possible, and fought hard to ensure that plaintiffs would not be exploited for profit, especially by the organization that vowed to prevent the college athletes from exploitation.

The firm also represented NFL legend Jim Brown in litigation against EA for improperly using his likeness in its NFL video games, culminating in a $600,000 voluntary judgment offered by the video game manufacturer.

Continued NIL Litigation

Hagens Berman has continued efforts against the NCAA in an additional pending antitrust case regarding NIL rights. In June 2020, the firm filed its case against the NCAA claiming the institution had knowingly violated federal antitrust laws in abiding by a particular subset of NCAA amateurism rules that prohibit college-athletes from receiving anything of value in exchange for the commercial use of their name and likeness. The firm holds that the NCAA's regulations illegally limiting the compensation that Division I college athletes may receive for the use of their names, images, likenesses and athletic reputations.

In unanimously upholding the rights of NCAA athletes in Alston, Justice Gorsuch wrote the NCAA had sought "immunity from the normal operation of the antitrust laws," and Justice Kavanaugh stated, "The NCAA is not above the law." The firm looks forward to continuing to uphold that same sentiment in regard to NCAA athlete name, image and likeness rights.

In July 2021, following the firm's victory in the Alston case, the NCAA chose to temporarily lift rules restricting certain NIL deals in what the firm believes will be the first step in another massive change in college sports to support college athletes.

FIFA/U.S. Soccer: Concussions

Several soccer players filed a class action against U.S. soccer's governing bodies, which led to life-changing safety measures brought to millions of U.S. youth soccer players. Players represented by Hagens Berman alleged these groups failed to adopt effective policies to evaluate and manage concussions, leaving millions of players vulnerable to long-lasting brain injury.

The settlement against six of the largest youth soccer organizations completely eliminates heading for youth soccer's youngest players, greatly diminishing risks of concussions and traumatic head injuries. Prior to the settlement, no rule limited headers in children's soccer.

It also sets new benchmarks for concussion measurement and safety protocols, and highlights the importance of on-staff medical personnel at youth tournaments. Under the settlement, youth players who have sustained a concussion during practice or a game will need to follow certain return-to-play protocols before they are allowed to play again. Steve Berman, a youth soccer coach, has seen first-hand the settlement's impacts and life-changing effects every time young athletes take to the field.

NCAA: Transfer Antitrust

Hagens Berman has taken on the NCAA for several highly recruited college athletes whose scholarships were revoked after a coaching change, or after the student-athletes sought to transfer to another NCAA-member school. The suit claims the organization's limits and transfer regulations violate antitrust law.

The firm's case hinges on a destructive double-standard. While Non-student-athletes are free to transfer and are eligible for a new scholarship without waiting a year, and coaches often transfer to the tune of a hefty pay raise, student-athletes are penalized and forced to sit out a year before they can play elsewhere, making them much less sought after by other college athletic programs. Hagens Berman continues to fights for student-athletes' rights to be treated fairly and terminate the NCAA's anticompetitive practices and overbearing regulations that limit players' options and freedoms.

PRACTICE AREAS

Sports Litigation

Pop Warner

Hagens Berman represented youth athletes who have suffered traumatic brain injuries due to gross negligence, and filed a lawsuit on behalf of former Pop Warner football player Donnovan Hill and his mother Crystal Dixon. The suit claims that the league insisted Hill use improper and dangerous tackling techniques which left the then 13-year-old paralyzed from the neck down.

Hagens Berman sought to hold Pop Warner, its affiliates, Hill's coaches and members of the Lakewood Pop Warner board of directors accountable for the coaches' repeated and incorrect instruction that Hill and his teammates tackle opposing players by leading with the head. In January of 2016, the firm reached a settlement on behalf of Donnovan and his mother, the details of which were not made public. Sadly, months later, 17-year-old Donnovan passed away. The firm believes that his case will continue to have a lasting impact on young athletes for generations and will help ensure safety in youth sports.

MLB Foul Ball Injuries

Hagens Berman filed a class-action lawsuit on behalf of baseball fans, seeking to extend safety netting to all major and minor league ballparks from foul pole to foul pole. The suit alleges that tens of millions attend an MLB game annually, and every year fans of all ages, but often children, suffer horrific and preventable injuries, such as blindness, skull fractures, severe concussions and brain hemorrhages when struck by a fast-moving ball or flying shrapnel from a shattered bat. The lawsuit was dismissed with the court ruling that the plaintiffs lacked standing because the chance of getting hit by a ball is remote.

In December of 2015, MLB's commissioner Rob Manfred issued a recommendation to all 30 MLB teams to implement extended safety measures, including additional safety netting at ballparks. While the firm commends the league for finally addressing the serious safety issue at stake, the firm continues to urge MLB and its commissioner to make these more than recommendations to help end senseless and avoidable injuries to baseball's biggest fans. We believe our case sparked the eventual move to netting. After one of the owners of the Mariners belittled Steve for having filed the case, the firm happily saw the addition of netting extended to the foul poles at T-Mobile Park in the firm's headquarters of Seattle.

Other Cases

In addition to its class actions, Hagens Berman has filed several individual cases to uphold the rights of athletes and ensure a fair and safe environment. The firm has filed multiple individual cases to address concussions and other traumatic head injuries among student-athletes at NCAA schools and in youth sports. Hagens Berman continues to represent the interests of athletes and find innovative and effective applications of the law to uphold players' rights.

The firm has also brought many concussions cases on behalf of individual athletes, challenging large universities and institutions for the rights those who have suffered irreversible damage due to gross negligence and lack of even the most basic concussion-management guidelines.

PRACTICE AREAS

Whistleblower Litigation

Hagens Berman represents whistleblowers under various programs at both the state and federal levels. All of these whistleblower programs reward private citizens who blow the whistle on fraud. In many cases, whistleblowers report fraud committed against the government and may sue those individuals or companies responsible, helping the government recover losses.

Our depth and reach as a leading national plaintiffs' firm with significant success in varied litigation against industry leaders in finance, health care, consumer products, and other fields causes many whistleblowers to seek us to represent them in claims alleging fraud against the government.

Our firm also has several former prosecutors and other government attorneys in its ranks and has a long history of working with governments, including close working relationships with attorneys at the U.S. Department of Justice. The whistleblower programs under which Hagens Berman pursues cases include:

FALSE CLAIMS ACT

Under the federal False Claims Act, and more than 30 similar state laws, a whistleblower reports fraud committed against the government, and under the law's *Qui Tam* provision, may file suit on its behalf to recover lost funds. False claims acts are one of the most effective tools in fighting Medicare and Medicaid fraud, defense contractor fraud, financial fraud, under-payment of royalties, fraud in general services contracts and other types of fraud perpetrated against governments.

The whistleblower initially files the case under seal, giving it only to the government and not to the defendant, which permits the government to investigate. After the investigation, the government may take over the whistleblower's suit, or it may decline. If the government declines, the whistleblower can proceed alone on his or her behalf. In successful suits, the whistleblower normally receives between 15 and 30 percent of the government's recovery as a reward.

Since 1986, federal and state false claims act recoveries have totaled more than $22 billion. Some examples of our cases brought under the False Claims Act include:

- **In U.S. ex rel. Lagow v. Bank of America**
  Represented former District Manager at Landsafe, Countrywide Financial's mortgage appraisal arm, who alleged systematic abuse of appraisal guidelines as a means of inflating mortgage values.
  RESULT: The case was successful, ultimately triggering a settlement of $1 billion, and our client received a substantial reward.

- **In U.S. ex rel. Mackler v. Bank of America**
  Represented a whistleblower who alleged that Bank of America failed to satisfy material conditions of its government contract to provide homeowners mortgage relief under the HAMP program.
  RESULT: The case succeeded and was settled as part of the 2012 global mortgage settlement, resulting in an award to our client.

- **In U.S. ex rel. Horwitz v. Amgen**
  Represented Dr. Marshall S. Horwitz, who played a key role in uncovering an illegal scheme to manipulate the scientific record regarding two of Amgen's blockbuster drugs.
  RESULT: $762 million in criminal and civil penalties levied by the U.S. Department of Justice and an award to our client.

- **In U.S. ex rel. Thomas v. Sound Inpatient Physicians Inc. and Robert A. Bessler**
  Represented a former regional vice president of operations for Sound Physicians, who blew the whistle on Sound's alleged misconduct.
  RESULT: Tacoma-based Sound Physicians agreed to pay the United States government $14.5 million.

- **In U.S. ex rel. Plaintiffs v. Center for Diagnostic Imaging Inc.**
  In May 2010, Hagens Berman joined as lead trial counsel a qui tam lawsuit on behalf of two whistleblowers against Center for

PRACTICE AREAS

Whistleblower Litigation

Diagnostic Imaging, Inc. (CDI), alleging that CDI violated anti-kickback laws and defrauded federally funded health programs by presenting false claims for payment.

RESULT: In 2011, the government intervened in the claims, which the company settled for approximately $1.3 million. The government declined to intervene, however, in the no-written-orders and kickback claims, leaving those claims for the whistleblowers and their counsel to pursue on their own. The non-intervened claims settled for an additional $1.5 million payment to the government.

Medtronic

On Feb. 19, 2008 the court unsealed a qui tam lawsuit brought by Hagens Berman against Medtronic, one of the world's largest medical technology companies, for fraudulent medical device applications to the FDA and off-label promotion of its biliary devices.

RESULT: The case settled in 2012 for an amount that remained under seal.

SECURITIES AND EXCHANGE COMMISSION / COMMODITY FUTURES TRADING COMMISSION

Since implementation of the SEC/CFTC Dodd Frank whistleblower programs in 2011, Hagens Berman has naturally transitioned into representation of whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

Unlike the False Claims Act, whistleblowers with these new programs do not initially file a sealed lawsuit. Instead, they provide information directly to the SEC or the CFTC regarding violations of the federal securities or commodities laws. If the whistleblower's information leads to an enforcement action, they may be entitled to between 10 and 30 percent of the recovery.

The firm currently represents HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case that prompted the U.S. Securities and Exchange Commission to bring record-breaking fines against two exchanges formerly owned by Direct Edge Holdings (and since acquired by Bats Global Markets, the second-largest financial exchange in the country). The exchanges agreed to pay $14 million to settle charges that the exchanges failed to accurately and completely disclose how order types functioned on its exchanges and for selectively providing such information only to certain high-frequency trading firms.

Hagens Berman also represents an anonymous whistleblower who brought his concerns and original analysis related to the May 2, 2010 Flash Crash to the CFTC after hundreds of hours spent analyzing data and other information.

Both the U.S. Commodity Futures Trading Commission (CFTC) and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC (Sarao Futures) and Navinder Singh Sarao (Sarao) based on the whistleblower's information.

Hagens Berman has worked alongside government officials and regulators, establishing the credibility necessary to bring a case to the SEC or CFTC. When Hagens Berman brings a claim, we work hard to earn their respect and regulators pay attention.

A few of the firm's most recent whistleblower cases in this area include:

EDGA Exchange Inc. and EDGX Exchange Inc.

Represented HFT whistleblower and market expert, Haim Bodek, in an SEC fraud whistleblower case against two exchanges formerly owned by Direct Edge Holdings and since acquired by Bats Global Markets, the second-largest financial exchange in the country for spoofing.

RESULT: The case prompted the U.S. Securities and Exchange Commission to bring record-breaking fine of $14 million against defendants, the largest ever brought against a financial exchange.

PRACTICE AREAS

Whistleblower Litigation

Nav Sarao Futures Limited PLC

Hagens Berman represents an anonymous whistleblower who brought his concerns and original analysis to the CFTC after hundreds of hours spent analyzing data and other information. The claim brought about legal action against a market manipulator who profited more than $40 million from market fraud and contributed to the May 6, 2010 Flash Crash.

RESULT: Both the CFTC and the Department of Justice, in separate criminal and civil enforcement actions, brought charges of market manipulation and spoofing against Nav Sarao Futures Limited PLC and Navinder Singh Sarao based on the whistleblower's information. The case is still pending under seal.

INTERNAL REVENUE SERVICE

Hagens Berman also represents whistleblowers under the IRS whistleblower program enacted with the Tax Relief and Health Care Act of 2006.

The IRS program offers rewards to those who come forward with information about persons, corporations or any other entity that cheats on its taxes. In the event of a successful recovery of government funds, a whistleblower can be rewarded with up to 30 percent of the overall amount collected in taxes, penalties and legal fees.

Hagens Berman helps IRS whistleblowers present specific, credible tax fraud information to the IRS. Unlike some traditional False Claims Act firms, Hagens Berman has experience representing governments facing lost tax revenue due to fraud, making us well-positioned to prosecute these cases.

Appellate Victories

APPELLATE VICTORIES

Strengthening Consumer Law

At Hagens Berman, we distinguish ourselves not merely by the results we obtain, but by how we obtain them. Few class-action firms have our firm's combination of resources and acumen to see a case through as long as needed to obtain a favorable outcome. Our attorneys were instrumental in obtaining these federal appellate decisions that have shaped consumer law and bolstered the rights of millions nationwide:

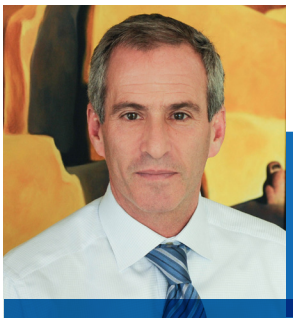
- **In Matter of Motors Liquidation Co.**, 829 F.3d 135 (2d Cir. 2016) (General Motors bankruptcy reorganization did not bar claims stemming from defective ignition switches)
- **George v. Urban Settlement Servs.**, 833 F.3d 1242 (10th Cir. 2016) (complaint adequately alleged Bank of America's mortgage modification program violated RICO)
- **In re Loestrin 24 Fe Antitrust Litig.**, 814 F.3d 538 (1st Cir. 2016) ("reverse payments" for antitrust purposes under **Actavis** are not limited to cash payments)
- **Osborn v. Visa Inc.**, 797 F.3d 1057 (D.C. Cir. 2015) (complaint adequately alleged Visa and MasterCard unlawfully agreed to restrain trade in setting ATM access fees)
- **Little v. Louisville Gas & Elec. Co.**, 805 F.3d 695 (6th Cir. 2015) (Clean Air Act did not preempt state nuisance claims against coal plant for polluting surrounding community)
- **City of Miami v. Citigroup Inc.**, 801 F.3d 1268 (11th Cir. 2015) (reversing dismissal of complaint alleging Citigroup violated Fair Housing Act by pattern of discriminatory lending)
- **Rajagopalan v. NoteWorld, LLC**, 718 F.3d 844 (9th Cir. 2013) (non-party could not invoke arbitration clause against plaintiff suing debt services provider)
- **In re Neurontin Mktg. & Sales Practices Litig.**, 712 F.3d 21 (1st Cir. 2013) (affirming $142 million verdict for injury suffered from RICO scheme by Neurontin manufacturer Pfizer)
- **In re NCAA Student-Athlete Name & Likeness Licensing Litig.**, 724 F.3d 1268 (9th Cir. 2013) (First Amendment did not shield video game developer's use of college athletes' likenesses)
- **Garcia v. Wachovia Corp.**, 699 F.3d 1273 (11th Cir. 2012) (Wells Fargo could not rely on **Concepcion** to evade waiver of any right to compel arbitration)
- **Agnew v. Nat'l Collegiate Athletic Ass'n**, 683 F.3d 328 (7th Cir. 2012) (NCAA bylaws limiting scholarships per team and prohibiting multi-year scholarships are subject to antitrust scrutiny and do not receive pro-competitive justification at pleading stage)
- **In re Lupron Mktg. & Sales Practices Litig.**, 677 F.3d 21, 24 (1st Cir. 2012) (approving cy pres provision in $150 million settlement)
- **In re Pharm. Indus. Average Wholesale Price Litig.**, 582 F.3d 156 (1st Cir. 2009) (AstraZeneca illegally published inflated average wholesale drug prices, thereby giving windfall to physicians and injuring patients who paid inflated prices)

We set ourselves apart not only by getting results but by litigating every case through to finish – to trial and appeal, if necessary. This tenacious drive has led our firm to generate groundbreaking precedents in consumer law.

Hagens Berman has also been active in state courts nationwide. Notable examples of our victories include:

- **Garza v. Gama**, 379 P.3d 1004 (Ariz. Ct. App. 2016) (reinstating certified class in wage-and-hour action prosecuted by Hagens Berman since 2005)
- **In re Farm Raised Salmon Cases**, 42 Cal. 4th 1077 (Cal. 2008) (Federal Food, Drug and Cosmetic Act did not preempt state claims for deceptive marketing of food products)
- **Pickett v. Holland Am. Line-Westours, Inc.**, 35 P.3d 351 (Wash. 2001) (reversing state court of appeals and upholding class action settlement with cruise line)

Legal Team



MANAGING PARTNER

Steve W. Berman

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

CONTACT
1301 Second Avenue
Suite 2000
Seattle, WA 98101

(206) 623-7292 office
(206) 623-0594 fax
steve@hbsslaw.com

YEARS OF EXPERIENCE
- 41

PRACTICE AREAS
- Antitrust/Trade Law
- Consumer Protection
- Governmental Representation
- Securities/Investment Fraud
- Whistleblower/**Qui Tam**
- Patent Litigation

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

COURT ADMISSIONS
- Supreme Court of the United States
- Supreme Court of Illinois
- Supreme Court of Washington
- U.S. District Court for the Eastern and Western Districts of Washington
- U.S. District Court for the Northern and Central Districts of Illinois
- U.S. District Court for the District of Colorado
- U.S. District Court for the Eastern District of Michigan
- First Circuit Court of Appeals

Steve Berman represents consumers, investors and employees in large, complex litigation held in state and federal courts. Steve's trial experience has earned him significant recognition and led The National Law Journal to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. Steve was named an MVP of the Year by Law360 in 2016 and 2017 for his class-action litigation and received the 2017 Plaintiffs' Trailblazer award. He was recognized for the third year in a row as an Elite Trial Lawyer by The National Law Journal.

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

CURRENT ROLE

- Managing Partner, Hagens Berman Sobol Shapiro LLP

RECENT CASES

- **Emissions Litigation**
  Steve has pioneered pursuing car manufacturers who have been violating emissions standards, including: Mercedes BlueTEC vehicles, GM Chevy Cruze, Dodge Ram 2500 and 3500 trucks, Dodge Ram 1500 and Jeep Cherokee EcoDiesel vehicles, Chevy Silverado, GMC Sierra as well as other models made by Ford, Audi and BMW. Steve and the firm's unmatched work in emissions-cheating investigations is often ahead of the EPA and government regulators.
- **General Motors Ignition Switch Defect Litigation**
  Steve serves as lead counsel seeking to obtain compensation for the millions of GM car owners who overpaid for cars that had hidden safety defects.
- **Climate Change** – New York City, King County, Wash.
  Steve has always been a fighter for the rights of the environment. In 2017, he began the firm's latest endeavor to combat global climate change through novel applications of the law. Steve currently represents the city of New York and Washington state's King County in lawsuits filed against the world's largest producers of oil: BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell PLC and ConocoPhillips. The cases seek to hold the Big Oil titans accountable for their brazen impact on global

- Second Circuit Court of Appeals
- Third Circuit Court of Appeals
- Fifth Circuit Court of Appeals
- Sixth Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- Eighth Circuit Court of Appeals
- Ninth Circuit Court of Appeals
- Tenth Circuit Court of Appeals
- Eleventh Circuit Court of Appeals
- DC Circuit Court of Appeals
- Federal Circuit Court of Appeals
- U.S. Court of Federal Claims
- Foreign Registered Attorney in England and Wales

EDUCATION

- University of Chicago Law School, J.D., 1980
- University of Michigan, B.A., 1976

MANAGING PARTNER

Steve W. Berman

warming-induced sea level rise and related expenses to protect the cities and their millions of residents.

- **Opioids** - Orange and Santa Clara County, Seattle
  Steve has been retained by various municipalities, including the states of Ohio, Mississippi and Arkansas, Orange County, as well as the city of Seattle to serve as trial counsel in a recently filed state suit against five manufacturers of opioids seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.

- Antitrust Litigation
  Corporate fraud has many faces, and Steve has taken on some of the largest perpetrators through antitrust law. Steve serves as co-lead counsel in Visa MasterCard ATM, Batteries, Optical Disc Drives and is in the leadership of a class-action lawsuit against Qualcomm for orchestrating a monopoly that led to purchasers paying significantly more for mobile devices. He serves as interim class counsel in a case against Tyson, Purdue and other chicken producers for conspiring to stabilize prices by reducing chicken production. Steve also filed a proposed class-action lawsuit against the world's largest manufacturers of Dynamic Random Access Memory (DRAM) for cornering the market and driving up DRAM prices. Most recently, Steve's antitrust case against the NCAA involving rights of college athletes to receive grant-in-aid scholarships saw a unanimous Supreme Court victory, in what media called a "major ruling" (ABC World News Tonight), that "will change the game" (ABC Good Morning America), and leaves the NCAA "more vulnerable than ever" (AP).

- Consumer Protection
  Steve is a leader in protecting millions of consumers in large-scale cases that challenge unfair, deceptive and fraudulent practices. He leads a class action on behalf of owners of Ford vehicles equipped with MyFord Touch, an in-car entertainment system, who claim the system is flawed, putting drivers at risk of an accident while causing economic hardship. Steve recently filed a class-action lawsuit against Facebook for allowing personal data to be harvested for psychographic profiling.

RECENT SUCCESS

- **Volkswagen Franchise Dealerships** - $1.6 billion
  Lead counsel for VW franchise dealers suit, in which a settlement of $1.6 billion has received final approval, and represents a substantial recovery for the class.

- **Stericycle Sterisafe Contract Litigation** – $295 million
  Hagens Berman's team, led by Steve Berman, filed a class-action lawsuit against Stericycle, a massive medical waste disposal company and achieved a sizable settlement for hundreds of thousands of its small business customers.

- **NCAA Grant-in-Aid Scholarships** – $208 million
  Served as co-lead counsel in the Alston case that successfully challenged the NCAA's limitations on the benefits college athletes can receive as part of a scholarship, culminating in a $208 million settlement and injunction upheld by the Supreme Court. The recovery amounts to 100 percent of single damages in an exceptional result in an antitrust case. Steve also co-led the 2018 trial on the injunctive aspect of the case which resulted in a change of NCAA rules limiting the financial treatment of athletes.

  The injunction, which was upheld in a unanimous Supreme Court decision in June 2021, prohibits the NCAA from enforcing any rules that fix or limit compensation provided to college athletes by schools or conferences in consideration for their athletic services other than cash compensation untethered to education-related expenses. According to the Ninth Circuit, the NCAA is "permanently restrained and enjoined from agreeing to fix or limit compensation or benefits related to education" that conferences

MANAGING PARTNER

Steve W. Berman

may make available. In the Supreme Court's 9-0, Justice Kavanaugh stated, "The NCAA is not above the law."

- **Dairy Price-Fixing** – $52 million
  This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially inflated, but this scheme ultimately also cost 500,000 young cows their lives.

CAREER HIGHLIGHTS

- **State Tobacco Litigation** - $260 billion
  Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states $260 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.
- **Visa MasterCard ATM Antitrust Litigation** - $27 billion
  Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees below the level of the fees charged on Visa's and MasterCard's networks.
- **Toyota Sudden, Unintended Acceleration** - $1.6 billion
  Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to $1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.
- **Washington Public Power Supply System (WPPSS)** - $700 million settlement
  Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a $700 million settlement agreement brought against more than 200 defendants.
- **E-books Antitrust Litigation** - $560 million settlement
  Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than $160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional $450 million settlement for consumers.
- **Enron Pension Protection Litigation** - $250 million settlement
  Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.

MANAGING PARTNER

Steve W. Berman

- **Charles Schwab Securities Litigation** - $235 million settlement
  Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.
- **JP Morgan Madoff Lawsuit** - $218 million settlement
  Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world.
- **NCAA Grants-in-Aid Scholarships** - $208 million settlement, and permanent injunction upheld by the Supreme Court
  Led the firm's tenacious antitrust class action against the NCAA on behalf of college athletes, claiming that the NCAA had violated the law when it kept the class from being able to receive compensation provided by schools or conferences for athletic services other than cash compensation untethered to education-related expenses. The Supreme Court upheld the favorable opinion of the Ninth Circuit in a 9-0 ruling. Justice Kavanaugh's opinion further underscored the massive win for plaintiffs and the ruling's ongoing effects: "The NCAA couches its arguments for not paying student athletes in innocuous labels. But the labels cannot disguise the reality: The NCAA's business model would be flatly illegal in almost any other industry in America," pushing for further scrutiny of the NCAA's regulations.
- **Boeing Securities Litigation** - $92.5 million settlement
  Represented a class of tens of thousands of shareholders against Boeing, culminating in a proposed settlement that was the second-largest awarded in the Northwest.
- **NCAA Concussions** - $75 million settlement, and 50-year medical monitoring fund
  Led the firm's pioneering NCAA concussions suit that culminated in a proposed settlement that will provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; make sweeping changes to the NCAA's approach to concussion treatment and prevention; and establish a $5 million fund for concussion research, preliminarily approved by the court.
- **US Youth Soccer Settlement**
  Revolutionary settlement that changed U.S. Soccer regulations and bought sweeping safety measures to the game. Steve spearheaded a lawsuit against soccer-governing bodies, achieving a settlement that ended heading of the ball for U.S. Soccer's youngest players and greatly diminished risk of concussions and traumatic brain injuries. Additionally, the settlement highlights the importance of on-staff medical personnel at youth tournaments, as well as ongoing concussion education for coaches.

RECOGNITION

- 2023 Best Lawyers in America in Litigation - Securities and Product Liability Litigation - Plaintiffs
- 2018, 2020, 2022 Titan of the Plaintiffs Bar, Law360
- 2022 Leading Commercial Litigators, The Daily Journal
- 2022 Hall of Fame, Lawdragon
- 2017, 2022 Plaintiffs' Attorneys Trailblazer, The National Law Journal
- 1999-2022 Washington Super Lawyers
- 2021 Sports & Entertainment Law Trailblazer, The National Law Journal
- 2021, 2019, 2018 Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute

MANAGING PARTNER

Steve W. Berman

- 2016-2020 Class Action MVP of the Year, Law360
- 2014-2016, 2018-2019 Elite Trial Lawyers, The National Law Journal
- 2019-2020 Lawdragon 500 Leading Lawyers in America, Plaintiff Financial Lawyers
- 2014-2019 Lawdragon 500 Leading Lawyers in America
- 2018 State Executive Committee member, The National Trial Lawyers
- 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- 2014 Finalist for Trial Lawyer of the Year, Public Justice
- 2013 One of the 100 most influential attorneys in America, The National Law Journal
- 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- One of the top 10 plaintiffs' firms in the country, The National Law Journal

ACTIVITIES

- In April of 2021, the University of Michigan School for Environment and Sustainability (SEAS) launched the Kathy and Steve Berman Western Forest and Fire Initiative with a philanthropic gift from Steve (BS '76) and his wife, Kathy. The program will improve society's ability to manage western forests to mitigate the risks of large wildfires, revitalize human communities and adapt to climate change.

  Steve studied at the School of Natural Resources (now SEAS) and volunteered as a firefighter due to his focus on environmental stewardship.

- In 2003, the University of Washington announced the establishment of the Kathy and Steve Berman Environmental Law Clinic. The Berman Environmental Law Clinic draws on UW's environmental law faculty and extensive cross-campus expertise in fields such as Zoology, Aquatic and Fishery Sciences, Forest Resources, Environmental Health and more. In addition to representing clients in court, the clinic has become a definitive information resource on contemporary environmental law and policy, with special focus on the Pacific Northwest.

OTHER NOTABLE CASES

- VW Emissions Litigation - $14.7 billion settlement
  Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.

- McKesson Drug Class Litigation - $350 million settlement
  Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over $600 million.

- Average Wholesale Price Litigation - $338 million settlement
  Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.

- DRAM Memory Antitrust - $345 million settlement
  Forged a class-action suit against leading DRAM (Dynamic Random Access Memory) manufacturers, claiming the companies secretly agreed to reduce the supply of DRAM in order to artificially raise prices.

- Hyundai / Kia Fuel Efficiency - $210 million settlement
  Led the firm's aggressive fight as court-appointed co-lead counsel against Hyundai and Kia on behalf of defrauded consumers who alleged the automakers had misrepresented fuel economies in vehicles,

MANAGING PARTNER

Steve W. Berman

securing what was believed to then be the second-largest automotive settlement in history.

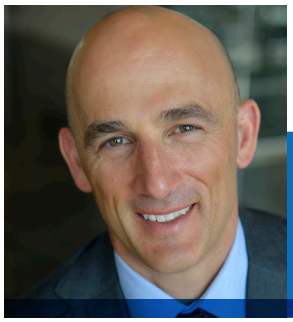
- Bextra/Celebrex Marketing and Products Liability Litigation - $89 million settlement
  Served as court-appointed member of the Plaintiffs Steering Committee and represented nationwide consumers and third party payers who paid for Celebrex and Bextra. The firm was praised by the court for its "unstinting" efforts on behalf of the class.
- McKesson Governmental Entity Class Litigation - $82 million settlement
  Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.
- NCAA/Electronic Arts Name and Likeness - $60 million settlement
  Represented current and former student-athletes against the NCAA and Electronic Arts concerning illegal use of college football and basketball players' names and likenesses in video games without permission or consent from the players.
- State and Governmental Drug Litigation
  Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson. In each representation, Steve recovered far more than the states in the NAAG multi-state settlements.
- Exxon Mobile Oil Spill
  Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multimillion-dollar award).
- Lumber Liquidators Flooring
  Steve was court-appointed co-lead counsel in litigation against Lumber Liquidators representing consumers who unknowingly purchased flooring tainted with toxic levels of cancer-causing formaldehyde. The consumer settlement was confidential.

PRESENTATIONS

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

PERSONAL INSIGHT

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



PARTNER

Thomas E. Loeser

Mr. Loeser obtained judgments in cases that have returned billions of dollars to millions of consumers and more than $100 million to the government.

CONTACT
1301 Second Avenue
Suite 2000
Seattle, WA 98101

(206) 268-9337 office
(206) 623-0594 fax
toml@hbsslaw.com

YEARS OF EXPERIENCE
- 22

PRACTICE AREAS
- Consumer Rights
- False Claims Act/**Qui Tam**
- Government Fraud
- Corporate Fraud
- Data Breach/Identity Theft and Privacy

INDUSTRY EXPERIENCE
- Automotive
- Consumer Fraud
- Cyber and Intellectual Property Crimes
- Racketeering
- False Claims
- Government Fraud
- Technology
- Software
- Recreation
- Athletic Apparel

BAR ADMISSIONS
- California
- Illinois
- District of Columbia

COURT ADMISSIONS
- Supreme Court of the United States
- District of Columbia

CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP
- Practice focuses on class actions, False Claims Act and other whistleblower cases, consumer protection and data breach/identity-theft/privacy cases
- Successfully litigated class-action lawsuits against mortgage lenders, appraisal management companies, automotive manufacturers, national banks, home builders, hospitals, title insurers, technology companies and data processors
- Currently prosecuting consumer protection class-action cases against banks, automobile manufacturers, lenders, loan servicing companies, technology companies, national retailers, payment processors and False Claims Act whistleblower suits now under seal
- Obtained judgments in cases that have returned billions of dollars to millions of consumers and more than $100 million to the government

RECOGNITION

- Martindale-Hubbell® AV Preeminent rating, 2016 - 2022
- Washington Super Lawyers, 2016 - 2022
- Lawdragon 500 Leading Lawyers in America, Plaintiff Financial Lawyers, 2020 - 2022
- Leading Plaintiff Consumer Lawyer, Lawdragon, 2020
- The National Trial Lawyers: Top 100, 2019 -2020
- Leading Plaintiff Consumer Lawyers, Lawdragon, 2019
- Lawdragon 500, Lawdragon, 2019
- Top Attorneys in Washington, Seattle Met Magazine, 2016 – 2019

EXPERIENCE

- Experience trying cases in federal and state courts in San Francisco, Los Angeles and Seattle
- Served as lead or co-lead counsel in 12 federal jury trials and has presented more than a dozen cases to the Ninth Circuit Court of Appeals
- As a federal prosecutor in Los Angeles, Mr. Loeser was a member of the Cyber and Intellectual Property Crimes Section and regularly appeared in the Central District trial courts and the Ninth Circuit Court of Appeals
- Assistant U.S. Attorney, U.S. Department of Justice
- Wilson Sonsini Goodrich & Rosati

PARTNER

Thomas E. Loeser

- U.S. District Court for the District of Columbia
- U.S. District Court for the Eastern District of California
- U.S. District Court for the Northern District of California
- U.S. District Court for the Southern District of California
- U.S. District Court for the Central District of California
- Supreme Court of California
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Western District of Washington
- Supreme Court of Washington
- Ninth Circuit Court of Appeals

EDUCATION

- Duke University School of Law, J.D., **magna cum Laude**, Order of the Coif, Articles Editor Law and Contemporary Problems, 1999
- University of Washington, M.B.A., **cum laude**, Beta Gamma Sigma, 1994
- Middlebury College, B.A., Physics with Minor in Italian, 1988

NOTABLE CASES

- Volkswagen Emissions Defect Litigation
- Shea Homes Construction Defect Litigation
- Meracord/Noteworld Debt Settlement Litigation
- Defective RV Refrigerators Litigation
- New Jersey Medicare Outlier Litigation
- Center for Diagnostic Imaging Qui Tam Litigation
- Countrywide FHA Fraud Qui Tam Litigation
- Chicago Title Insurance Co. Litigation
- KB Homes Captive Escrow Litigation
- Aurora Loan Modification Litigation
- Wells Fargo HAMP Modification Litigation
- JPMorgan Chase Force-Placed Flood Insurance Litigation
- Wells Fargo Force-Placed Insurance Litigation
- Target Data Breach Litigation
- Cornerstone Advisors Derivative Litigation
- Honda Civic Hybrid Litigation
- Hyundai MPG Litigation

LANGUAGES

- French
- Italian

PARTNER

Christopher R. Pitoun

Christopher R. Pitoun has focused on consumer litigation since graduating from law school and has gained broad experience representing individuals, municipalities and small businesses in all forms of complex litigation.

CONTACT
301 North Lake Ave.
Suite 920
Pasadena, CA 91101

(213) 330-7148 office
(213) 330-7152 fax
chrisp@hbsslaw.com

YEARS OF EXPERIENCE
- 11

PRACTICE AREAS
- Consumer Protection
- Intellectual Property

BAR ADMISSIONS
- California
- U.S. District Court, Central District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California
- U.S. District Court, Eastern District of California
- U.S. Court of Appeals for the Ninth Circuit

EDUCATION
- Loyola Law School, Los Angeles, J.D. 2011, Note and Comment Editor, Loyola of Los Angeles Entertainment Law Review
- University of Chicago, M.A. 2005
- University of Michigan, B.A., with High Honors, 2004
- London School of Economics, General Course, 2003

CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP
- Practice focuses on class actions and other complex litigation

EXPERIENCE

- Prior to joining Hagens Berman, Chris worked as an associate at a large plaintiff's firm gaining extensive experience representing plaintiffs in business litigation involving copyright and trademark disputes, breach of contract claims and breach of fiduciary duty claims. He also worked on a number of nationwide class actions involving products liability matters in the pharmaceutical and construction industries.
- Office of the Attorney General of California, Business and Tax Division, Winter 2010

RECENT SUCCESS

- *BofA Countrywide Appraisal RICO*, No. 2:16-cv-04166 (C.D. Cal.) (part of team that secured $250,000,000 settlement on behalf of nationwide class of borrowers against appraiser)
- *Sake House Restaurants Racial Discrimination Litigation*, Case No. BC7087544 (Cal.Super.) (certified for settlement purposes first of its kind hostile work environment class of Hispanic/Latino restaurant workers against employer)
- *USC, Dr. Tyndall Sexual Harassment*, No. 2:18-cv-04258-SVW-GJS (C.D. Cal.) (part of team that secured $215,000,000 settlement on behalf of class of sexual assault survivors against university and OB-GYN)

NOTABLE CASES

- *CVS Generic Drug RICO Litigation*
- *Fiat Chrysler Low Oil Pressure Shut Off*
- *Fiat Chrysler Gear Shifter Rollaway*
- *Ford F-150 & Ranger Fuel Economy and Sales Practices Litigation*
- *Gilead HIV TDF Tenofovir Mass Tort*
- *Mattel/Fisher Price Rock 'N Play Wrongful Dealth Cases*

PRESENTATIONS

- Panelist, "Conscious Consumerism and the Government's Role in Regulating Companies' Ethical Promises," ABA Webinar. March 2022

LANGUAGES

- French

PERSONAL INSIGHT

Prior to attending law school, Chris taught English and French to high school students in China. Chris later decided to become a lawyer while marketing the film "Michael Clayton." In his spare time, Chris works as a volunteer for the American Friends of the Israel Museum, a non-profit which helps raise funds for the Israel Museum in Jerusalem.

OF COUNSEL

Rachel E. Fitzpatrick

Ms. Fitzpatrick was a member of the trial team responsible for a $5.25 million dollar jury verdict on behalf of an Ohio plaintiff who was badly burned while trying to rescue her paraplegic son.

CONTACT
11 West Jefferson St.
Suite 1000
Phoenix, AZ 85003

(602) 224-2636 office
(602) 840-3012 fax
rachelf@hbsslaw.com

YEARS OF EXPERIENCE
- 10

PRACTICE AREAS
- Complex Civil Litigation
- Consumer Fraud
- Mass Tort

BAR ADMISSIONS
- Arizona

EDUCATION
- Arizona State University, B.S., **magna cum laude,** 2007
- Arizona State University Sandra Day O'Connor College of Law, J.D., 2011

CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro LLP
- Practice focuses on complex civil litigation and nationwide class actions, including consumer fraud and mass tort
- Ms. Fitzpatrick is a member of the firm's Auto Group, working on behalf of consumers in class actions against auto manufacturers involving vehicle defects. Her current auto cases involve dangerous defects that result in vehicle or engine fires in certain Hyundai, Kia, and Ford vehicles

RECENT SUCCESS

- Ms. Fitzpatrick worked on behalf of Hyundai and Kia vehicles owners to secure a nationwide class settlement in litigation where Plaintiffs alleged a defect in nearly 4 million class vehicles equipped with Theta II GDI engines posed a risk of catastrophic engine failure and fire. The settlement secured various categories of reimbursement and compensation for costly engine repairs and engine fires, as well as a lifetime transferable warranty against the engine defect. The Court granted final approval of the settlement in May 2021.
- Ms. Fitzpatrick was among the team litigating against General Motors for concealing from consumers the notorious and deadly ignition switch defect, as well as other defects, across 12 million GM vehicles. After years of complicated and protracted litigation, the case settled for $120 million, and the Court granted final approval of the settlement in December 2020.
- Ms. Fitzpatrick worked on behalf of student-athlete plaintiffs in the highly publicized cases Keller v. Electronic Arts and In re NCAA Student-Athlete Name and Likeness Licensing Litigation. The cases alleged that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company violated state right of publicity laws and the NCAA's contractual agreements with student-athletes by using the names, images, and likenesses of the student athletes in EA's NCAA-themed football and basketball video games.
- In March 2012, Ms. Fitzpatrick was a member of the trial team responsible for a $5.25 million dollar jury verdict on behalf of an Ohio plaintiff who was badly burned while trying to rescue her paraplegic son from his burning home. The verdict is believed to be the largest in Columbiana County, Ohio history.

NOTABLE CASES

- In re: Kia Engine Litigation ("Engine I"), U.S. District Court, CD Cal, Case No. 8:17-cv-00838-JLS-JDE
- In re: Hyundai and Kia Engine Litigation II ("Engine II"), U.S. District Court, CD Cal, Case No. 8:18-cv-02223-JLS

OF COUNSEL

Rachel E. Fitzpatrick

- In re: General Motors LLC Ignition Switch Litigation, U.S. District Court, SD NY, Case No. 14-MD-2543 (JMF)
- Keller v. Electronic Arts Inc., U.S. Court of Appeals, Ninth Circuit, Case No. 10-15387
- In Re NCAA Student-Athlete Name and Likeness Licensing Litigation, U.S. District Court, ND Cal., Case No. 3:09-CV-01967-CW
- Antonick v. Electronic Arts, Inc., U.S. District Court, ND Cal., Case No. 3:11-CV-01543-CRB

PERSONAL INSIGHT

Ms. Fitzpatrick spent three years as a professional NFL cheerleader for the Arizona Cardinals and traveled with the squad to Iraq, Kuwait, and the United Arab Emirates to perform for troops stationed overseas.

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RAMTIN ZAKIKHANI et al.,

Plaintiffs,

v.

HYUNDAI MOTOR COMPANY et al.,

Defendants.

CASE NO. 8:20-cv-01584-SB-JDE

DECLARATION OF PROFESSOR ROBERT H. KLONOFF RELATING TO ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS

TABLE OF CONTENTS

ROBERT H. KLONOFF, under penalty of perjury, declares as follows:

I. INTRODUCTION

1. I have been asked by class counsel to opine on the reasonableness of: (1) their requested attorneys' fees; (2) their requested out-of-pocket costs; and (3) their proposed service awards to the class representatives. I offer my opinions for the Court's consideration based on my background and experience. I recognize, of course, that my role is limited and that this Court will make the ultimate decision.

II. QUALIFICATIONS

2. I have served as an expert in numerous class action cases and have opined on attorneys' fees, costs, and service award issues in many of those cases. I am currently the Jordan D. Schnitzer Professor of Law at Lewis & Clark Law School and have held that position since June 1, 2014. This is an endowed, tenured position at the rank of full professor. From July 1, 2007, to May 31, 2014, I served as the Dean of Lewis & Clark Law School, and I was also a full professor at Lewis & Clark during that time. Immediately prior to assuming the deanship at Lewis & Clark, I served for four years as the Douglas Stripp/Missouri Professor of Law at the University of Missouri-Kansas City School of Law (UMKC). That appointment was an endowed, tenured position at the rank of full professor. Before joining the academy in a full-time capacity, I served for more than a dozen years as an attorney with the international law firm of Jones Day, working in the firm's Washington, D.C. office. I was an equity partner at the firm for most of that time. (I continued to work for Jones Day while I was employed at UMKC; my status with the firm during that period changed from partner to of counsel.). While working at Jones Day (before joining the

UMKC faculty), I also served for many years as an adjunct professor of law at Georgetown University Law Center. Before joining Jones Day, I served as an Assistant United States Attorney and as an Assistant to the Solicitor General of the United States. Immediately after graduating from law school, I served as a law clerk for Chief Judge John R. Brown of the U.S. Court of Appeals for the Fifth Circuit. I received my law degree from Yale Law School.

3. In my various academic positions, I have taught (among other subjects) complex litigation, class actions, civil procedure, federal courts, and federal appellate procedure. With respect to my scholarship, since 2022, I have been a co-author of the Wright & Miller treatise, *Federal Practice and Procedure*. I have sole responsibility for the three volumes of the treatise focusing on class actions (including attorneys' fees in class actions). In addition, I co-authored the first casebook devoted specifically to class actions, and I am now the sole author of that book: *Class Actions and Other Multi-Party Litigation: Cases and Materials* (West 4th ed. 2017). I am also the sole author of the Nutshell on class actions: *Class Actions and Other Multi-Party Litigation in a Nutshell* (West 6th ed. 2021), and the Nutshell on federal multidistrict litigation, *Federal Multidistrict Litigation in a Nutshell* (West 2020). These texts, which address attorneys' fees issues, are used at law schools throughout the United States and have been cited by many courts and commentators.[1] I have also authored or co-authored numerous scholarly articles on

[1] *See, e.g.*, *Soileau v. Churchill Downs Louisiana Horseracing Co., L.L.C.*, 2021-0022 (La. App 4th Cir. Dec. 22, 2021), 2021 La. App. LEXIS 2022, at *83 (*citing* casebook); *Kolbe v. BAC Home Loans Servicing, LP*, 738 F.3d 432, 468 (1st Cir. 2013) (*citing Class Action Nutshell*); *Culver v. City of Milwaukee*, 277 F.3d 908, 913 (7th Cir. 2002) (*citing Class Action Nutshell*); *LaRocque ex rel. Spang v. TRS Recovery Servs., Inc.*, 285 F.R.D. 139, 151 (D. Me. 2012) (*citing Class Action Nutshell*); *Adams v. United Services Automobile Ass'n*, No. 2:14-CV-02013, 2016

class actions and other topics.[2] In October 2014, I was elected to membership in the International Association of Procedural Law (IAPL), an organization of preeminent civil procedure scholars

---

WL 1465433, at *7 (W.D. Ark. Apr. 14, 2016) (*citing Class Action Nutshell*), *rev'd on other grounds*, 863 F.3d 1069 (8th Cir. 2017); Samir D. Parikh, *The New Mass Torts Bargain*, 91 FORDHAM L. REV. 447 (2022) (*citing Federal Multidistrict Litigation Nutshell)*; Brian T. Fitzpatrick, *Many Minds, Many MDL Judges*, 84 LAW & CONTEMP. PROBS. 107 (2021) (*citing Federal Multidistrict Litigation Nutshell)*; Judge Stephen R. Bough & Anne E. Case-Halferty, *A Judicial Perspective on Approaches to Mdl Settlement*, 89 UMKC L. Rev. 971, 973-974 (2021) (*citing Federal Multidistrict Litigation Nutshell*); Libby Jelinek, *The Applicability of the Federal Rules of Evidence at Class Certification*, 65 UCLA L. REV. 280, 286 n.27, 291 n.65, 316 n.206 (2018) (*citing* casebook and *Class Action Nutshell*); Jaime Dodge, *Privatizing Mass Settlement*, 90 NOTRE DAME L. REV. 335, 337 n.12 (2014) (*citing* casebook); Vaughn R. Walker, *Class Actions Along the Path of Federal Rule Making*, 44 LOY. U. CHI. L.J. 445, 449 n. 17 (2012) (*citing Class Action Nutshell*); Richard A. Nagareda, *The Preexistence Principle and the Structure of the Class Action*, 103 COLUM. L. REV. 149, 151 n.5 (2003) (*citing* casebook); Kenneth S. Rivlin & Jamaica D. Potts, *Proposed Rule Changes to Federal Civil Procedure May Introduce New Challenges in Environmental Class Action Litigation*, 27 HARV. ENVTL. L. REV. 519, 521 n.10 (2003) (*citing Class Action Nutshell*).

[2] My articles have been frequently cited. For example, my 2013 article, *The Decline of Class Actions*, 90 WASH. U. L. REV. 729 (2013), has been cited dozens of times by courts and commentators. *See, e.g.*, *In re Baby Boy Doe*, 975 N.W.2d 486, 491, (McCormack, C.J., concurring in part), *reconsideration denied*, 979 N.W.2d 324 (Mich. 2022), *cert. denied*, *Kruithoff v. Cath. Charities of W. Michigan*, 2022 WL 17408187 (U.S. Dec. 5, 2022); *Roland v. Annett Holdings, Inc.*, 940 N.W.2d 752, 769 (Iowa 2020); *Mielo v. Steak 'n Shake Operations, Inc.*, 897 F.3d 467, 484 & n.18 (3d Cir. 2018); *In re National Football League Players' Concussion Injury Litig.*, 775 F.3d 570, 576 (3d Cir. 2014); *Eubank v. Pella Corp.*, 753 F.3d 718, 719 (7th Cir. 2014) (Posner, J.); *In re Johnson*, 760 F.3d 66, 75 (D.C. Cir. 2014); *Shupe v. Rocket Companies, Inc.*, 2022 WL 1421493 at *3 (E.D. Mich. May 5, 2022); *McCreary v. Federal Bureau of Prisons*, 2020 U.S. Dist. LEXIS 15310, at *46 (M.D. Pa. Jan. 29, 2020); *Wendell H. Stone Co., Inc. v. PC Shield Inc.*, No. 18-cv-001135, 2018 WL 6065408, at *2 (W.D. Pa. Nov. 19, 2018); *In re Aetna UCR Litig.*, No. 07-cv-03541-KSH-CLW, 2018 U.S. Dist. LEXIS 111130, at *43 n.15 (D.N.J. June 30, 2018); *Dickens v. GC Services Limited Partnership*, 220 F. Supp. 3d 1312, 1324 (M.D. Fla. 2016), *vacated on other grounds*, 706 F. App'x 529 (11th Cir. 2017); *In re Kosmos Energy Ltd. Sec. Litig.*, No. 3:12-cv-373-B, 2014 WL 1095326, at *2 n.20 (N.D. Tex. Mar. 19, 2014); *LaRocque ex rel. Spang v. TRS Recovery Servs., Inc.*, 285 F.R.D. 139, 152 (D. Me. 2012); Christine P. Bartholomew, *Antitrust Class Actions in the Wake of Procedural Reform*, 97 Ind. L.J. 1315, 1317 (2022); Joshua P. Davis, *Of Robolawyers and Robojudges*, 73 Hastings L.J. 1173, 1191 (2022); Alix Valenti, *Class Actions Ten Years after* Wal-Mart Stores, Inc. v. Dukes*: Difficult but Not*

Impossible, 24 ATL. L.J. 2 (2022); J. Maria Glover, *Mass Arbitration*, 74 STAN. L. REV. 1283 (2022); Andrew D. Bradt, et. al., *Dissonance and Distress in Bankruptcy and Mass Torts*, 91 FORDHAM L. REV. 309 (2022); R. Andrew Grindstaff, *Article III Standing, the Sword and the Shield: Resolving a Circuit Split in Favor of Data Breach Plaintiffs*, 29 WM. & MARY BILL RTS. J. 851 (2021); Stephen B. Burbank & Sean Farhang, *Class Certification in the US Courts of Appeals: A Longitudinal Study*, 84 Law & Contemp. Prob. 73, 82 (2021); Samuel Issacharoff, *Rule 23 and the Triumph of Experience*, 84 Law & Contemp. Prob. 161, 172 (2021); Abbe R. Gluck & Elizabeth Chamblee Burch, *MDL Revolution*, 96 N.Y.U. L. Rev. 1, 60 (2021); Jason Iuliano, *The Student Loan Bankruptcy Gap*, 70 Duke L.J. 497, 538 (2020); Elysa M. Dishman, *Class Action Squared: Multistate Actions and Agency Dilemmas*, 96 Notre Dame L. Rev. 291, 311 (2020); Angela P. Harris & Aysha Pamukcu, *The Civil Rights of Health: A New Approach to Challenging Structural Inequality*, 67 UCLA L. Rev. 758, 800 (2020); Sunita Patel, *Jumping Hurdles to Sue the Police*, 104 Minn. L. Rev. 2257, 2262 (2020); Anne E. Ralph, *The Story of A Class: Uses of Narrative in Public Interest Class Actions Before Certification*, 95 Wash. L. Rev. 259, 278-79 (2020); Colin Crawford, *Access to Justice for Collective and Diffuse Rights: Theoretical Challenges and Opportunities for Social Contract Theory*, 27 Ind. J. Global Legal Stud. 59, 79 (2020); D. Brooks Smith, *Class Action and Aggregate Litigation: A Comparative International Analysis*, 124 Penn St. L. Rev. 303, 326-27 (2020); Daniel Wilf-Townsend, *Did* Bristol-Myers Squibb *Kill the Nationwide Class Action?*, 129 Yale L.J. Forum 205, 206 (2019); Pamela K. Bookman, *The Arbitration–Litigation Paradox*, 72 VAND. L. REV. 1119, 1143 n.146 (2019); David C. Miller, *Abuse of Discretion and the Sliding Scale of Difference: Restoring the Balance of Power Between Circuit Courts and District Courts for Rule 23 Class Certification Decisions in Oil and Gas Royalty Litigation*, 103 IOWA L. REV. 1811 *passim* (2018); Libby Jelinek, *The Applicability of the Federal Rules of Evidence at Class Certification*, 65 UCLA L. REV. 280, 297 n.101 (2018); Andrew D. Bradt & D. Theodore Rave, *Aggregation on Defendants' Terms:* Bristol-Myers Squibb *and the Federalization of Mass Tort Litigation*, 59 B.C. L. REV. 1251, 1261 n.39, 1266 n.78, 1286 n.196 (2018); Joseph A. Seiner, *Tailoring Class Actions to the On-Demand Economy*, 78 OHIO ST. L.J. 21, 25 n.14, 32 n.54 (2017); Brian T. Fitzpatrick, *Justice Scalia and Class Actions: A Loving Critique*, 92 NOTRE DAME L. REV. 1977, 1979 (2017); Deborah R. Hensler, *From Sea to Shining Sea: How and Why Class Actions Are Spreading Globally*, 65 KAN. L. REV. 965, 965 n.2 (2017); Richard Marcus, *Bending in the Breeze: American Class Actions in the Twenty-First Century*, 65 DEPAUL L. REV. 497, 497 & n.2 (2016); Maureen Carroll, *Class Action Myopia*, 65 DUKE L.J. 843, 846 n.8, 876–78 & nn.181, 183 & 190–93, 881 nn.211 & 213, 883 n.225 (2016); Claire E. Bourque, Note, *Liability Only, Please—Hold the Damages: The Supreme Court's New Order for Class Certification*, 22 GEO. MASON L. REV. 695, 698 n.29 (2015); Martin H. Redish & Julie M. Karaba, *One Size Doesn't Fit All: Multidistrict Litigation, Due Process, and the Dangers of Procedural Collectivism*, 95 B.U. L. REV. 109, 110 n.2 (2015); Robert G. Bone, *The Misguided Search For Class Unity*, 82 GEO. WASH. L. REV. 651, 654 n.6 (2014); David Freeman Engstrom, *Private Enforcement's Pathways: Lessons From Qui Tam Litigation*, 114 COLUM. L. REV. 1913, 1920 n.17 (2014); Howard M. Erichson, *The Problem of Settlement Class Actions*, 82 WASH. U. L. REV. 951, 956 n.20 (2014); Arthur R. Miller, Keynote Address, *The Preservation and Rejuvenation of*

from around the world. I was selected in a competitive process to present a scholarly article on class actions at the May 2015 Congress of the IAPL, an event held once every four years.

4. In September 2011, the Chief Justice of the United States appointed me to serve a three-year term as the academic voting member of the Judicial Conference Advisory Committee on Rules of Civil Procedure ("Advisory Committee"). The Advisory Committee considers and recommends amendments to the Federal Rules of Civil Procedure. Only one professor in the United States is selected by the Chief Justice to serve in that role during any three-year term. In May 2014, the Chief Justice reappointed me to serve a second three-year term on the Advisory Committee. I completed that service in May 2017. (The maximum period of service on the Advisory Committee is six years.) I also served on the Advisory Committee's Class Action Subcommittee, which took the lead for the full Advisory Committee on proposed amendments to

---

Aggregate Litigation: A Systemic Imperative, 64 EMORY L.J. 293, 294 n.7 (2014); Linda S. Mullenix, *Ending Class Actions As We Know Them: Rethinking the American Class Action*, 64 EMORY L.J. 399, 403 n.14 (2014); Stephen R. Subrin & Thomas O. Main, *The Fourth Era of American Civil Procedure*, 162 U. PA. L. REV. 1839, 1853 n.80 (2014); Erin L. Geller, *The Fail-Safe Class as an Independent Bar to Class Certification*, 81 FORDHAM L. REV. 2769, 2775 n. 38 (2013); Arthur R. Miller, *Simplified Pleading, Meaningful Days in Court, and Trials on the Merits: Reflections on the Deformation of Federal Procedure*, 88 N.Y.U. L. REV. 286, 314 n.105 (2013); D. Theodore Rave, *Governing the Anticommons in Aggregate Litigation*, 66 VAND. L. REV. 1183, 1186 n.5 (2013); Brandon L. Garrett, *Aggregation and Constitutional Rights*, 88 NOTRE DAME L. REV. 593, 610 n.82 (2012); Richard Marcus, *Still Confronting the Consolidation Conundrum*, 88 NOTRE DAME L. REV. 557, 560 n.17, 589 n.154 (2012); *Hearing on "The State of Class Actions Ten Years after the Class Action Fairness Act" Before the Committee on the Judiciary, Subcommittee on the Constitution and Civil Justice* (U.S. House of Representatives, Feb. 27, 2015) (statement of Prof. Patricia W. Moore), at 2 n.4.

the federal class action rule, Federal Rule of Civil Procedure 23. Those proposed amendments became effective on December 1, 2018.

5. I served as an Associate Reporter for the American Law Institute's class action (and other multi-party litigation) project, *Principles of the Law of Aggregate Litigation*. I was the principal author of Chapter 3, which addresses class action settlements and attorneys' fees. The ALI project was unanimously approved by the membership of the American Law Institute at its annual meeting in May 2009 and was published by the American Law Institute in May 2010. It has been frequently cited by courts and commentators.[3]

---

[3] *See*, *e.g.*, *Smith v. Bayer Corp.*, 564 U.S. 299, 316 (2011) n.11 (2011); *In re Google Inc. St. View Elec. Commc'ns Litig.*, 21 F.4th 1102, 1122–23 (9th Cir. 2021) (Bade, J., concurring), *cert. denied*. 143 S. Ct. 107 (2022); *In re Google Referrer Header Privacy Litig.*, 869 F.3d 737, 744, 749 (9th Cir. 2017); *Baker v. Microsoft Corp.*, 797 F.3d 607, 615 n. 5 (9th Cir. 2015), *rev'd on other grounds*, 137 S. Ct. 1702 (2017); *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1039 n.2 (9th Cir. 2011); *In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.*, 421 F. Supp. 3d 12, 71 (E.D. Pa. 2019), *aff'd sub nom. In re Suboxone (Buprenorphine Hydrochlorine & Naloxone) Antitrust Litig.*, 967 F.3d 264 (3d Cir. 2020); *In re Google Inc. Cookie Placement Consumer Privacy Litig.*, 934 F.3d 316, 331 (3d Cir. 2019); *Keepseagle v. Perdue*, 856 F.3d 1039, 1069–70 (D.C. Cir. 2017) (Brown, J., dissenting); *Hill v. State Street Corp.*, 794 F.3d 227, 229, 231 (1st Cir. 2015); *In re BankAmerica Corp. Secs. Litig.*, 775 F.3d 1060, 1063–67 (8th Cir. 2015); *In re Nexium Antitrust Litig.*, 777 F.3d 9, 19–20 (1st Cir. 2015); *In re Trans Union Corp. Privacy Litig.*, 741 F.3d 811, 813 (7th Cir. 2014); *In re Baby Prods. Antitrust Litig.*, 708 F.3d 163, 171–72 (3d Cir. 2013); *Ira Holtzman, CPA v. Turza*, 728 F.3d 682, 689–90 (7th Cir. 2013); *In re Lupron Mktg. & Sales Practices Litig.*, 677 F.3d 21, 32–33 (1st Cir. 2012); *Klier v. Elf Atochem N.A., Inc.*, 658 F.3d 468, 474–75 nn.14–16 (5th Cir. 2011); *In re Chesapeake Energy Corp.*, 567 F. Supp. 3d 754, 776 (S.D. Tex. 2021); *Cabiness v. Educ. Fin. Solutions, LLC*, No. 16-cv-01109-JST, 2018 WL 3108991, at *8 n.4 (N.D. Cal. June 25, 2018); *Keepseagle v. Vilsack*, 118 F. Supp. 3d 98, 116 (D.D.C. 2015); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1355–56 (S.D. Fla. 2011); Abbe R. Gluck & Elizabeth Chamblee Burch, *MDL Revolution*, 96 N.Y.U. L. Rev. 1, 30 (2021); Myriam Gilles & Gary Friedman, *The Issue Class Revolution*, 101 B.U. L. Rev. 133, 139-140 (2021); Elizabeth Chamblee Burch & Margaret S. Williams, *Judicial Adjuncts in Multidistrict Litigation*, 120 Colum. L. Rev. 2129, 2121-22 (2020); Brian T. Fitzpatrick, *Why Class Actions Are Something Both Liberals and Conservatives Can Love*, 73 Vand. L. Rev. 1147, 1153 (2020);

6. I have more than 40 years of experience as a practicing lawyer. I have had eight oral arguments before the U.S. Supreme Court, and numerous oral arguments in other federal and state appellate courts throughout the country, including oral arguments in eight federal circuits. As an attorney at Jones Day, I personally handled more than 100 class action cases, mostly (but not entirely) on the defense side. I have also served as co-counsel in numerous class actions post-Jones Day.

7. I have lectured and taught on class actions and other litigation topics throughout the United States and abroad, including presentations at law schools in Cambodia, Canada, China, Colombia, Croatia, Ecuador, Germany, India, Israel, Italy, Japan, the Philippines, Russia, South Korea, Taiwan, and Turkey. Over the years, I have frequently appeared as an invited speaker at class action symposia, conferences, and continuing legal education programs.[4]

8. I have testified as an expert in numerous class action cases and in other cases raising civil procedure issues. Between 2011 and the present, I testified in the following cases:

Robert G. Bone, *In Defense of the Cy-Pres-Only Class Action*, 24 Lewis & Clark L. Rev. 571, 575 (2020); David L. Noll, *MDL As Public Administration*, 118 Mich. L. Rev. 403, 457 (2019); Andrew D. Bradt & D. Theodore Rave, *It's Good to Have the "Haves" on Your Side: A Defense of Repeat Players in Multidistrict Litigation*, 108 Geo. L.J. 73, 99 (2019); Richard Marcus, *Revolution v. Evolution in Class Action Reform*, 96 N.C. L. REV. 903, 927–28, 933 n.161, (2018); Sergio J. Campos, *Mass Torts and Due Process*, 65 VAND. L. REV. 1059, 1063 (2012); Tanya J. Monestier, *Transnational Class Actions and the Illusory Search for Res Judicata*, 86 TUL. L. REV. 1, 66 (2011); Rhonda Wasserman, *Cy Pres in Class Action Settlements*, 88 S. CAL. L. REV. 97, 111 (2014); Ryan C. Williams, *Due Process, Class Action Opt Outs, and the Right to Sue*, 115 COLUM. L. REV. 599, 649–50 (2015).

[4] Examples of those courses and speaking engagements are contained in my attached curriculum vitae (Appendix A).

- *Rogowski, et al. v. State Farm Life Insurance*, No. 4:22-cv-00203-RK (W.D. Mo.) (submitted expert declaration, dated 02/13/23, in support of class counsel's motion for attorneys' fees, and service awards for class plaintiffs);

- *In re Marjory Stoneman Douglas High School Shooting FTCA Litigation*, No. 01:18-62758-WPD (S.D. Fla.) (*Parkland*) (submitted expert declaration, dated 02/08/22, on a motion to terminate lead counsel; submitted supplemental expert declaration, dated 10/28/22, on attorneys' fees issues);

- *Githieya v. Global Tel Link Corp.*, No. 1:15-cv-00986-AT (N.D. Ga.) (submitted expert declaration, dated 04/01/22, on attorneys' fees issues; submitted expert declaration, dated 07/22/22, on class certification and fairness issues in connection with a proposed class settlement);

- *Rosie D. v. Baker,* C.A. No. 01-30199-RGS (D. Mass.) (submitted expert declaration, dated 11/23/21, on attorneys' fees issues);

- *Bahn v. American Honda Motor Co.*, No. 2:19-cv-5984 RGK (C.D. Cal.) (submitted expert declaration, dated 11/22/21, on attorneys' fees issues);

- *In re Broiler Chicken Antitrust Litig.*, No. 1:16-CV-08637 (N.D. Ill.) (submitted expert declaration, dated 09/15/21, on attorneys' fees issues raised by the court);

- *Pinon v. Daimler AG.*, No. 1:18-cv-03984 (N.D. Ga.) (submitted expert declaration, dated 7/24/21, opining on the fairness of the settlement to members of the class under Fed. R. Civ. P. 23(e) and the adequacy of the class counsel and class representatives);

- *Rosas v. Sarbanand Farms, LLC.,* No. 2:18-CV-0112-JCC (W.D. Wa.) (submitted expert declaration, dated 4/19/20, opining that a final fairness hearing under Fed. R. Civ. P. 23(e) can be conducted telephonically);

- *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132 (N.D. Ga. Mar. 17, 2020) (submitted expert declaration on attorneys' fees on 10/29/19; submitted supplemental expert declaration on class settlement terms on 12/15/19), *aff'd in relevant part, In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247 (11th Cir. June 3, 2021);

- *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices &Products Liability Litigation*, No. 3:17-md-02777-EMC (N.D. Cal.) (submitted expert declaration on settlement fairness, dated 4/25/19);

- *The Doan v. State Farm General Insurance Co.*, No. 1-08-CV-129264 (Cal. Sup. Ct. Santa Clara Cnty.) (submitted expert declaration on settlement fairness, attorneys' fees, expenses, and incentive payments, dated 1/16/19);

- *In re Syngenta AG MIR162 Corn Litigation*, No. 2:14-MD-02591-JWL-JPO (D. Kan.) (submitted expert declaration on attorneys' fees, expenses, and incentive payments, dated 7/10/18; submitted supplemental declaration on attorneys' fees, dated, 8/17/18);

- *In re Chinese-Manufactured Drywall Litigation*, MDL No. 2047 (E.D. La.) (submitted expert declarations on attorneys' fees issues, dated 05/04/17 and 08/01/18);

- *Jabbari v. Wells Fargo & Co.*, No. 15-cv-02159-VC (N.D. Cal.) (submitted expert declaration on class certification, settlement fairness, attorneys' fees, costs, and incentive payments in unauthorized accounts litigation, dated 1/19/18; submitted supplemental declaration on 5/21/18);

- *Lynch v. Lynch*, No. F.D. 14-6239-006 (Pa. Ct. Comm. Pl., Allegheny Cnty.) (submitted expert declaration on the nature of class action law practice in the context of a divorce proceeding involving a class action attorney) (dated 9/05/17);

- *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.) (submitted expert declaration addressing objections by class members to proposed 3.0-liter and Bosch settlements) (dated 4/28/17);

- *State of Louisiana & Vermilion Parish School Board v. Louisiana Land and Exploration Co., et al.,* No. 82162 (15th Judicial Court, Parish of Vermilion) (submitted expert declaration on attorneys' fees issues) (dated 3/9/17);

- *Thacker v. Farmers Insurance Exchange*, Case No. 2006CV342 (Dist. Ct. Boulder County, Colo.) (submitted expert declaration on class certification issues) (dated 1/24/17);

- *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.) (submitted expert declaration addressing objections by class members to proposed 2.0-liter settlement) (dated 9/30/16);

- *In the Matter of Gosselin Group*, No. 15/3925/B (Antwerp Court of First Instance, Belgium) (submitted expert declaration discussing the role of U.S. federal appellate courts in the factfinding process) (dated 9/27/16);

- *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, Nos. 12-970, 15-4143, 15-4146, and 15-4645 (E.D. La.) (submitted expert declaration on class certification, settlement fairness, and attorneys' fees relating to proposed Halliburton/Transocean class settlement) (dated 8/5/16);

- *Ben-Hamo v. Facebook, Inc. and Facebook Ireland Limited*, No. 46065-09-14 (Central District Court, Israel) (submitted expert declaration on Sept. 3, 2015, on behalf of Facebook, Inc. and Facebook Ireland Limited addressing various issues of U.S. civil procedure and class action law);

- *Skold v. Intel Corp.*, Case No. 1-05-CV-039231 (Super. Ct. of Cal., Santa Clara County) (submitted expert declaration on class settlement approval, attorneys' fees, and incentive payments to class representatives) (dated 12/30/14);

- *In re National Football League Players' Concussion Injury Litigation*, No. 2:12-md-02323-AB (E.D. Pa.) (submitted expert declaration on class certification, class notice, and settlement fairness) (dated 11/12/14);

- *MBA Surety Agency, Inc. v. AT&T Mobility, LLC*, Case No. 1222-CC09746 (Mo. 22d Dist.) (submitted expert declaration on class certification and settlement fairness on 2/13/13; submitted a supplemental expert declaration on 2/19/13; and testified in court on 2/20/13);

- *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, No. 2:10-md-02179-CJB-SS (E.D. La.) ("Deepwater Horizon") (submitted expert declarations on class certification, fairness, and attorneys' fees for the economic and property damages settlement (Doc. No. 7104-3) and class certification, fairness, and attorneys' fees for the personal injuries settlement (Doc. No. 7111-4) (both dated 08/13/12), and submitted supplemental expert declarations for both class settlements (Doc. No. 7727-4) (economic), (Doc. No. 7728-2) (medical) (both dated 10/22/12));

- *Robichaux v. State of Louisiana, et al.* (No. 55,127) (18th Judicial Dist. Ct., Iberville Parish, La.) (submitted written report on attorneys' fees on February 20, 2012, gave deposition testimony on March 7, 2012, and testified in court on April 11, 2012); and

- *In re AT&T Mobility Wireless Data Services Sales Tax Litig.*, MDL No. 2147, Case No. 1:10-cv-02278 (N.D. Ill.) (submitted expert declarations on the fairness of a proposed class action settlement (Doc. No. 163-3) and on

attorneys' fees and incentive payments (Doc. 164-1) (both dated 03/08/11), and testified in court on March 10, 2011).

9. Courts reviewing class settlements and attorneys' fees issues have relied extensively on my testimony. For example, in *Githieya v. Global Tel Link Corp.*, Judge Amy Totenberg cited and quoted my declaration several times in awarding attorneys' fees to class counsel.[5] In *In re Broiler Chicken Antitrust Litig.*, Judge Thomas Durkin cited and quoted my declaration numerous times in awarding attorneys' fees of over $55 million, and he specifically stated that he found my declaration to be "very helpful."[6] In the *Syngenta MIR 162 Corn* MDL litigation, Judge John Lungstrum cited my two declarations on attorneys' fees issues numerous times in his two opinions.[7] Indeed, Judge Lungstrum endorsed my opinions on attorneys' fees over the contrary opinions of five law professor experts retained by various objectors.[8] In the *Deepwater Horizon* MDL litigation, Judge Carl Barbier cited and quoted my declarations (relating to a proposed settlement with British Petroleum) more than 60 times in his two opinions analyzing class certification and fairness.[9] In a later order in that MDL, Judge Barbier repeatedly cited

---

[5] *Githieya v. Global Tel Link Corp.*, No. 1:15-cv-00986-AT (N.D. Ga. Aug. 30, 2022).

[6] 2021 U.S. Dist. LEXIS 228367, at *47 n.4, *49–50 & n.5 (N.D. Ill. Nov. 30, 2021).

[7] *See In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d 1094, 1112 (D. Kan. 2018) (granting final approval of class settlement and awarding total attorneys' fees), *aff'd*, __ F.4th __, 2023 WL 2262878 (10th Cir. 2023); *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-MD-2591-JWL, 2018 WL 6839380 (D. Kan. Dec. 31, 2018) (allocating attorneys' fees among common benefit counsel and individually retained private attorneys), *aff'd*, __ F.4th __, 2023 WL 2262878 (10th Cir. 2023).

[8] *In re Syngenta*, 2018 WL 6839380 at *4.

[9] *See In re Deepwater Horizon*, 910 F. Supp. 2d 891, 903, 914–16, 918–21, 923–24, 926, 929–33, 938, 941, 947, 953, 955, 960, 962 (E.D. La. 2012) (approving economic and property

another declaration of mine—which I filed in connection with a class settlement involving Transocean and Halliburton.[10] In the *Volkswagen Clean Diesel* MDL litigation, Judge Charles Breyer repeatedly cited and quoted my two declarations in his three opinions—relating to the 2.0-liter VW class settlement, the 3.0-liter VW class settlement, and the class settlement with VW's co-defendant, Bosch.[11] In the *AT&T Mobility* MDL litigation, then-District Judge Amy St. Eve (now a Judge on the Seventh Circuit) cited and quoted my declarations more than 20 times in approving a class settlement and awarding attorneys' fees.[12] In the *Equifax Data Breach* case, Judge Thrash considered various expert reports relating to a class settlement and proposed attorneys' fees; he noted that, although he exercised his own independent judgment, he found my declaration to be "particularly helpful."[13] In the *Wells Fargo Unauthorized Accounts* litigation,

---

damages settlement), *aff'd*, 739 F.3d 790 (5th Cir. 2014); *In re Deepwater Horizon*, 295 F.R.D. 112, 133–34, 136, 138–41, 144–45, 147 (E.D. La. 2013) (approving medical benefits settlement).

[10] *See* Order and Reasons, Case No. 2:10-md-02179-CJB-JCW (Doc. No. 22252) (E.D. La. 02/15/17); *available at* http://www.laed.uscourts.gov/sites/default/files/OilSpill/2152017OrderAndReasons%28HESI%26TOsettlement%29.pdf (last visited Mar. 18, 2023).

[11] *See In re Volkswagen "Clean Diesel" Mktg., Sales Practices & Prods Liab. Litig.*, No. 3:15-md-02672-CRB, 2016 WL 6248426, at *18, *19, *20 (N.D. Cal. Oct. 25, 2016), *appeal filed*, No. 16-17185 (9th Cir. Nov. 29, 2016); Order Granting Final Approval of the Consumer and Reseller Dealership 3.0-Liter Class Action Settlement at 34, 35, 38, Case No. 3:15-md-02672-CRB (Doc. No. 3229) (filed 05/17/17); Order Granting Final Approval of the Bosch Class Action Settlement at 18, Case No. 3:15-md-02672-CRB (Doc. No.. 3230) (filed 05/17/17).

[12] *See In re AT&T Mobility Wireless Data Svcs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 956–59, 961, 963–65 (N.D. Ill. 2011) (approving class settlement); *In re AT&T Mobility Wireless Data Svcs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1032 n.3, 1034–35, 1037, 1040, 1042 (N.D. Ill. 2011) (awarding attorneys' fees).

[13] *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132 (N.D. Ga. Mar. 17, 2020), *aff'd in relevant part*, No. 20-10249, 2021 WL 2250845 (11th Cir. June 3, 2021).

Judge Vince Chhabria cited my declaration in ordering that the objectors to a class settlement post an appeal bond.[14] In *Skold v. Intel Corp.*, Judge Peter Kirwan cited my declaration in approving a class settlement and awarding attorneys' fees.[15]

10. In this case, I am being compensated at my standard hourly rate of $1,075.00.

11. Additional information regarding my qualifications and experience—including a list of my publications—can be found in my curriculum vitae (attached hereto as Appendix A).

III. MATERIALS RELIED UPON

12. I have reviewed numerous documents in the instant case:

(1) Numerous court filings in the present case, including the various complaints, pleadings, and orders relating to the class settlement;

(2) Lodestar data for all timekeepers provided by class counsel;

(3) Attorney and paralegal time records provided by class counsel;

(4) Expense materials provided by class counsel;

(5) Materials reflecting rates for timekeepers;

(6) Near final declaration of class representative Theodore Maddox;

---

[14] *See Jabbari v. Wells Fargo & Co.*, No. 15-cv-02159-VC, slip op. at 14 (N.D. Cal. June 14, 2018).

[15] *See Skold v. Intel Corp.*, No. 1-05-CV-039231 at 7 (Cal. Super. Ct. Santa Clara County) (Jan. 29, 2015), available at http://lawzilla.com/blog/janet-skold-et-al-vs-intel-corporation/.

(7) Near final and final declaration of valuation expert Susan Thompson.

IV. BACKGROUND OF THIS LITIGATION AND SETTLEMENT

13. This Court is thoroughly familiar with the details of the litigation, which has resulted in a nationwide class settlement. Thus, I focus solely on those facts that are critical to my expert opinions.

14. This settlement resolves three related lawsuits: *Zakikhani, Evans,* and *Pluskowski.* Each case alleges that the vehicles involved (the Class Vehicles) contained a defect in the ABS module, also known as a hydraulic electronic control unit (HECU). Plaintiffs allege that the defect can cause spontaneous vehicle fires, regardless of whether the vehicle is being driven or parked. Plaintiffs contend that the defect is caused by a short circuit that occurs within the ABS module, and that a heightened risk of a short circuit is allegedly created by the presence of moisture within the module, resulting in corrosion of the module's internal components. Defendants (various Hyundai and Kia entities, hereafter referred to collectively as Hyundai and Kia) have acknowledged the defect through voluntary recalls filed with the National Highway Traffic Safety Administration. SAC (Doc. 49) and Order granting in part Defendants' motion to dismiss SAC (Doc. 69).

15. The first suit, *Zakikhani*, was filed on August 25, 2020, following pre-suit investigation by class counsel dating back to April 3, 2020. Class counsel analyzed the cause of the fire in Zakikhani's vehicle and worked with an automotive expert to identify the defect and investigate other complaints. Zakikhani, joined by five other plaintiffs, filed a first amended complaint (FAC) on November 13, 2020. On June 28, 2021, this Court granted in part and denied in part defendants' motion to dismiss the FAC. On July 16, 2021, Zakikhani and nine other

plaintiffs filed a second amended complaint (SAC), seeking certification of a nationwide class of consumers (based on California law) and state classes for consumers in California, Florida, Ohio, Maryland, Virginia, Rhode Island, Texas, and Missouri. Thereafter, the Court set a compressed schedule for discovery and class certification, with a trial date of April 17, 2023. Defendants' motion to dismiss the SAC was denied in most respects.

16. *Evans* was filed on February 25, 2022, with claims and classes that largely overlapped with those in *Zakikhani*. On March 1, 2022, the *Evans* case was related to the *Zakikhani* case and transferred to this Court. Soon thereafter, class counsel in *Zakikhani* and *Evans* agreed to prosecute the cases jointly, thereby assuring efficiency in discovery and other matters.

17. As discussed in detail in ¶¶ 16–55 of the Declaration of Elizabeth Fegan in Support of Preliminary Approval (Doc. 115-1) (Fegan Decl.), the parties engaged in substantial discovery prior to reaching a settlement. That discovery included Rule 30(b)(6) depositions, interrogatories, extensive document productions, and third-party discovery of Mando America Corporation (the supplier of the ABS modules installed in certain Class Vehicles). Indeed, confirmatory discovery continued in the months following the parties' agreement to a term sheet. *Id.* ¶¶63–64.

18. The *Pluskowski* case was filed on April 15, 2022, with allegations and classes that also corresponded to those in *Zakikhani* and *Evans.*

19. On April 25–26, 2022, a mediator retained by the parties in *Zakikhani* and *Evans*, Retired Judge Edward A. Infante of JAMS, conducted settlement discussions. The parties selected Judge Infante because of his vast experience mediating complex cases, including automotive defect class actions. After more than 14 hours of mediation sessions over two days,

the parties reached an agreement in principle for a nationwide class settlement. The parties and Judge Infante focused solely on relief to the class and deferred discussion of attorneys' fees, costs, and service awards.

20. The *Pluskowski* plaintiffs and class counsel were not part of the mediation negotiations. However, class counsel in that case, who were experienced in automotive defect class actions, subsequently reviewed the terms of the settlement and decided to join it.

21. Under the nationwide settlement, which applies to all Hyundai and Kia Class Vehicles, class members receive numerous benefits. First, after completing the applicable NHTSA Recall remedy, each Class Vehicle will receive a warranty extension covering all future costs associated with the ABS module defect. For class members whose new car warranty is still in effect at the time of preliminary approval, the extended warranty period is 12 years. For class members whose new car warranty has expired, the extended warranty period is five years following the date of final approval. The extended warranty covers not only parts and labor to diagnose and repair the ABS module defect, but also related out-of-pocket expenses (without any cap), such as car rental and towing. Second, the settlement provides a free one-time ABS module inspection when a Class Vehicle is at an authorized Hyundai or Kia dealership for another unrelated service purpose if the ABS module was previously repaired pursuant to an NHTSA recall. The purpose of the inspection is to ensure that the module is free from any defect. Third, class members will receive full reimbursement for the cost of past Qualifying Repairs (a defined term in the settlement), provided that claims for those repairs are submitted within 60 days after final approval of the settlement. Reimbursement is allowed even if warranty coverage was denied on the ground that the vehicle was not properly serviced or maintained, unless Exceptional Neglect

(a defined term) is shown. Fourth, class members who are entitled to reimbursement for Qualifying Repairs are also entitled to full reimbursement for related towing or other out-of-pocket expenses. Fifth, a class member who suffered a loss of the vehicle from a fire caused by the defect will receive the maximum Black Book value of the Class Vehicle at the time of the loss, along with a goodwill payment of $140.

22. After negotiating the benefits, the parties focused on attorneys' fees, costs, and service awards. Hyundai and Kia agreed to pay attorneys' fees, costs, and service awards separately, so that class members would receive the full value of the settlement benefits, without any payment to counsel. However, both Hyundai and Kia declined to enter into "clear sailing" agreements. In other words, neither defendant agreed not to oppose fees of up to a certain specified amount. Instead, both defendants reserved the right to challenge the fees requested by class counsel, regardless of the amount sought. Similarly, the defendants reserved the right to challenge the out-of-pocket costs and service awards requested by class counsel. Settlement Agreement (Doc. 115-1) ¶ 14.3

23. On October 20, 2022, this Court entered an order granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (Doc. 130). First, the Court found that the Hyundai and Kia settlement classes satisfied the class certification requirements of Rule 23(a) and Rule 23(b)(3) for purposes of settlement. Second, the Court preliminarily concluded that the settlement was fair, reasonable, and adequate. The Court noted that the settlement was "the result of lengthy litigation," that "substantial amounts of information [were exchanged] between Plaintiffs and Defendants," and that the "material terms do not suggest that there was any collusion." *Id.* at 5. The Court further noted that "Defendants have agreed to pay separately

attorneys' fees and costs and Class Representative Service Awards," and that "[t]here is no clear sailing agreement." *Id.* Accordingly, the Court found that the settlement was "the product of serious, informed, non-collusive negotiations." *Id.* The Court's opinion summarized the relief afforded the class and emphasized that the settlement "does not offer preferential treatment to any Class Member." *Id.* In the Court's view, the settlement's "material terms are adequate in light of the risks inherent in pursuing a class action case to trial, the volume of discovery conducted to date, and the experience of Class Counsel." *Id.* at 6. The Court also approved the form and content of the class notice, designated the class representatives, appointed class counsel pursuant to Rule 23(g)(1), outlined the parameters governing objections and opt-outs by class members, and set the dates for fee submissions and, subsequently, for the hearing on final approval of the settlement and on class counsel's request for fees, costs, and service awards. The Court also appointed Epiq Class Action & Claims Solutions, Inc. as the settlement administrator for the Kia settlement class and noted that Hyundai has opted to self-administer the settlement.

24. Class counsel are requesting $8,696,551.50 in attorneys' fees, up to $239,767.60 in out-of-pocket costs, and a total of $67,500 in service awards for the 18 class representatives ($2,500 or $5,000 per representative, depending on the actions taken by each representative).

V. SUMMARY OF OPINIONS

25. In my opinion, the requested attorneys' fees of $8,696,551.50 are fully justified. Analyzing the requested fees under the lodestar method, I believe that the lodestar is reasonable. The hours were reasonably incurred, and the proposed hourly rates for all timekeepers are well supported. The multiplier works out to 3.0 (or 1.95 when anticipated future time of 2,500 hours is

factored in). Both 3.0 and 1.95 are well-justified multipliers, given the strong results achieved by class counsel and the efficient, high quality of representation.

26. Whether applied as the primary approach or as a cross-check, the fees sought are also well-justified under the percentage method. Fees sought are 3.0 percent or less of the benefit to the class and are being paid separately by defendants. The percentage is far less than the Ninth Circuit's 25 percent benchmark, and far less than the percentage typically awarded in complex class actions.

27. The out-of-pocket costs sought here (up to $239,767.60) are very reasonable, amounting to far less than one percent of the benefit to the class. Moreover, the costs approved by the Court will be paid separately by Hyundai and Kia.

28. The service awards sought here ($2,500 or $5,000, depending on the work performed) are very reasonable. This lawsuit could not have been prosecuted without the support of the class representatives. Those receiving $5,000 participated actively in discovery, and all of the class representatives monitored the litigation and reviewed the settlement's terms.

VI. DETAILED DISCUSSION OF OPINIONS

A. The Attorneys' Fees Requested are Reasonable

29. In common fund cases, courts can apply either the percentage method or the lodestar method,[16] although most courts prefer the percentage method.[17] In the present case, however, the issue is more complicated for three reasons.

30. First, this case does not involve a traditional common fund; instead, it involves primarily non-monetary benefits. To be sure, this difference is not dispositive here, given that the non-monetary benefits (consisting primarily of extended warranties) can be (and have been) valued by expert testimony. *See* ¶ 54. Nonetheless, it has been a factor in other analogous cases.[18]

31. Second, unlike the traditional common fund scenario, attorneys' fees are being paid separately and are not being taken from any class member's recovery. Again, this point does not foreclose the use of the percentage method. Class counsel deserve a fee award that reflects the

---

[16] *See, e.g.*, *Stetson v. Grissom*, 821 F.3d 1157, 1165 (9th Cir. 2016) (noting that district courts have "discretion to apply either the lodestar method or the percentage-of-the-fund method in calculating a fee award" in common funds cases) (cleaned up); *Aichele v. City of L.A.*, Case No.: CV 12-10863-DMG (FFMx), at *10 (C.D. Cal. Sep. 9, 2015) (same); *Ayoub v. Harry Winston, Inc.*, 21-cv-01599-JST, at *6 (N.D. Cal. Dec. 29, 2022) (same) (*citing Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002)); *In re Facebook Biometric Info. Privacy Litig.*, 522 F. Supp. 3d 617, 630 (N.D. Cal. 2021) (same).

[17] *See, e.g., Aichele v. City of L.A.*, Case No.: CV 12-10863-DMG (FFMx), 2015 WL 5286028 at *11 (C.D. Cal. Sep. 9, 2015) ("[A]ttorneys' fees should be aligned with those of the class, which is best accomplished by awarding a percentage of the fund in the normal contingent fee range. In this way, class counsel has an interest in maximizing the recovery because a greater recovery directly benefits counsel as well as the class."); *Suzuki v. Hitachi Global Storage Techs., Inc.*, No. C 06-7289 MHP, at *3 (N.D. Cal. Mar. 12, 2010) ("many federal courts have indicated a preference for the percentage-of-the-recovery method").

[18] *See, e.g.,* Order Granting Final Approval of Class Action Settlement at 35, *In re Kia Engine Litig.,* Case no. 8:17-cv-00838-JLS-JDE (Doc. 202 at 35) (C.D. Cal. May 10, 2021) ("Because this settlement does not involve a conventional common fund, the Court calculates the award of attorneys' fees using the lodestar method.").

benefit of what they secured for the class. Consider, for example, two scenarios, both involving an agreement by the defendant to pay fees separately from the class's recovery. In the first scenario, the benefit to the class is valued at $100 million. In the second, the benefit to the class is valued at $1 million. Surely, it would not make sense to award the same dollar amount of fees to class counsel in both scenarios merely because the defendant is paying the fees separately. Not surprisingly, numerous courts have applied the percentage method even in circumstances in which fees are paid separately and not out of the fund.[19]

32. Third, the claims are brought under a variety of California fee-shifting statutes, in which the lodestar method is often used.[20] Nonetheless, the attorneys' fees here are arguably being awarded not under the California fee-shifting statutes, but pursuant to the parties' settlement agreement. *See* Settlement Agreement (Doc. 131-1) ¶ 14.3 ("Defendants agree to pay the attorneys' fees . . . as ordered by the Court separate and apart from, and in addition to, the relief

---

[19] *See, e.g.*, *Aichele v. City of L.A.*, Case No. CV 12-10863-DMG (FFMx), at *3 (C.D. Cal. Sep. 9, 2015) (applying the percentage method in approving attorneys' fees and noting that they were to be paid separately from payments made to class members); *In re General Motors*, 55 F.3d 768, 821 (3d Cir. 1995) (the "rationale behind the percentage of recovery method also applies in situations where, although the parties claim that the fee and settlement are independent, they actually come from the same source"); *In re Excess Value Ins. Coverage Litig.*, 598 F. Supp. 2d 380, 386 (S.D.N.Y. 2005) (applying the percentage method in approving attorneys' fees and noting that they were to be paid separately from payments made to class members); *Skochin v. Genworth Fin., Inc.*, Civil Action No. 3:19-cv-49, at *19 (E.D. Va. Nov. 5, 2020) (same); *see also Johnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 246 (8th Cir. 1996) ("the direct payment of attorney fees by defendants should not be a barrier to the use of the percentage of the benefit analysis").

[20] *See, e.g., In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011) ("The 'lodestar method' is appropriate in class actions brought under fee-shifting statutes . . . where the relief sought—and obtained—is often primarily injunctive in nature and thus not easily monetized, but where the legislature has authorized the award of fees to ensure compensation for counsel undertaking socially beneficial litigation.").

provided to the Class").[21] Thus, authorities holding that awards pursuant to fee-shifting statutes should usually be governed by the lodestar method do not necessarily apply, although they may be instructive. Indeed, under the California fee-shifting statutes, "the lodestar-multiplier method of determining a reasonable fee *is not necessarily exclusive*"; thus, "a blanket 'lodestar only' approach" is not "mandated."[22]

33. In general, I prefer the percentage method to the lodestar method, as I explain in ¶¶ 64–65. And it is possible to apply a percentage method even though much of the relief is in the form of non-monetary relief, *i.e.,* extended warranties. Indeed, numerous courts have taken into account non-monetary relief in determining the value of a settlement, even in the context of a percentage approach.[23] Nonetheless, the combination of the three above factors—the lack of a traditional monetary fund, the separate payment of fees, and the fact that the claims were brought under California fee-shifting statutes (although ultimately settled by agreement)—leads me to conclude that, as a matter of caution, I should address the lodestar approach as the primary

---

[21] *See, e.g., Gelis v. BMW of N. Am.*, 49 F.4th 371, 381 (3d Cir. 2022) ("[T]he parties' focus on the statutes under which named plaintiffs sued is misplaced, as the Court awarded the attorneys' fees pursuant to a contract—not pursuant to a statute.") (cleaned up); *In re Volkswagen and Audi Warranty Extension Litig.*, 692 F.3d 4, 14 (1st Cir. 2012) ("The fee award here is based on the agreement [of the parties] and not on any statute, federal or state.").

[22] *Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 500 376 P.3d 672, 684 (Cal. 2016) (cleaned up; emphasis added).

[23] *See, e.g.*, *Steiner v. American Broad.*, 248 F. App'x 780, 783 (9th Cir. 2007) (affirming the district court taking nonmonetary benefits into consideration when awarding attorneys' fees under a percentage approach); *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, at *11 (N.D. Cal. Aug. 16, 2018) ("depending on the circumstances, courts may sometimes add the value of non-monetary relief to the value of the common fund").

methodology. I then use the percentage method as an independent method and as a "cross-check" on the lodestar method, as many courts have done,[24] although I believe that the $8,696,551.50 requested by class counsel is justified under the lodestar method without any need for a cross-check.

1. The Requested Fees are Reasonable Under the Lodestar Method

34. The lodestar method involves a district court's "determining how many hours were reasonably expended on the litigation, and then multiplying those hours by the prevailing local rate for an attorney of the skill required to perform the litigation."[25] The court then considers

---

[24] *See, e.g., Tait v. BSH Home Appliances Corp.* 2015 WL 4537463 (C.D. Cal. July 27, 2015) at *14 (using the percentage method as a way of "cross-checking the reasonableness of a fee" calculated under the lodestar method); *In re Midland Nat'l Life Ins. Co. Annuity Sales Pracs. Litig.*, MDL No. CV-07.-1825;CAS(MANx), at *4 (C.D. Cal. Nov. 7, 2012) (noting that a "percentage cross-check thus confirms that class counsel's award in this action is reasonable"); *Hartless v. Clorox Co.*, 273 F.R.D. 630, 642 (S.D. Cal. 2011) (noting that, when the benefit to the class "can be monetized with a reasonable degree of certainty, a percentage of the benefit approach may be used to cross-check the lodestar calculation"); *In re Anthem, Inc. Data Breach Litig.*, Case No. 15-MD-02617-LHK, at *23 (N.D. Cal. Apr. 24, 2018) (noting that "this Court has used the percentage method as a 'cross-check' to the lodestar approach"); *Altier v. Worley Catastrophe Response, LLC*, CIVIL ACTION No. 11-241 c/w 11-242, at *56 (E.D. La. Jan. 18, 2012) (percentage "cross-check of the lodestar amount"); *Grays Harbor Adventist Christian School v. Carrier Corp.*, No. 05-05437 RBL, 2008 WL 1901988, *5 (W.D. Wash. Apr. 24, 2008) ("a court applying the lodestar method to determine attorney's fees may use the percentage-of-the-fund analysis as a cross-check"); *Melito v. Am. Eagle Outfitters, Inc.*, 14-CV-2440 (VEC), at *36 (S.D.N.Y. Sep. 8, 2017) (noting that "courts may compare the lodestar to the fees award under the percentage method 'as a cross-check'" (*quoting In Re Citigroup*, 965 F.Supp. 2d 369, 388 (S.D.N.Y. 2013)).

[25] *Summers v. Carvist Corp.*, 323 F. App'x 581, 582 (9th Cir. 2009) (*quoting Moreno v. City of Sacramento*, 534 F.3d 1106, 1111 (9th Cir. 2008)*; accord, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 965 (9th Cir. 2003) (lodestar methodology "involves multiplying the number of hours the prevailing party reasonably expended on the litigation by a reasonably hourly rate") (cleaned up).

various other factors, including "the results obtained for the Class and the quality of representation" in deciding whether to enhance or reduce the lodestar.[26] Here, as I explain below, class counsel's lodestar ($2,898,850.50, plus $1,564,862.50 for anticipated future hours) is reasonable.

35. As discussed below, based on my review of the time records, I believe that the hours logged by class counsel and their staff are reasonable. In that regard, I believe that the work was performed efficiently by the attorneys and other timekeepers, who brought vast expertise and experience to the table. Moreover, the hourly rates proposed are well within appropriate rates based on: (1) prior rates approved for these law firms and specific timekeepers; (2) rates approved by other prominent class counsel; (3) rates charged by defendants' law firm, Skadden; and (4) rates charged by other prominent defense attorneys. Moreover, in my view, the multipliers that result from class counsel's request for $8,696,551.50 in fees—3.0 without considering anticipated future time and 1.95 when taking into account such time—are reasonable based on the excellent results for the class and the high quality of representation.

a. The Hours Logged by Class Counsel are Reasonable

36. I have reviewed the time records of all of the timekeepers involved here—Fegan Scott; Hagens Berman Sobol Shapiro; Freed Kanner London & Millen; and various other law

[26] Order Granting Final Approval of Class Action Settlement and Granting Motion for Attorneys' Fees at 43, 45, *In re Kia Engine Litig.,* Case no. 8:17-cv-00838-JLS-JDE (C.D. Ca. May 10, 2021) (Doc. 202); *see also Morales v. City of San Rafael*, 96 F.3d 359, 364 (9th Cir. 1996) (noting that the district court was "not only free but obligated to consider the results obtained . . . in calculating the lodestar figure") (cleaned up).

firms. Given the complex nature of this litigation, I find the hours devoted to the litigation to be entirely reasonable. Indeed, as I discuss in ¶¶ 57–59, the hours reflect great efficiency, stemming in significant part from the vast experience of class counsel in handling automotive product liability litigation.

37. The time records are detailed and descriptive and are broken down into tenth-of-an-hour increments. It is clear, based on my review of those records, that class counsel worked to achieve efficiency—utilizing more senior attorneys for crucial tasks, such as drafting and arguing major motions, conferring with experts, participating in strategy sessions, taking Rule 30(b)(6) depositions, conducting meet and confer sessions, and participating in settlement negotiations, while delegating more routine tasks to junior lawyers or paralegals. Thus, junior attorneys typically performed various tasks, such as legal research, drafting less complicated pleadings, and reviewing documents, that were appropriate for their level of experience. Paralegals handled functions such as docket management and file organization and management.

38. In addition, although this settlement involves three separate cases—*Zakikhani, Evans,* and *Pluskowski*—that fact does not appear to have led to any significant inefficiencies. When the *Evans* suit was filed, class counsel in that case joined forces with class counsel in *Zakikhani,* resulting in coordination and a division of labor. And the *Pluskowski* case was filed just before the successful mediation (and before class counsel in that case had invested much time), so there was little, if any, duplication. Class counsel in *Pluskowski* decided to join the settlement after reviewing the terms negotiated in the mediation.

b. The Billing Rates Designated for the Timekeepers are Reasonable

39. In my opinion, the rates proposed for the various timekeepers are reasonable. To gauge the reasonableness of class counsel's rates, courts begin by referring to a reasonable hourly rate. Generally, a reasonable hourly rate is determined by looking at attorney and staff rates in "the relevant community," *i.e.*, the "forum in which the district court sits."[27] But where "local community rates would not be sufficient to attract experienced counsel in a specialized legal field, the appropriate rate may be determined by reference to a national market or a market for a particular legal specialization."[28] By determining appropriate rates in such a manner, courts can ensure that they award "sufficient fees to attract qualified counsel."[29] Here, the underlying litigation (handled by attorneys from multiple states) was nationwide in scope, involving millions of Hyundai and Kia owners from across the United States. Thus, it is appropriate to focus on a national market, not simply on rates within the Central District of California.[30]

---

[27] *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008) (*quoting Barjon v. Dalton*, 132 F.3d 496, 500 (9th Cir. 1997)); *see also Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB (SHx), at *10–11 (C.D. Cal. Mar. 24, 2015) ("courts determine the reasonableness of a rate based upon 'the rates prevailing in that district for similar services by lawyers of reasonably comparable skill, experience and reputation'") (citations omitted).

[28] *Dinosaur Merch. Bank v. Bancservices Int'l LLC*, No. 1:19 CV 84 ACL, at *8 (E.D. Mo. June 26, 2020) (cleaned up).

[29] *Camarillo v. City of Maywood*, No. CV 07-03469 ODW (SHx), at *8 (C.D. Cal. Aug. 22, 2011); *see also Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB (SHx), at *10 (C.D. Cal. Mar. 24, 2015) (noting that the "proper scope of comparison . . . extends to all attorneys in the relevant community engaged in equally complex Federal litigation, no matter the subject matter" (*quoting Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010))).

[30] *See, e.g.*, *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 454–55 (9th Cir. 2010) ("the proper scope of comparison . . . extends to all attorneys in the relevant community engaged in 'equally complex Federal litigation,' no matter the subject matter." (*quoting Blum v. Stenson*, 465 U.S. 886, 895 n.11)); *Jeffboat LLC v. Off. of Workers' Comp. Programs*, 553 F.3d 487, 490

40. The rates proposed here for partners are between $625 and $1,285; for of counsel $550 and $850; for associates and staff attorneys between $350 and $550; and for paralegals between $225 and $400. Similar rates have been approved for the same law firms in other major litigation. For example, Steve Berman's proposed billing rate of $1,285 is not significantly higher than the $1,075 rate approved by Judge Staton two years ago in *Engine I*; Rachel Fitzpatrick's proposed rate of $550 is only slightly higher than the $475 rate approved by Judge Staton; and Judge Staton approved Hagens Berman associate rates as high as $550 and paralegal rates as high as $290. Similarly, in the *In re Tiktok, Inc., Consumer Privacy Litigation*,[31] the district court approved fee awards for Fegan Scott attorneys that are very similar to those requested here, including $950 (versus $1,000 requested here) for Elizabeth Fegan; $800 (versus $850 requested here) for Melissa Clark; $600 (versus $675 requested here) for Jonathan Lindenfeld; and $465 (versus $550 requested here) for Megan Shannon. Given that overall rates

---

(7th Cir. 2009) (the "national market" is relevant to complex cases where the attorneys involved are "highly specialized"); *Jane L. v. Bangerter*, 61 F.3d 1505, 1510 (10th Cir. 1995) (the relevant market may be expanded where "special skills" are required by the litigation); *In re Agent Orange Prods. Liab. Litig.*, 818 F.2d 226, 232 (2d Cir. 1987) (approving "the use of national hourly rates in exceptional multiparty cases of national scope"); *In re Urethane*, MDL No. 1616, 2016 WL 4060156, at *7 (D. Kan. July 29, 2016) ("[T]he amounts at issue justified use of the best counsel charging the highest rates (just as [the defendant] used similarly high-priced counsel in the litigation)."); *Lucas v. Kmart Corp.*, No. 99-cv-01923, 2006 WL 2729260, at *4 (D. Colo. July 27, 2006) ("Hourly rates must reflect the prevailing market rates in the relevant community. Because of the significant resources and skill required, as well the risks entailed, to litigate large-scale actions on behalf of a class, very few attorneys handle such cases. Thus the relevant community . . . likely consists of attorneys who litigate nationwide, complex class actions.").

[31] MDL No. 2948, 2022 U.S. Dist. Lexis 134177 *28–*32 (N.D. Ill. July 28, 22).

for attorneys have increased in recent years,[32] it is not surprising that rates approved in prior years would be slightly lower than some of the rates requested here.

41. Further supporting the proposed rates is the fact that the group of timekeepers includes accomplished class action plaintiff lawyers, who have received recognition as the "The Best Lawyers in America,"[33] "Super Lawyers,"[34] and "Rising Stars."[35]

---

[32] *See* Roy Strom, *Big Law Rates Topping $2,000 Leave Value 'In Eye of Beholder*,' BLOOMBERG, June 9, 2022 (attorneys' rates have increased steadily at just under 3% per year over the last 15 years).

[33] The Best Lawyers in America are selected based on a peer-review process "designed to capture, as accurately as possible, the consensus opinion of leading lawyers about the professional abilities of their colleagues within the same geographical area and legal practice area." *Methodology Process*, BEST LAWYERS, https://www.bestlawyers.com/methodology (last visited March 18, 2023). Steve Berman of Hagens Berman has been recognized by The Best Lawyers in America. *See* Steve W. Berman, HAGENS BERMAN, https://www.hbsslaw.com/attorneys/steve-berman (last visited March 18, 2023).

[34] Super Lawyers are selected each year based on an extensive research and peer-evaluation process. They represent the top five percent of attorneys in each state and practice area. *See Selection Process Detail*, SUPER LAWYERS, https://www.superlawyers.com/about/selection_process_detail.html (last visited March 18, 2023). Attorneys on plaintiffs' team who have been selected as Super Lawyers include Elizabeth Fegan and Jonathan Lindenfeld of Fegan Scott and Jonathan Jagher of Freed Kanner. *See* Elizabeth Fegan, FEGAN SCOTT, https://www.feganscott.com/elizabeth-fegan/ (last visited March 18, 2023); Jonathan Lindenfeld, FEGAN SCOTT, https://www.feganscott.com/jonathan-lindenfeld/ (last visited March 18, 2023); Jonathan M. Jagher, FREED KANNER LONDON & MILLEN, https://www.fklmlaw.com/our-lawyers/jonathan-m-jagher/ (last visited March 18, 2023).

[35] Attorneys under 40 years of age or in practice for ten years or less are eligible to be designated Rising Stars if they have not been designated Super Lawyers. The Rising Stars selection process is similarly based on independent research and a peer-evaluation process. Only 2.5 percent of eligible lawyers are designated Rising Stars. *See The Rising Stars Selection Process*, SUPER LAWYERS, https://www.superlawyers.com/about/selection_process_detail.html (last visited March 18, 2023). Attorneys on plaintiffs' team who have been selected as Rising Stars include Melissa Ryan Clark of Fegan Scott and Jonathan Jagher of Freed Kanner. *See* Melissa Ryan Clark, FEGAN SCOTT, https://www.feganscott.com/melissa-ryan-clark/ (last visited March 18, 2023);

42. Plaintiffs' team are at the top of their game in understanding cutting-edge legal issues, tackling complicated and contentious discovery issues, litigating class certification, and mastering technical and complicated automotive issues. Fegan Scott has significant experience with complex litigation and nationwide class actions, including litigation involving dangerous or defective consumer products.[36] Similarly, Hagens Berman has extensive experience with complicated class action litigation, including litigation involving consumer protection and product liability claims.[37] Freed Kanner likewise has impressive experience with complicated class action litigation on behalf of consumers, and has helped recover billions of dollars on their behalf.[38]

43. The attorneys with the highest proposed billing rates—Steve Berman ($1,285), Steven Kanner ($1,100), and Elizabeth Fegan ($1,000)—are attorneys of considerable stature and vast experience. Steve Berman has extensive experience litigating class actions in state and federal court, is widely recognized as one of the nation's top class action attorneys, and has been instrumental in obtaining record-setting settlements.[39] Steve Kanner has over three decades of complex litigation experience and has been involved in leadership positions in major class

---

Jonathan M. Jagher, FREED KANNER LONDON & MILLEN, https://www.fklmlaw.com/our-lawyers/jonathan-m-jagher/ (last visited March 18, 2023).

[36] *See Dangerous and Defective Products,* FEGAN SCOTT, https://www.feganscott.com/dangerous-drugs- defective-products/ (last visited March 18, 2023).

[37] *See About,* HAGENS BERMAN, https://www.hbsslaw.com/about (last visited March 18, 2023).

[38] *See Resolved Cases,* FREED KANNER LONDON & MILLEN, https://www.fklmlaw.com/resolved-cases/ (last visited March 18, 2023).

[39] *See* Steve W. Berman, HAGENS BERMAN, https://www.hbsslaw.com/attorneys/steve-berman (last visited March 18, 2023).

actions.[40] Elizabeth Fegan, likewise, has very impressive complex litigation experience and has regularly been appointed to head up national class actions.[41]

44. Because the attorneys involved here are prominent complex litigation attorneys with major nationwide class action experience, it is appropriate to consider the rates of other prominent plaintiff firms litigating nationwide class actions. Those rates confirm the reasonableness of the rates proposed here. For example, in *Volkswagen Clean Diesel*, class counsel's hourly rates were as high as $1,600 for partners and $790 for associates.[42] In *Nitsch v. DreamWorks Animation SKG, Inc.*, billing rates for partners were as high as $1,200 per hour.[43] Numerous other examples can be cited.[44] Here, all of the proposed rates are at or below $1,285 per hour, despite the prominence and vast experience of the attorneys involved.

---

[40] *See* Steven A. Kanner, FREED KANNER LONDON & MILLEN https://www.fklmlaw.com/our- lawyers/steven-a-kanner/ (last visited March 18, 2023).

[41] *See* Elizabeth Fegan, FEGAN SCOTT, https://www.feganscott.com/elizabeth-fegan/ (last visited March 18, 2023).

[42] *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs. & Prods Liab. Litig.*, No. 3:15-md-02672-CRB, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017).

[43] No. 14-CV-04062-LHK, 2017 WL 2423161, at *9 (N.D. Cal. June 5, 2017).).

[44] *See, e.g.*, *In re Amgen Sec. Litig.*, No. CV 7-2536 PSG, 2016 U.S. Dist. LEXIS 148577, at *27 (C.D. Cal. Oct. 25, 2016) (approving "a billing rate ranging from $750 to $985 per hour for partners, $500 to $800 per hour for 'of counsels'/senior counsel, and $300 to $725 per hour for other attorneys"); *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 10-ml-02151 NS, 2013 WL 12327929, at *33 n.15 (C.D. Cal. July 24, 2013) (approving rates up to $950 per hour); *In re Lidoderm Anitrust Litig.*, No. 14-MD-02521-WHO, 2018 WL 4620695, at *2 (N.D. Cal. Sept. 20, 2018) (approving attorney rates as high as $1,050); *Dickey v. Advanced Micro Devices, Inc.*, No. 14-MD-02521-WHO, 2018 WL 4620695, at *2 (N.D. Cal. Sept. 20, 2018) (approving attorney rates as high as $1,000); *Whiteley v. Zynerba Pharm.*, Civil Action 19-4959, at *27 (E.D. Pa. Sep. 16, 2021) (hourly rates up to $1,100 were

45. It is instructive, in assessing billing rates for class counsel, to look at rates for Skadden, the firm that represents the defendants in the litigation in question.[45] Here, that examination underscores the reasonableness of the rates proposed by class counsel here. For instance, a 2022 fee application reveals that Skadden partners bill from $848 to as high as $1,980 per hour, with most partners billing between $1,595 and $1,980 per hour.[46] That same fee

---

reasonable and appropriate considering the market, skill level, and experience of the attorneys); *Abbott v. Lockheed Martin Corp.*, No. 06-cv-701-MJR-DGW, 2015 WL 4398475, at *3 (S.D. Ill. July 17, 2015) (awarding fees of $974/hr for attorneys with at least 25 years of experience and $826/hr for attorneys with 15–24 years in ERISA class settlement); *In re High-Tech Emp. Antitrust Litig.*, No. 11-CV-2509-LHK, 2015 WL 5158730, at *9 (N.D. Cal. Sept. 2, 2015) (billing rates for partners as high as $975/hr). Rates for paralegals in other major class actions have ranged from $150 to $490 per hour. *See, e.g.*, *In re Volkswagen*, 2017 WL 1047834, at *5 ($150 to $490 per hour); Co-Lead Class Counsel's Pet. for An Award of Atty's Fees at Add. 1, Ex. C, *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 12-MD-2323 (AB) (E.D. Pa.) (Feb. 13, 2017) ($215 to $325 per hour); *Astiana v. Kashi Co.*, No. 11-cv-01967-H (BGS), slip op. at 6 (S.D. Cal. Sept. 2, 2014) (Dkt. No. 241) ($245 to $315 per hour).

[45] *See, e.g.*, *Chrapliwy v. Uniroyal, Inc.*, 670 F.2d 760, 768 n.18 (7th Cir. 1982) ("The rates charged by the defendant's attorneys provide a useful guide to rates customarily charged in this type of case." (citation omitted)); *Ruiz v. Estelle*, 553 F. Supp. 567, 589 (S.D. Tex. 1982) ("In an action for which no adequate parallel can be found, the best example of a fee paid for similar work is that paid by opposing counsel in the same action."); *I.W. v. School Dist. of Philadelphia*, No. 14-3141, 2016 WL 147148, at *13 (E.D. Pa. Jan. 13, 2016) ("Evidence of the hours expended by the non-prevailing party on the same task is relevant to the determination of whether the hours requested by the prevailing party are reasonable." (citations omitted)); *Mitroff v. Xomox Corp.*, 631 F. Supp. 25, 28 (S.D. Ohio 1985) ("Pertinent to any consideration of a reasonable amount of time expended in the prosecution of a law suit is the amount of time expended by the defendant in defending that law suit.").

[46] First Monthly Fee Application of Skadden, Arps, Meagher, Slate & Flom, As Bankruptcy Counsel for the Debtors, for Allowance of Compensation and Reimbursement of Expenses of All Actual and Necessary Expenses For The Period May 8, 2022 Through May 31, 2022, at 2, *In re Armstrong Flooring, Inc.*, No. 22-10426 (MFW) (Bankr. D. Del.) (Dkt. No. 389) (filed June 18, 2022) (Skadden Fee Application); *see also* First Interim and Final Fee Application Of Skadden as Co-Counsel to the Official Equity Committee From Sept. 22, 2020 Through Dec. 11, 2020, at 2, *In re Vivus Inc.*, No. 20–11779 (LSS) (Bankr. D. Del.) (Dkt. No. 443) (filed Jan. 11, 2021) (noting Skadden partner rates as high as $1,565).

application also reveals that Skadden associates bill from $695 to $1,120 and that law clerks bill at $495 per hour.[47]

46. It is also instructive to look at billing rates for other prominent defense firms. In recent years, some partners at several major law firms have been billing at $1,900 or more per hour.[48] Hogan Lovells has advised a bankruptcy court that the hourly rate for partners is between $950 and $2,465, $910–$1,735 for of counsel, $605–$1,055 for associates, and $275–$550 for paralegals.[49]

47. Although (as noted in ¶ 40) billing rates have increased over the years, even data from several years ago supports a rate of well over $1,000 per hour for senior partners. For instance, a 2016 American Bar Association report (relying on public filings in Chapter 11 bankruptcy cases) noted billing rates as high as $1,475 at Proskauer Rose; $1,450 at Ropes & Gray; and $1,425 at Akin Gump Strauss Hauer & Feld.[50] Indeed, according to some sources (discussing rates as far back as 2014 and 2015), some prominent partners at top law firms have

---

[47] Skadden Fee Application.

[48] *See* Roy Strom, *Big Law Rates Topping $2,000 Leave Value 'In Eye of Beholder*,' BLOOMBERG, June 9, 2022 (identifying numerous firms as examples).

[49] *See* Objection of the United States Trustee to Debtor's Application for Retention of Hogan Lovells Us Llp as Special Counsel, Effective as of April 4, 2022, at 5, *In re LTL Management*, No. 21-30589 (MKB) (Bankr. D.N.J.) (Dkt. 2324) (filed May 20, 2022); *but see* No. 21-30589, at *6–9 (Bankr. D.N.J., May 20, 2022) (concluding that $1,875 per hour was reasonable for highly skilled partners in a bankruptcy trustee action, but rejecting rates of $2,465 per hour as unreasonable).

[50] *See* Martha Neil, *Top Partner Billing Rates at BigLaw Firms Approach $1,500 Per Hour*, ABA JOURNAL (Feb. 8, 2016), http://www.abajournal.com/news/article/top_partner_billing_rates_at_biglaw_firms_nudge_1500_per_hour.

billing rates as high as $2,000 per hour.[51] For associates, a 2011 study found rates at DLA Piper as high as $730; at Kay Scholer, rates as high as $705; and at Winston & Strawn, rates as high as $600.[52] Today's rates for partners and associates at prominent firms are even higher; as noted, rates at or above $1,900 per hour for partners are becoming increasingly common.[53] At Covington, for example, junior associates bill at $595 per hour, and senior partners bill from $1,445 to $2,300

---

[51] *See, e.g.*, Aebra Coe, *What Do the Highest-Paid Lawyers Make an Hour?*, Law360 (May 11, 2016), https://www.law360.com/legalindustry/articles/794929/what-do-the-highest-paid-lawyers-make-an-hour- (noting that research conducted by the BTI Consulting Group revealed that rates "reached $2,000 per hour" in 2016, up from the previous high of $1,600 per hour in 2015); Kathryn Rubino, *$2,000 An Hour Lawyers: That's One Way to Fund Salary Increases*, ABOVE THE LAW (June 13, 2016), https://abovethelaw.com/2016/06/2000-an-hour-lawyers-thats-one-way-to-fund-salary-increases/ (similar); *see also* Karen Sloan, *$1,000 Per Hour Isn't Rare Anymore*, NAT'L L.J. (Jan. 13, 2014), https://www.law.com/nationallawjournal/almID/1202637587261/NLJ-Billing-Survey%3A-%241%2C000-Per-Hour-Isn%27t-Rare-Anymore/ (noting that "four-figure hourly rates for in-demand partners at the most prestigious firms don't raise eyebrows—and a few top earners are closing in on $2,000 an hour").

[52] *See A Nationwide Sampling of Law Firm Billing Rates*, NAT'L L.J. (Dec. 19, 2011), *available at* http://tpmlaw.com/global_pictures/NationalLawJournal2011.PDF.

[53] *See*, e.g., Roy Strom, *Big Law Rates Topping $2,000 Leave Value 'In Eye of Beholder*,' BLOOMBERG, June 9, 2022 (noting that Hogan Lovells bills up to $2,465 per hour and Latham & Watkins bills up to $2,075 per hour); Debra Cassens Weiss, *BigLaw partner's hourly billing rate of nearly $2,500 draws objection from bankruptcy trustee*, ABA Journal (May 25, 2022), https://www.abajournal.com /news/article/biglaw-partners-hourly-billing-rate-of-nearly-2500-draws-objection-from-bankruptcy-trustee (noting that billing rates "have been creeping toward the $2,000 mark"); Hugh A. Simons, *Why Elite Law Should Raise Rates*, THE AM. LAWYER (Feb. 26, 2018), https://www.law.com/americanlawyer/2018/02/26/why-elite-law-should-raise-rates/ (noting that attorneys' hourly billing rates "rose by 33 percent from 2007 to 2017" and that rates continue to increase, "with standard rates rising at 3 percent [per year]").

per hour.[54] In short, these comparisons confirm that the rates charged by the timekeepers involved here are eminently reasonable and raise no red flags.

c. The blended rates are reasonable and, in any event, blended rates are not especially meaningful

48. The blended rates for the three main law firms are $569.89 (Fegan Scott), $682 (Hagens Berman), and $795.45 (Freed Kanner). The overall blended rate for all timekeepers is $636.91. These rates are consistent with blended rates in various other major multi-state class actions. For example, in *NFL Concussion*, the court approved a blended rate of $861.28 per hour for Seeger Weiss specifically, and a blended rate of $623.05 per hour for all common benefit counsel.[55] Similarly, in *In re Easysaver Rewards Litigation*,[56] the court approved a blended hourly rate of $668 per hour, noting that "the requested rates are in line with those prevailing in the community for similar services of lawyers of reasonably comparable skill and reputation."[57]

---

[54] Debra Cassens Weiss, *This former attorney general now bills for BigLaw at nearly $2,300 per hour*, ABA Journal, (April 19, 2021), https://www.abajournal.com/news/article/this-former-attorney-general-now-bills-for-biglaw-at-nearly-2300-an-hour; *see also Lechner v. Mut. of Omaha Ins. Co.*, 8:18CV22, at *5 (D. Neb. Feb. 8, 2021) (noting class counsel's "rates of between $535.00 per hour and $970.00 per hour for attorneys . . . are within the range of market rates for attorneys of their experience and expertise").

[55] *See In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, slip op. at 20-21 (E.D. Pa. May 24, 2018) (Dkt. No. No. 10019) (approving lodestar for Seeger Weiss); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1635648, at *9 (E.D. Pa. Apr. 5, 2018) (approving blended rate of $623.05 per hour for all common benefit counsel).

[56] No. 09-cv-02094-BAS-WVG (S.D. Cal. Apr. 30, 2020).

[57] *Id.* at *30 (*quoting Jordan v. Multnomah County*, 815 F.2d 1258, 1263 (9th Cir. 1987)).

49. In any event, in my opinion, it is not particularly useful to compare the blended rate here with blended rates in other cases, in which the tasks performed and challenges raised were very different. Here, much of the work was, by its very nature, high-level work and thus not suitable for a paralegal or a junior attorney.[58] For example, class counsel could not assign paralegals or recent law school graduates to brief and argue major motions, conduct high-level settlement negotiations, interview and work with experts, or take critical Rule 30(b)(6) depositions. Given the tasks required in the present case, the blended rates are reasonable.

d. The Multiplier is Reasonable

50. California's Consumer Legal Remedies Act (CLRA) entitles a prevailing party to recover court costs and attorneys' fees for actions brought under this statute. Cal. Civ. Code § 1780(e).[59] Under Cal. Civ. Code § 1794, the class is are entitled to costs and attorneys' fees.[60] The Magnuson Moss Warranty Act, likewise, provides for an aggrieved consumer to recover their attorneys' fees.[61] Additionally, California's private attorney general doctrine provides that

---

[58] *See, e.g.*, *Young v. Polo Retail, LLC*, No. 02-cv-4546-VRW, 2007 WL 951821, at *7 (N.D. Cal. Mar. 28, 2007) ("[T]he central role of settlement negotiations in this litigation—and the central role of senior attorneys in those negotiations—suggest that typical blended hourly rates . . . are inappropriate here.").

[59] *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1169 (C.D. Cal. 2010) ("Under Cal. Civ. Code § 1780(e), a prevailing plaintiff in an action under the CLRA is entitled to an award of costs and attorneys' fees."); *Mangold v. California Pub. Utils. Comm'n*, 67 F.3d 1470, 1478–79 (9th Cir. 1995) ("a state right to an attorneys' fee reflects a substantial policy of the state").

[60] *See* Cal. Civ. Code § 1794 (providing, among other things, that a buyer of consumer goods who recovers under this section may recover attroneys' fees).

[61] *See* 15 U.S.C. § 2310(d)(2) (a consumer who prevails on a claim under that statute or on a claim for breach of warranty may recover "attorneys' fees based on actual time expended").

attorneys' fees may be awarded to a successful party who provides a significant benefit to the public.[62] The goal of these statutes is to ensure that capable lawyers step up to handle cases that have important public policy implications.[63] Hyundai and Kia agreed in this settlement to pay attorneys' fees—separately from the class's recovery—in an amount set by the Court, and the Court's determination should reflect the salutary goal of incentivizing capable class counsel. *See* ¶ 22.

51. The lodestar here, calculated based on incurred time and the hourly rates sought, is $2,898,850.50. Given that class counsel's fee request is for $8,696,551.50, the multiplier works out to 3.0. In my opinion, as explained below, that multiplier is reasonable. Moreover, class counsel advise me that they reasonably intend to devote an additional 2500 hours to the administration of this settlement, based on their experience in administering other automotive settlements, such as *Engine I*. When calculating the lodestar, courts routinely factor in hours that class counsel reasonably anticipate spending on the matter after final approval (*e.g.*, hours to be

---

Plaintiffs also rely on Minnesota's Private Attorney General Statute in support of Minnesota Class members claim to attorneys' fees. *See* MINN. STAT. § 8.31(3a) (providing for recovery of attorneys' fees).

[62] *See* Cal. Code of Civ. Proc. (CCP) § 1021.5 (permitting an award of attorney's fees to a "successful party . . . in any action which has resulted in the enforcement of an important right affecting the public interest).

[63] *See, e.g.*, *Parkinson v. Hyundai Motor America*, 796 F. Supp. 2d 1160, 1171 (C.D. Cal. 2010) ("California's fee-shifting and private attorney general statutes incentivize counsel to take cases on behalf of plaintiffs who could not otherwise afford to vindicate their rights through litigation."); *Serrano v. Priest*, 20 Cal. 3d 25, 44, 569 P.2d 1303 (Cal. 1977) (explaining the policy reason for fee-shifting statutes is to award "substantial attorney fees to those public-interest litigants and their attorneys" and thereby incentivize "representation of interests of similar character in future litigation").

spent on claims administration issues).[64] When those hours are added, using the blended rates (1250 hours each) for Fegan Scott and Hagens Berman (the two firms who will do the post-settlement work), the lodestar is increased by $1,564,862.50, and the multiplier becomes 1.95.

52. In my opinion, these multipliers are fully justified based on the specific circumstances here. In *Engine I,* another case involving allegations under California fee-shifting statutes, Judge Staton considered "the results obtained for the Class and the quality of representation" in finding that the multiplier sought in that case, 1.67, was reasonable. *Engine I* at 45. Importantly, she cited authority noting that "*Multipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation.*" *Id.* (emphasis added)*, citing Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995) (internal quotation marks omitted). More generally, the Ninth Circuit has had no difficulty approving multipliers as high as 3.65,[65] and has noted that even a multiplier of 6.85 was "well within the range of multipliers that

---

[64] *See, e.g.*, *Reyes v. Bakery & Confectionery Union*, 281 F. Supp. 3d 833, 853, 856–57 (N.D. Cal. 2017) (including estimated hours for "future work" related to, *inter alia*, "managing class members' claims"); *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 2672 CRB (JSC), slip op at 8 (N.D. Cal. Mar. 17, 2017) (granting fee request reserving "an additional 21,000 hours to (1) guide the hundreds of thousands of Class Members through [claims period]; (2) assist in the implementation and supervision of the Settlement . . . and (3) defend and protect the settlement on appeal, among other things") (cleaned up); *AT&T Mobility*, 792 F. Supp. 2d 1028, 1038 (N.D. Ill. 2011) (citing the "considerable ongoing efforts" required of class counsel to implement the settlement as a "factor [that] supports a generous reward"); *Tennille v. Western Union Co.*, No. 09-cv-00938-MSK-KMT, 2013 WL 6920449, at *3 (D. Colo. Dec. 31, 2013) (instructing plaintiffs to include in their lodestar calculation "an estimate of the future hours that will be necessary to carry the case to completion under the Settlement Agreement").

[65] *Vizcaino v. Microsoft Corp.,* 290 F.3d 1043, 1051–52 (approving multiplier of 3.65 and including an appendix citing multipliers as high as multipliers as high as 19.6); *In re Hyundai & Kia Fuel Economy Litig.,* 926 F.3d 539, 572 (9th Cir. 2019) (en banc) (citing with approval *Vizcaino*'s endorsement of a 3.65 multiplier).

courts have allowed."[66] A district court in this Circuit has cited a multiplier as high as 5.2 as within "the range of acceptable lodestar multipliers."[67] Taking into consideration both the results obtained here and the quality of representation, it is my opinion that the proposed multipliers of 3.0—and, *a fortiori,* 1.95, which takes into account predicted future hours—are reasonable.

i. Results Obtained

53. This settlement represents an extraordinary result for the class. It is my understanding that it covers more than three million vehicles.[68] Unlike some settlements, such as a settlement involving worthless coupons,[69] or one where much or most of the fund will likely be unclaimed and revert to the defendant,[70] the relief afforded here is genuine and substantial. As explained above (¶ 21), it encompasses full reimbursement for actual out-of-pocket costs for repair

---

[66] *Steiner v. Am. Broad. Co.*, 248 F. App'x 780, 783 (9th Cir. 2007). *See also In re Nat'l Collegiate Athletic Ass'n Athletic Grant-in-Aid Antitrust Litig.*, 768 F. App'x 651, 653 (9th Cir. 2019) (approving multiplier of 3.66).

[67] *Noll v. eBay, Inc.*, 309 F.R.D. 593, 610 (N.D. Cal. 2015) (*citing Craft v. County of San Bernardino,* 624 F. Supp.2d 1113, 1125 (C.D. Cal. 2008) (lodestar cross-check multiplier of 5.2)). *See also Gutierrez v. Wells Fargo Bank, N.A.,* No. C 07-05923 WHA, 2015 WL 2438274, at *7 (N.D. Cal. 2015) (5.5 multiplier applied to lead counsel's lodestar).

[68] *See, e.g.*, Susan Thompson Report ¶ 39; Greg Fox, *Hyundai, Kia Reach Tentative Settlement Involving 3.1M Vehicles Over Fire Risk*, MSN (March 2, 2023) available at https://www.msn.com/en-us/autos/news/hyundai-kia-reach-tentative-settlement-involving-31m-vehicles-over-fire-risk/ar-AA184w8W.

[69] *Compare, e.g.*, *Swinton v. Squaretrade, Inc.*, 454 F. Supp. 3d 848, 861 (noting that heightened scrutiny is required when a settlement includes coupons as compensation), *with Columbus Drywall & Insulation*, 2012 WL 12540344, at *3 (noting, in awarding attorneys' fees of 33⅓ percent, that "unlike some class settlements, the recovery here consists entirely of cash, rather than coupons or discounts on future purchases from the defendants").

[70] *See, e.g.*, *Shanley v. Evereve, Inc.*, 22-CV-0319 (PJS/JFD), at *22 (D. Minn. Nov. 18, 2022) (unclaimed settlement amounts would revert to the defendant).

of the Class Vehicles, and full Black Book value for vehicles destroyed by fire. The settlement also offers a free ABS module inspection if the vehicle's ABS module was previously repaired pursuant to a recall. Most importantly, it offers an extended warranty of 5 or 12 years, for every Class Vehicle that receives the recall repair. Indisputably, extended automotive warranties have tangible value,[71] even if a class member never needs to use the warranty.[72] Thus, courts have concluded that the market price of such warranties may be relied upon in calculating the value of a settlement.[73] This should not be surprising: An extended warranty is "actually an insurance

---

[71] *See, e.g., Carlotti v. ASUS Comput. Int'l*, No. 18-cv-03369-DMR, at *3 (N.D. Cal. Nov. 19, 2019) (noting estimated dollar value of the extended warranty proposed under the settlement); *Shin v. Plantronics, Inc*., No. 18-cv-05626-NC, at *6 (N.D. Cal. Jan. 31, 2020) (noting that the settlement "provides significant relief to the class" including the availability of an extended warranty); *Oliver v. BMW of N. Am., LLC*, Civil Action No. 17-12979 (CCC), at *20 (D.N.J. Mar. 8, 2021) (noting that "class members are benefitted, as evidenced by the extended warranty on all Class Vehicles"); *Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 305 (E.D. Pa. 2003) (noting that the value of the benefit to the class was "most accurately measured by making an estimation of the Extended Coverage Program's market price"); *In re Volkswagen & Audi Warranty Extension Litig.*, 89 F. Supp. 3d 155, 169 (D. Mass. 2015) (finding the retail value of the extended warranty to be "a sensible measure of what the class members gained from free extended coverage").

[72] *See, e.g., Klee v. Nissan North America, Inc.*, CV 12-08238 AWT (PJWx), at *1 (C.D. Cal. July 7, 2015) (noting that while "some class members may not benefit to the same extent, or at all, from the extended warranty . . . the value of the settlement is [neither unfair nor] inadequate"); ASE PROTECTION, https://www.aseprotection.com/ (promoting its extended automotive warranty products as providing "peace of mind" by protecting customers from "surprise expenses"); PEACE OF MIND AUTO CARE, https://peaceofmindautocare.com/ ("Drive with Peace of Mind."); FIRST LANDING AUTO CARE, https://www.firstlandingautocare.com/makes ("Specialized Automotive Care for *Peace of Mind*.") (emphasis in original).

[73] *See, e.g., Granillo v. FCA US LLC*, Civil Action No. 16-153 (FLW) (DEA), at *19 (D.N.J. Aug. 27, 2019) (explaining that courts "determine[] the potential value of a settlement involving non-monetary benefits such as automotive warranties by multiplying the total number of vehicles at issue"); *Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 305 (E.D. Pa. 2003) (noting that the value of the benefit to the class was "most accurately measured by making an estimation of the Extended Coverage Program's market price"); *In re Volkswagen & Audi Warranty Extension*

policy on [a] vehicle, a safeguard against expensive, unforeseen repairs" such as mechanical breakdowns.[74] Furthermore, the robust aftermarket for extended warranties confirms the value of such warranties.

54. Here, there is no question that the extended warranties have substantial value. An expert retained by class counsel, Susan Thompson from Hemming Morse, is submitting a declaration concurrent with mine, opining that the extended warranties alone are worth $288,697,701. In addition, she opines that the value of the other various benefits under the settlement range from $38,125,814 to $381,258,137. Susan Thompson Report ¶ 9. I am not an expert valuing relief under automotive class action settlements, but I assume for purposes of this

---

Litig., 89 F. Supp. 3d 155, 169 (D. Mass. 2015) (finding the retail value of the extended warranty to be "a sensible measure of what the class members gained from free extended coverage").

[74] Matt Jones, *Understanding Extended Warranties*, EDMUNDS, https://www.edmunds.com/auto-warranty/understanding-extended-warranties.html#:~:text=An%20extended%20warranty%20is%20actually,the%20price%20of%20the%20product (last visited March 18, 2023); *see also, e.g., Guide to Automobile Service Contracts, Extended Warranties and Other Repair Agreements*, CALIFORNIA DEPARTMENT OF INSURANCE, https://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/servcontextwar.cfm (last visited March 18, 2023); *Ersler v. Toshiba America, Inc.*, CV-07-2304 (SMG), at *4 (E.D.N.Y. Feb. 24, 2009) (noting that the "settlement permits class members to continue receiving the benefit of their expensive purchase secure in the knowledge" that the extended warranty provides); *Extended Warranties*, CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION https://portal.ct.gov/DCP/Common-Elements/Consumer-Facts-and-Contacts/Extended-Warranties (last vistied March 18, 2023) ("An extended warranty is merely an insurance policy that you buy for repair of faulty products."); *The Benefits of an Extended Warranty*, AMERICAN FAMILY INSURANCE, https://www.amfam.com/resources/articles/on-the-road/extended-car-warranty-tips (last visited March 18, 2023) ("an extended warranty is an insurance policy that covers the repair or replacement costs of car problems with a flat-fee deductible").

Declaration that Thompson's valuation is correct.[75] I use her valuation for the extended warranties, and to be conservative, I used her low-end number for the other benefits under the settlement. Using the value of $288,697,701 (just for the extended warranties), and comparing it with the $8,696,551.50 sought by class counsel, the fees sought represent only about 3 percent of the value achieved for the class. Taking into account the other benefits (using the low-end number), the fees sought represent only 2.66 percent of the value achieved for the class. Moreover, because fees are being paid separately by defendants, class members' recoveries will not be reduced by one cent to pay attorneys' fees, even though in individual cases (or in many comparable class actions) fees might consume up to a third (or more) of the individual's (or class member's) recovery.

55. When examining the results achieved for purposes of assessing a multiplier in a fee-shifting case, it is highly instructive to look at the lodestar and compare that number with the value of the relief afforded to the class. For instance, in *Steiner v. American Broadcasting*, the Ninth Circuit upheld a multiplier of 6.85 because the district court had determined that class counsel had achieved "excellent results" for the class.[76] By contrast, in *Tait v. BSH Home Appliances Corp.*,[77] the court found that a negative multiplier was appropriate because "class counsel's lodestar with no multiplier . . . is a whopping 7.8 times the maximum amount that will

---

[75] *See, e.g., In re Hyundai & Kia Fuel Economy Litig.*, 926 F.3d 539, 571 n.13 (9th Cir. 2019) (en banc) (noting the appropriateness of relying on an expert's assessment of the benefits under a class settlement).

[76] 248 F. App'x 780, 782 (9th Cir. 2007).

[77] Case No.: SACV 10-0711-DOC (ANx) (C.D. Cal. July 27, 2015).

be going to class members."[78] This case is the polar opposite of *Tait*: the fees sought here ($8,696,551.50 million) are a small portion of the substantial value (conservatively estimated to be under $289 million) that the class will receive.

56. Indeed, as discussed more fully in the context of the percentage cross-check (¶¶ 65–67), it is difficult to imagine a better outcome in this case even after a trial. A verdict in favor of the class could have easily been limited to actual out-of-pocket costs. In fact, I am not aware of a legal theory, under the causes of action in the complaint, whereby plaintiffs could have sought extended warranties as relief at a contested trial. Also, Hyundai and Kia raised Article III standing issues; although this Court rejected those arguments (correctly, in my view), defendants vigorously asserted them, and class counsel could not be certain of how the Court would rule. In short, the outcome achieved here is almost certainly better than what the class could have achieved in a contested trial. Courts have been especially willing to award substantial fees when the settlement compares favorably with what could have been achieved at trial.[79]

---

[78] *Id.* at *25.

[79] *See, e.g.*, *In re Toys "R" US-Delaware, Inc.*, 295 F.R.D. 438, 454 (C.D. Cal. 2014) (noting favorably in awarding attorneys' fees that the settlement represented between 5% and 30% of the recovery that might have been obtained had the case proceeded to trial); *In re Volkswagen "Clean Diesel" Mktg. Sales Pracs., & Prods. Liab. Litig.*, 15-md-02672-CRB, at *17 (N.D. Cal. Nov. 9, 2022) (noting that the settlement was an "excellent result" given that many class members were "likely to receive close to all of the damages they might expect to receive at trial" and the"possibl[ity] that participating Class Members may collect even more than the current estimates predict"); *Dulberg v. Uber Techs.*, No. 17-00850 WHA, at *8 (N.D. Cal. Nov. 19, 2019) (noting that "the amount each class member will receive after trial in a best-case scenario, will by and large not meaningfully differ from the current recovery"); *Eisen v. Porsche Cars N. Am.*, Inc., No. 2:11-cv-09405-CAS-FFMx, at *8 (C.D. Cal. Jan. 30, 2014) (noting that, under the settlement, the class would receive "nearly as much as could reasonably be expected after a successful verdict at

ii. Quality of Representation

57. Based on more than 40 years of law practice, concentrated heavily in complex civil litigation, I believe that the quality of representation in this case has been superb. That outstanding work is underscored by the substantial relief (discussed in ¶ 21) achieved for the class.[80] The high quality of representation stems in large part from the vast skill and experience that these attorneys brought to this litigation. Steven Berman and his colleagues, for example, have handled myriad automotive product liability cases, including other cases against Hyundai and Kia. Indeed, in his declaration in support of the motion for preliminary approval in this case, Berman lists ten prior complex cases against automotive companies that members of his firm have handled, including cases against Hyundai and Kia, BMW, Chrysler, Jeep, Ford, and Tesla. Berman Decl. (Doc. 115-2) ¶ 3. He lists an additional eight cases that his firm has handled dealing with

---

trial because they are recovering all or a substantial portion" of their damages); *Van Kempen v. Matheson Tri-Gas, Inc.*, No. 15-cv-00660-HSG, at *17 (N.D. Cal. Aug. 1, 2016) (concluding that the settlement was "fair and reasonable result because the class would receive all of their actual damages in addition to some special damages"); *Norton v. Maximus Inc.*, CIV. No. 1:14-00030 WBS, at *15 (E.D. Cal. Nov. 19, 2015) (noting that class members' "actual recovery [would be] comparable to the amount they would recover at trial"); *Anderson-Butler v. Charming Charlie Inc.*, CIV. No. 2:14-01921 WBS AC, at *14 (E.D. Cal. Nov. 3, 2015) (noting that the settlement would afford class members' recovery that would be "at least comparable to the amount they would recover at trial").

[80] *See, e.g.*, *Wing v. Asarco Incorporated*, 114 F.3d 986, 989 (9th Cir. 1997) (the district court judge "spoke in awe of class counsel's performance, stressing the first-rate job the lawyers did . . . and the exceptional results obtained, which the court viewed as especially remarkable in light of the quality of opposition counsel"); *Trosper v. Stryker Corp.*, No. 13-CV-00607-LHK, 2015 WL 5915360, at *1 (N.D. Cal. Oct. 9, 2015) (" . . . Class Counsel's efforts in investigating this case, in engaging in successful motions practice, and in working with various experts were essential in effectuating a substantial settlement for the class."); *Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1120–22 (C.D. Cal. 2008) (crediting class counsel's efforts for achieving great monetary and nonmonetary results in a case that was "hard fought" by defendants).

automotive emissions cheating claims, including cases against Volkswagen, Mercedes, and Chrysler. *Id.*

58. There can be no doubt that had the cases been handled by counsel who lacked these attorneys' technical automotive expertise—and the experience litigating these kinds of complex class actions—the lodestar would have been much higher to achieve the same result. This team, by contrast, was able to hit the ground running, thus leading to a relatively low lodestar. For instance, assume other (less experienced) attorneys with the same rates would have spent an additional 1,500 hours getting up to speed to handle the litigation. If they requested the same fees of $8,696,551.50, their multiplier would be only 2.26 (excluding future hours) rather than 3.0 (also excluding future hours). In my opinion, it makes no sense to penalize the experienced and efficient attorneys here by imposing an artificially low multiplier.

59. It is fundamental that "[c]lass counsel should not be 'punished' for efficiently litigating this action, or for otherwise providing class members with the benefits of their experience gained litigating similar class cases. Class members are well-served when they are represented by competent and experienced counsel."[81] Put another way, "*[t]he lodestar [can fail] to reflect the benefits from the attorneys' experience and intimate knowledge of the litigation.*"[82] As one court explained, "where plaintiffs' lead counsel remained at the helm throughout fifteen years of litigation . . . such continuity prompt[ed] tremendous efficiency and necessarily reduces

---

[81] *Bayat v. Bank of the West*, No. C-13-2376 EMC, 2015 WL 1744342, at *9 (N.D. Cal. Apr. 15, 2015).

[82] *Hartman v. Duffey*, 973 F. Supp. 199, 202 (D.D.C. 1997) (emphasis added; cleaned up).

the ultimate expenditure of hours."[83] In my opinion, it is fair and proper to recognize class counsel's extensive experience and expertise in evaluating the 3.0 and 1.95 multipliers (depending on whether future hours are considered).

iii. Risk

60. In percentage cases using a lodestar cross-check, it is appropriate to consider risk when evaluating a multiplier.[84] Moreover, the California Supreme Court has made clear that risk is a proper consideration in evaluating a multiplier in cases brought under California fee-shifting statutes: "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 only receives his hourly rate; and "[i]f he is paid no more, competent counsel will be reluctant to accept fee award cases."[85] However, in contrast to the California state cases, which take into account risk, the United States Supreme Court

---

[83] *Miller v. Holzmann*, 575 F. Supp. 2d 2, 49 (D.D.C. 2008) (cleaned up); *accord e.g.*, *McKenzie v. Kennickell*, 684 F. Supp. 1097, 1107 (D.D.C. 1988) (noting that "[i]t is extremely rare that the same attorneys remain at the helm in such a protracted litigation," and that "[s]uch continuity promotes tremendous efficiency and necessarily reduces the ultimate expenditure of hours").

[84] *See, e.g., In re Bluetooth Headset Litig.*, 654 F.3d 935, 941–42 (9th Cir. 2011) (noting that risk is one factor courts consider when evaluating if a multiplier is appropriate); *In re WPPSS*, 19 F.3d 1291, 1301 (9th Cir. 1994) (remanding for reconsideration because the district court "abused its discretion in refusing to award a risk multiplier in this case").

[85] *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132–33, 17 P.3d 735, 741–743 (Cal. 2001); *see also, e.g., Sierra Club v. Cnty. of San Diego*, No. D079518, at *22 n.10 (Cal. Ct. App. Aug. 17, 2022) (noting that contingent fees compensate attorneys for both their legal services and "for the loan of those services," and that 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") (cleaned up).

has indicated that it is not proper to take risk into account when determining multipliers under federal fee-shifting statutes.[86]

61. The Ninth Circuit has indicated that for *Erie* purposes, the entitlement to an attorneys' fee award under a state statute is a matter of state substantive law.[87] Under that approach, it would be fully appropriate for this Court to take risk into consideration, following the approach of the California state courts.[88] Recently, however, the Ninth Circuit has left open the question of whether Federal Rule of Civil Procedure 23(h) trumps state law governing the assessment of attorneys' fees.[89]

62. Out of an abundance of caution, given the uncertain state of the law in the Ninth Circuit, I have not factored risk into my assessment of the multiplier. Applying Judge Staton's approach in *Engine I*—which considers only results obtained and quality of representation—I

---

[86] *See City of Burlington v. Dague,* 505 U.S. 557, 567 (1992) (holding that "enhancement for contingency is not permitted under the [federal] fee shifting statutes at issue"). *See also Chambers v. Whirlpool Corp.*, 980 F.3d 645, 668 (9th Cir. 2020) (discussing *Dague*).

[87] *See, e.g., Kabatoff v. Safeco Ins. Co.,* 627 F.2d 207, 210 (9th Cir. 1980) (noting that, "[i]n a diversity action, the question of attorney's fees is governed by state law"); *Crommie v. State of Cal., Pub. Util. Comm'n,* 840 F. Supp. 719, 721–22 (N.D. Cal. 1994) (citing Ninth Circuit cases and applying state law in fee computation). *See also In re Volkswagen and Audi Warranty Extension Litig.,* 692 F.3d 4, 15–16 (1st Cir. 2012) (concluding that Fed. R. Civ. P. 23(h) does not require application of federal fee principles; state law governed where parties agreed to pay reasonable fees).

[88] *See, e.g., Ketchum v. Moses*, 17 P.3d 735, 746 (Cal. 2001) (noting that courts may provide for a "fee enhancement to the basic lodestar figure for contingent risk").

[89] *See Briseño v. Henderson,* 998 F.3d 1014, 1030 (9th Cir. 2021) (concluding that *Erie* did not apply to the Rule 23(e) assessment at issue and indicating that "*Erie*'s effect on fee-shifting law [in the context of Rule 23(h)], if it even has one, is simply not implicated in this appeal").

believe that the multiplier here is reasonable for the reasons stated above, *without any consideration of risk*. But if this Court deems it appropriate to consider risk in applying the lodestar here, that analysis would only bolster the conclusion that the multiplier is reasonable. Class counsel took an enormous risk that even after years of litigation, these cases could have resulted in no recovery—either of attorney or staff time or of out-of-pocket costs.[90] For instance, the denial of class certification of a litigation class was a serious concern given: (1) the nationwide character of the class and the possibility that the laws of multiple states would need to be applied;[91] (2) individualized issues regarding whether the problems suffered by class members could have been a result of a class member's failure to maintain the car properly;[92] and (3) potential Article III

---

[90] *See, e.g., Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002) (approving a 3.65 multiplier, for plaintiffs' attorneys "taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases"); *Crawford v. Astrue*, 586 F.3d 1142, 1149 (9th Cir. 2009) (noting that the lodestar method can "under-compensate[] attorneys for the risk they assume"); *Gonzalez v. S. Wine & Spirits of Am. Inc.*, No. 2:11-cv-05849-ODW(PLAx), 2014 WL 1630674 at *8 (C.D. Cal. Apr. 24, 2014) (noting that "attorneys should receive a multiplier when they take a case on a contingency basis as an incentive to encourage attorneys to take such cases"); *Charlebois v. Angels Baseball LP*, 993 F. Supp. 2d 1109, 1123 (C.D. Cal. 2012) (noting that "[n]on-contingent rates . . . do not account for the inherent risks associated with contingent work and delay in payment").

[91] *See, e.g.*, *Davison v. Kia Motors Am., Inc.*, No. 15-00239, 2015 WL 3970502, at *10–11 (C.D. Cal. June 29, 2015) (dismissing nationwide class claims and noting that "putative class member's claims here must be governed by and decided under the law of the state in which the injury took place"); *Castano v. Am. Tobacco Co.*, 84 F.3d 734, 743 n.15 (5th Cir. 1996) (decertifying a nationwide class due in part to the differences in state law); *Matter of Rhone-Poulenc Rorer Inc.*, 51 F.3d 1293, 1303–04 (7th Cir. 1995) (decertifying a nationwide class in part because of differences among state negligence laws).

[92] *See, e.g., Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1174 (9th Cir. 2010) (noting that "[w]hether each proposed class member's tires wore out, and whether they wore out prematurely and as a result of the alleged alignment defect, are individual causation and injury issues that could make classwide adjudication inappropriate"); *Cholakyan v. Mercedes-Benz USA,*

standing issues for class members whose vehicles had not manifested the defects alleged by the class.[93] On the merits, a jury could have found (for all or many class members) either that there was no defect or that the ABS problems were caused by the owners' lack of proper maintenance of the vehicles. Moreover, Hyundai and Kia hired Skadden, one of the country's foremost defense firms. Skadden's attorneys litigated aggressively and made clear that defendants were willing to invest substantial resources to prevail. Notably, class counsel were required to litigate the matter on a condensed discovery schedule, including interpreting foreign language documents (*see* Doc. 115 at 13–14).

63. In sum, consideration of risk only bolsters my conclusion that the fees requested by class counsel are reasonable. But as noted, I conclude that the fees requested are reasonable without any consideration of risk.

2. The Requested Fees are Reasonable Under the Percentage Method

a. The Percentage Method Best Aligns the Interest of Class Counsel and the Class

---

LLC, 281 F.R.D. 534, 556 n.108 (C.D. Cal. 2012) (denying class certification and noting that causation issues such as "[e]nvironmental circumstances, use factors, and a vehicle owner's maintenance habits" hampered the identification of common issues); *Dynabursky v. AlliedBarton Sec. Servs. LP*, No. 8:12-cv-2210-JLS (RNBx), 2014 WL 1654030 at *7 n.6 (C.D. Cal. Apr. 24, 2014) (noting that individualized fact-finding or "mini-trials" may defeat the requirement of ascertainability); *Edwards v. Ford Motor Co.*, No. 11-CV-1058-MMA(BLM), 2012 WL 2866424, at *8 (S.D. Cal. June 12, 2012) (denying class certification in part because of "external driving conditions under which each individual class vehicle operates," including maintenance and operation factors); *Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 604 (3d Cir. 2012) (noting that "defects involving motor vehicles often involve complicated issues of individual causation") (cleaned up).

[93] *See* ¶ 56.

64. In this section, I analyze the reasonableness of the fee request using the percentage method. My analysis assumes two alternatives: (1) that the Court chooses the percentage method over the lodestar method as the primary approach for assessing fees;[94] or (2) that while the Court believes that the lodestar approach should be the primary approach, the percentage method provides a viable "cross-check" for assessing the lodestar method (*see* cases cited in ¶ 33 n.24).

65. I believe that the percentage method is generally preferable to the lodestar method because it "more closely aligns the interests of the counsel and the class, i.e., class counsel directly benefit from increasing the size of the class fund and working in the most efficient manner."[95] Moreover, "one of the primary advantages of the percentage of recovery method is

---

[94] *See, e.g., Aichele v. City of L.A.*, Case No. CV 12-10863-DMG (FFMx), at *11 (C.D. Cal. Sep. 9, 2015) (noting that "the percentage of the available fund analysis is the preferred approach in class action fee requests because it more closely aligns the interests of the counsel and the class, i.e., class counsel directly benefit from increasing the size of the class fund and working in the most efficient manner"); *Tait v. BSH Home Appliances Corp.*, Case No. SACV 10-0711-DOC (ANx), at *19 (C.D. Cal. July 27, 2015) ("There are significant benefits to the percentage approach, including consistency with contingency fee calculations in the private market, aligning the lawyers' interests with achieving the highest award for the class members, and reducing the burden on the courts that a complex lodestar calculation requires."); *Suzuki v. Hitachi Glob. Storage Tech., Inc.*, No. C 06-7289 MHP, at *3 (N.D. Cal. Mar. 12, 2010) (noting that "many federal courts have indicated a preference for the percentage-of-the-recovery method" and that "[t]he Ninth Circuit has indicated approval of the use of that method even in cases lacking a distinct, traditional common fund.").

[95] *Aichele v. City of L.A.*, Case No. CV 12-10863-DMG (FFMx), 2015 WL 5286028 at *11 15 (C.D. Cal. Sep. 9, 2015); *see also, e.g., Craft v. Cnty. of San Bernardino*, 624 F. Supp. 2d 1113, 1123 (C.D. Cal. 2008) (the percentage method "aligns the interests of counsel and the class by allowing class counsel to directly benefit from increasing the size of the class fund"); *Khoja v. Orexigen Therapeutics, Inc.*, 15-cv-00540-JLS-AGS, 2021 WL 5632673 at *27 (S.D. Cal. Nov. 30, 2021) (finding that the "percentage-of-the-fund calculation is preferable to the lodestar approach"); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1269 (D.C. Cir. 1993) ("It matters little

that it is thought to equate the interests of class counsel with those of the class members and encourage class counsel to prosecute the case in an efficient manner."[96] By contrast, the lodestar method arguably gives class counsel a perverse incentive to work more hours than are necessary and to avoid early settlement.[97] Alternatively, if (as in the present case) class counsel perform with

---

to the class how much the attorney spends in time or money to reach a successful result." (*quoting Howes v. Atkins*, 668 F.Supp. 1021 (E.D. Ky. 1987))); *Shaw v. Interthinx, Inc*., No. 13-CV-01229-REB-NYW, 2015 WL 1867861, at *5 (D. Colo. Apr. 21, 2015) (noting that the percentage method "is less subjective than the lodestar plus multiplier approach, matches the marketplace most closely, and is the better suited approach when class counsel were retained on a contingent fee basis") (cleaned up); *see also* NAT'L ASS'N OF CONSUMER ADVOCATES, STANDARDS AND GUIDELINES FOR LITIGATING AND SETTLING CONSUMER CLASS ACTIONS 27 (3d ed. 2014) (noting that the percentage method is preferable from consumers' perspective because it "keeps class counsel's financial interest closely aligned with that of the class itself" and "approximates the 'free market' negotiated fees obtained in traditional contingency litigation").

[96] *In re Xcel Energy, Inc.,* 364 F. Supp. 2d 980, 992 (D. Minn 2005) (cleaned up). *Accord, e.g., Aichele*, 2015 WL 5286028 at *12 ("It is well recognized that attorneys' fees should be aligned with those of the class, which is best accomplished by awarding a percentage of the fund"); *In re Chrysler Motors Corp. O.E.P. Lit.*, 736 F. Supp. 1007, 1009 (E.D. Mo. 1990) ("many courts, including the Supreme Court, have taken note of the fact that the awarding of a percentage of the recovery in a class action common fund case is a more appropriate and efficient means of calculating an attorneys' fee award") (*citing Blum v. Stenson*, 465 U.S. 886, 901 n.16 (1984)).

[97] *See, e.g*., *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 n.5 (9th Cir. 2002) (noting that "it is widely recognized that the lodestar method creates incentives for counsel to expend more hours than may be necessary [and] does not reward early settlement"); *Williams v. Costco Wholesale Corp.*, Civil No. 02cv2003 IEG (AJB) (S.D. Cal. July 7, 2010) (same); *McDaniel v. Cnty. of Schenectady*, 595 F.3d 411, 418 (2d Cir. 2010) ("The lodestar method . . . creates an incentive for attorneys to bill as many hours as possible, to do unnecessary work, and for these reasons also can create a disincentive to early settlement."); *In re Synthroid Mktg. Litig*., 264 F.3d 712, 721 (7th Cir. 2001) ("[T]he lodestar approach creates [an] incentive to run up the billable hours."); *Swedish Hosp. Corp*, 1 F.3d at 1268–69 ("[U]sing the lodestar approach . . . attorneys are given incentive to spend as many hours as possible, billable to a firm's most expensive attorneys [and] . . . there is a strong incentive against early settlement since attorneys will earn more the longer a litigation lasts."); *Premachandra v. Mitts*, 727 F.2d 717, 733 (8th Cir. 1984) (courts may reduce fee awards accordingly in order to "[dis]courage overpreparation"); *In re Netflix Privacy Litig*., No. 5:11-CV-00379 EJD, slip op. at 18 (N.D. Cal. Mar. 18, 2013) ("[T]he

great efficiency—and do not run up unnecessary hours—they risk being penalized by overly restrictive limits on multipliers. Under the percentage method, by contrast, class counsel are incentivized to work vigorously but efficiently because their fee awards are based on the success they achieve on behalf of the class.[98] They are not incentivized to engage in futile or unnecessary tasks since (absent a lodestar cross-check) their fees will be determined based solely on results, not on hours expended. As an additional concern, the lodestar method has been criticized by courts and commentators as "difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation to reach a predetermined result."[99] The percentage method avoids many of these problems.

---

lodestar method's limitations lie in its creating a possible incentive for counsel to expend more hours than is necessary on a litigation or to delay settlement." (*citing Vizcaino*, 290 F.3d at 1050 n.5)); *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 762 (S.D. Ohio 2007) (noting that the lodestar method "incentivizes attorneys to work more hours, without regard to the quality of the output or the class's needs"); REPORT OF THE FEDERAL COURTS STUDY COMMITTEE 104 (Fed. Judicial Ctr. Apr. 2, 1990), *available at* https://www.fjc.gov/sites/default/files/2012/RepFCSC.pdf (noting that the lodestar method gives class counsel "incentives to run up hours unnecessarily").

[98] *See, e.g., In re Xcel Energy, Inc.*, 364 F. Supp. 2d at 992 ("Under the percentage method, the more the attorney succeeds in recovering money for the client, and the fewer legal hours expended to reach that result, the higher dollar amount of fees the lawyer earns.") (cleaned up).

[99] *Ramah Navajo Chapter v. Babbitt*, 50 F. Supp. 2d 1091, 1108 (D.N.M. 1999). *Accord, e.g.*, *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (noting that the Ninth Circuit has "allowed courts to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar"); *In re Facebook Biometric Info. Privacy Litig.*, 522 F. Supp. 3d 617, 630 (N.D. Cal. 2021) (same); *Swedish Hosp. Corp.*, 1 F.3d at 1269–70 (noting that the lodestar method "makes considerable demands upon judicial resources since it can be exceptionally difficult for a court to review attorney billing information over the life of a complex litigation and make a determination about whether the time devoted to the litigation was necessary or reasonable" and that a "related weakness in the lodestar approach is that it often results in substantial delay in distribution of the common fund to the class"); REPORT

66. As noted (¶ 33), the fact that the most significant benefits under this settlement (*i.e.,* the extended warranties) are not monetary does not negate the logic of using the percentage method. Indeed, non-monetary benefits are commonly factored into the calculation of the "fund" for purposes of the percentage method.[100] Here, as noted (¶ 54), plaintiffs' expert, Susan Thompson, has estimated the value of the extended warranties and the other relief under the settlement. As explained (¶¶ 53–54), there can be no doubt that the extended warranties offered under this settlement have real value—even if no claim is ever made by a particular class member—because extended warranties are akin to insurance policies. Moreover, as noted (¶ 53), numerous courts have recognized the tangible value of extended warranties.

67. In short, the Court could decide to use the percentage method as the primary method, relying on plaintiffs' expert for the value of the settlement to the class. Alternatively, and more conservatively, the Court could use the percentage method as a cross-check for the lodestar method to confirm the reasonableness of the lodestar and multiplier. Either way, looking at the benefits to the class versus the amount of fees requested, the fee request is reasonable.

OF THE FEDERAL COURTS STUDY COMMITTEE 104 (Fed. Judicial Ctr. Apr. 2, 1990), *available at* https://www.fjc.gov/sites/default/files/2012/RepFCSC.pdf (noting that the lodestar method may "unduly burden judges").

[100] *See, e.g.*, *Steiner v. Am. Broad.*, 248 F. App'x 780, 783 (9th Cir. 2007) (noting that the the district court, in awarding attorneys' fees, found that class counsel had procured nonmonetary benefits on behalf of the class); *George v. Acad. Mortg. Corp.*, 369 F. Supp. 3d 1356, 1379 (N.D. Ga. 2019) ("When the non-cash relief can be reliably valued, courts often include the value of this relief in the common fund and award class counsel a percentage of the total fund." (*quoting In re Checking Account Overdraft Litig.*, No. 1:09-MD-02036-JLK, 2013 WL 11319244, at *12 (S.D. Fla. Aug. 2, 2013))).

b. Under a Percentage Approach, the Fees Sought Here Are Reasonable

68. The Ninth Circuit has articulated several factors that district courts should consider in applying the percentage method. These include: (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 plaintiffs; and (5) awards made in similar cases.[101] Those factors overwhelmingly support the settlement here. Class counsel are seeking only about 3 percent (paid separately by defendants) of the benefits they secured for the class (just taking into account the extended warranties)—a percentage that is vastly smaller than the mean or median rates for benefits comparable to those here, and far less than the Ninth Circuit's 25 percent benchmark. When the other benefits are considered, even with the most conservative assumptions, the percentage sought is even lower—2.66 percent.

i. Results Achieved

69. As I explained (¶ 53), the settlement represents an outstanding result for the class. As noted (¶ 56), it is difficult to imagine class members achieving a better result at trial. The extended warranty benefits alone are worth well over $288 million. *See* ¶ 54. The other benefits provided under the settlement that were able to be valued range from $38,125,814 to $381,258,1371. *See* ¶ 54. And here, the benefits will be available to class members now, long before any trial and related appeals could have taken place. Moreover, class members will pay no

[101] *See, e.g.*, *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048–50 (9th Cir. 2002) (noting that exceptional results, risk, benefits secured for the class, prevailing market rate, and the contingent nature of the representation are all relevant factors when determining if fee requests are reasonable).

fees for their recovery because Hyundai and Kia have agreed to pay Court-approved fees separately.

ii. Risk of Litigation

70. Class counsel faced substantial risks in taking on and litigating this case. As noted (¶ 62), Hyundai and Kia would have had plausible arguments for opposing certification of a class action for litigation purposes, and also would have had potential arguments on the merits for many class members.

iii. Skill Required

71. Automotive defect cases require great technical skill; and litigating a massive class action against experienced defense attorneys requires substantial complex litigation experience.

72. In approving class settlements, courts have recognized that prosecuting complex automotive cases requires exceptional skill. For instance, in *Weeks v. Kellogg Co.*, the court, approving the settlement agreement, emphasized that class counsel in that case had "significant experience litigating consumer class action claims, including claims against auto industry defendants."[102] Likewise, in *Mendoza v. Hyundai*, the court noted that class counsel in that case had "substantial experience litigating consumer class actions against automotive

[102] *Weeks v. Kellogg Co.*, No. CV 09-08102 (MMM) (RZx), 2011 BL 407759, at *19 (C.D. Cal. Nov. 23, 2011).

companies."[103] And in *Granillo v. FCA*, the court noted that class counsel in that case were "well versed in consumer class action litigation, and specifically class actions involving automobile defects."[104] Furthermore, the *Granillo* court highlighted that class counsel had "successfully obtained final approval of settlements in 13 automobile defect class actions."[105] Indeed, courts have highlighted the experience of class counsel here. Steve Berman of Hagens Berman, for example, has been recognized for his "extensive experience handling class actions and complex litigation, including automobile defect cases."[106] The subject matter of such cases often involves "factually complex claims," such as the electronic throttle control system involved in the *Toyota Unintended Acceleration Litigation*, which the court noted was "daunting" and "required particular expertise."[107] Berman's $1.6 billion settlement in the *Toyota Unintended Acceleration Litigation* is just one example of his "impressive" track record.[108]

---

[103] *Mendoza v. Hyundai Motor Co.*, No. 15-cv-01685-BLF, 2017 BL 19002, at *8 (N.D. Cal. Jan. 23, 2017).

[104] *Granillo v. FCA US LLC*, Civil Action No. 16-153 (FLW) (DEA), 2019 BL 322267, at *11 (D.N.J. Aug. 27, 2019).

[105] *Id.*

[106] *Gamboa v. Ford Motor Co.*, 381 F. Supp. 3d 853, 868 (E.D. Mich. 2019) (granting class members' request to appoint Berman as interim co-lead class counsel and to an interim executive committee "to assist with the complexities involved in [the] case").

[107] Order Granting Motion for Final Approval of Proposed Class Action Settlement, and Granting Motion for Attorneys' Fees, Reimbursement of Expenses, and Compensation to Named Plaintiffs at 87, *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 8:10ML 02151 JVS (FMOx), (C.D. Cal. July 24, 2013).

[108] *In re Stericycle, Inc.*, No. 13 C 5795, at *5 (N.D. Ill. Oct. 11, 2013).

73. As noted (¶ 72), class counsel approached the present litigation with great experience and expertise and achieved an extraordinary result with a relatively modest number of hours. The litigation was very contentious. Indeed, even after agreeing to a settlement, defendants would not consent to a clear sailing agreement but instead insisted on preserving their right to challenge whatever amount of fees and costs that class counsel chose to seek. And class counsel, in turn, insisted on confirmatory discovery following the signing of the term sheet. I have no doubt that there was no collusion in either the litigation or the settlement of this nationwide class action.

iv. Contingent Nature of Fee and Financial Burden Carried by Plaintiffs

74. As noted (¶ 62), these cases were all handled on a contingent fee basis, with class counsel risking the possibility of no recovery of fees and costs. In addition to the hours invested (*see* ¶¶ 36–38), class counsel spent more than $200,000 in actual out-of-pocket costs, with no assurance that those costs would ever be recovered.

v. Awards in Similar Cases

75. As noted (¶ 54), taking only the value of the extended warranties provided by the settlement, the value of the recovery is $288,697,701. The fees sought by class counsel—$8,696,551.50—represent only about 3 percent of that value. When other benefits are considered (on the most conservative assumptions), the percentage is only 2.66. These percentages are much lower than the Ninth Circuit's 25 percent benchmark.[109] Likewise, the percentage of recovery

[109] *See, e.g.*, *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (noting that "courts typically calculate 25% of the fund as the 'benchmark' for a reasonable fee award"); *DiFlauro v. Bank of Am.*, 2:20-cv-05692 DSF (SKx), at *4 n.1 (C.D. Cal. Dec. 19, 2022)

involved here is far less than the mean or median awards, both in the Central District of California and nationally.[110] And the percentage is far less than the rates approved in many automotive product liability cases. For instance, in *Sheikh v. Tesla Inc.*, the court noted that class counsel "request[ed] *only* 17.7%, despite the exceptional results achieved" by the $5.4 million settlement, and thus concluded that such a fee award was reasonable.[111] In *Mendoza v. Hyundai Motor Co.*, the court awarded attorneys' fees amounting to 10 percent of the total class recovery.[112] Indeed, *it is difficult to find cases litigated as effectively as this one in which fees awarded were 3 percent or less of the class's recovery*.[113] In my mind, class counsel have acted with great restraint in seeking only $8,696,551.50 in fees.

(noting the "Ninth Circuit's 25% benchmark" for attorneys' fees); *Silveira v. M&T Bank*, 2:19-cv-06958-ODW-KS, at *6 (C.D. Cal. Oct. 12, 2021) (same).

[110] *See* Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. EMPIRICAL LEGAL STUD. 811, 815 (2010) (noting that out of 689 class action settlements over a 16-year period, the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively); Theodore Eisenberg & Geoffrey Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008*, 7 J. EMPIRICAL LEGAL STUD. 248, 259 (2010) (noting that the mean and median fee awards were 25 percent of class recovery in the Central District of California); Theodore Eisenberg, Geoffrey Miller & Roy Germano, *Attorneys' Fees in Class Actions: 2009–2013*, 92 N.Y.U. L. REV. 937, 947 (2017) (noting that "[o]n average, fees were 27 [percent] of gross recovery during the 2009–2013 period" and that, within the Central District of California, the average fee award was 24 percent).

[111] No. 17-cv-02193-BLF, at *12 (N.D. Cal. Nov. 2, 2018) (emphasis added).

[112] No. 15-cv-01685-BLF, at *18 (N.D. Cal. Jan. 23, 2017).

[113] *Engine I* is an example of a low percentage recovery. In that case, plaintiffs' expert's analysis placed the settlement value at over $1.3 billion. (*See Engine I*, 8:17-cv-00838-JLS-JDE, Doc. 164–1 at 6.) Taking a very conservative approach, class counsel requested and were granted a small percentage of that value. Notably, various class counsel involved here were counsel in that case. As in *Engine I,* they are being very conservative here. In the *Volkswagen Clean Diesel Litigation,* the fees awarded were roughly 1.96 of the settlement's value. MDL No. 2672 CRB

B. The Out-of-Pocket Costs Sought are Reasonable

76. Under the settlement, defendants will pay litigation expenses to plaintiffs' counsel as awarded by the Court (Doc. 115 ¶ 14.3). Class counsel are seeking reimbursement of out-of-pocket costs of up to $239,767.60. In my opinion, the costs sought by class counsel are eminently reasonable.

77. The costs for which reimbursement is sought are for standard (and expected) expenses for litigation of this kind, and thus do not raise any concerns. The major items were expert fees, the mediator's fees, and e-discovery service fees. Other charges included court fees, transcription service fees, storage facility rental for damaged vehicles, and courier charges. I see no red flags with respect to the costs at issue. Moreover, the expenses sought here are reasonable when viewed as a percentage of the fund—representing *less than one-tenth of one percent* of just the value of the extended warranties. Given that class counsel's out-of-pocket costs represent such a small fraction of the benefits under the settlement (worth hundreds of millions of dollars), they are well within—indeed, below—the norm for major class actions.[114] And these costs are not

---

(JSC), at *5 (N.D. Cal. Mar. 17, 2017). But that case involved a defendant that had already publicly admitted to fraud based on massive evidence gathered by regulators. Volkswagen wanted a quick settlement to put the scandal behind it. *See, e.g.,* James F. Peltz and Samantha Masunaga, *The biggest auto-scandal settlement in U.S. history was just approved. VW buybacks start soon*, L.A.TIMES (Oct. 25, 2016) https://www.latimes.com/business/autos/la-fi-hy-vw-settlement-20161025-snap-story.html (quoting a Volkswagen executive saying that the settlement was "an important milestone in [Volkswagen's] journey to make things right in the United States"). The *Volkswagen Clean Diesel Litigation* bears no resemblance to the litigation here.

[114] Courts have readily approved expenses amounting to a greater percentage of the class recovery. *See, e.g.*, *Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1127 (C.D. Cal. 2008) ($70,564.64 in costs compared to $25,648,204 settlement fund—approximately 0.28

being borne by class members themselves; if approved by this Court, those costs will be paid separately by Hyundai and Kia. Settlement Agreement (Doc. 131-1) ¶ 14.3.

C. The Service Awards Sought are Reasonable

78. Class counsel seek service awards for the class representatives in the amount of $2,500 or $5,000 each, depending on the role served by the particular class members. Specifically, class counsel seek $5,000 awards for the nine *Zakikhani* plaintiffs. I am advised that those plaintiffs each spent between 10–20 hours on the cases, including reviewing pleadings, assisting in discovery, and reviewing the settlement agreement. Nine other class representatives also played important roles (including gathering necessary documents, reviewing the settlement, and agreeing to serve if and when needed for discovery and trial), but they did not participate in formal discovery or devote as many as hours to the case as the nine *Zakikhani* class representatives. Class counsel are seeking $2,500 each for those representatives. In my view, these proposed service awards are reasonable.

79. In the Ninth Circuit and most other circuits, service awards are permitted as compensation to class representatives. "So long as they are reasonable, [service awards] can be

---

percent); *In re Quantum Health Resources, Inc.*, 962 F. Supp. 1254, 1260 (C.D. Cal. 1997) ($75,472.78 in costs compared to $10 million settlement—approximately 0.75 percent); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995) ($2,406,606.90 in costs compared to $76,723,213.25 settlement—approximately 3.1 percent); *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732 (S.D. Tex. 2008) (approximately $39 million in costs compared to $7.2 billion settlement—approximately 0.54 percent); *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503 (E.D.N.Y. 2003) ($18.7 million in expenses compared to $3.4 billion settlement—approximately 0.55 percent); *In re Tyco Int'l Ltd. Litig.*, 535 F. Supp. 2d 249 (D.N.H. 2007) ($28.9 million compared to $3.3 billion settlement—approximately 0.87 percent).

awarded."[115] In considering the propriety of service awards, courts consider factors including the representatives' efforts to "protect the interests of the class, the degree to which the class has benefitted from those actions, the amount of time and effort the plaintiff expended in pursuing the litigation, and any financial or reputational risks the plaintiff faced."[116] Courts often look to "the extent of the plaintiff's personal involvement in the lawsuit in terms of discovery responsibilities and/or testimony at depositions or trial."[117] Moreover, courts frequently evaluate service awards "in comparison to the total recovery on behalf of the class."[118] Not surprisingly, courts have approved substantial service awards where the class representatives undertook

[115] *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 787 (9th Cir. 2022).

[116] *Id.* at 786 (cleaned up).

[117] *Reibstein v. Rite Aid Corp.*, 761 F. Supp. 2d 241, 257 (E.D. Pa. 2011).

[118] *Meijer, Inc. v. Warner Chilcott Holdings Co. III, Ltd.*, 565 F. Supp. 2d 49, 57 (D.D.C. 2008).

significant work on behalf of the class.[119] The amounts sought here are also consistent with those awarded in other automotive product liability cases.[120]

80. In evaluating the reasonableness of proposed service awards, courts consider a number of factors, "including the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions [and] the amount of time and effort the plaintiff expended in pursuing the litigation."[121] I assess each of these factors below.

1. Actions to Protect the Class

---

[119] *See, e.g., Dorsette v. TA Operating LLC,* No. EDCV091350PARZX, 2019 WL 11583002 at *8 (C.D. Cal. July 26, 2010) (approving $5,000 service award); *Escano v. Kindred Healthcare Operating, Inc.*, CV 09-04778 DDP (RZx), at *1 (C.D. Cal. Apr. 2, 2015) (approving $25,000 and $20,000 service awards); *In re High-Tech Employee Antitrust Litig.*, No. 11-cv-02509-LHK, 2015 WL 5158730, at *17–18 (N.D. Cal. Sept. 2, 2015) (approving $100,000–$140,000 service awards); *Guilbaud v. Sprint Nextel Corp.,* No. 3:13-CV-04357-VC, 2016 WL 7826649 at *4 (N.D. Cal. April 15, 2016) (approving $10,000 service awards); *Smith v. CRST Van Expedited, Inc.,* 2013 WL 163293 at *6 (S.D. Cal. Jan. 14, 2013) (approving $15,000 service awards); *Mondrian v. Trius Trucking, Inc.*, 1:19-cv-00884-ADA-SKO, at *23 (E.D. Cal. Oct. 6, 2022) (approving $10,000 service award); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal. 1995) (approving $50,000 service award)**;** *In re Titanium Dioxide Antitrust Litig.,* No. 10-cv-00318(RDB), 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013) (approving $125,000 service award); *Columbus Drywall & Insulation, Inc. v. Masco Corp.,* No. 1:04-cv-03066-JEC, 2008 WL 11319972, at *3 (N.D. Ga. Mar. 4, 2008) (approving $100,000 service awards); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1635648, at *10–11 (E.D. Pa. Apr. 5, 2018) (approving $100,000 service awards); *Velez v. Novartis Pharmaceutical Corp.*, No. 04-cv-09194-CM, 2010 WL 4877852, at *4, *8, *28 (S.D.N.Y. Nov. 30, 2010) (approving $125,000 service awards).

[120] *See, e.g.*, *In re Chrysler-Dodge-Jeep Ecodiesel® Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 17-md-02777-EMC, at *3 (N.D. Cal. May 3, 2019) (approving service awards of $5,000 to the 60 settlement class representatives); *Sheikh v. Tesla, Inc.*, No. 17-cv-02193-BLF, 2018 WL 5794532, at *10 (N.D. Cal., Nov. 2, 2018) (approving $4,800 service awards); *Eisen v. Porsche Cars N. Am., Inc.*, No. 2:11-cv-09405-CAS-FFMx, at *19 (C.D. Cal. Jan. 30, 2014) (approving $3,750 service awards).

[121] *Staton v. Boeing Co.,* 327 F.3d 938, 977 (9th Cir. 2003) (cleaned up).

81. As discussed above, all of the class representatives were willing, ready, and able to represent the class through discovery and trial. All had to pull together paperwork, review the complaint and sign their name to the lawsuit, communicate with class counsel about case developments, and read and approve the settlement agreement. Those who did more work (performing specific discovery tasks) and thus put in more time are being recognized through the request for $5,000 (as opposed to $2,500) awards. Importantly, the class representatives were not required to support the settlement in order to be eligible for service awards.[122] Instead, they were required to—and did—exercise their independent judgment to protect the class.

2. Benefits to the Class

82. As noted (¶ 21), the settlement provides enormous benefits to the class worth hundreds of millions of dollars. Those benefits would not have been possible without the cooperation, support, and efforts of the class representatives.

3. Time Spent by Plaintiffs in the Litigation

83. Although the case did not go to trial, and no class member was deposed, nine of the class representatives spent between 10–20 hours on the case. Awards of $5,000 are being sought for those class representatives. The other nine served an important role but invested less time (five to fourteen hours); thus, $2500 awards are sought for those individuals. I commend class

[122] *Contrast Radcliffe v. Experian Info. Sol.*, 715 F.3d 1157, 1161 (9th Cir. 2013) (holding that class counsel did not adequately represent the interests of the class because class representatives' receipt of service awards was conditioned on the representatives' agreement not to object to the proposed settlement).

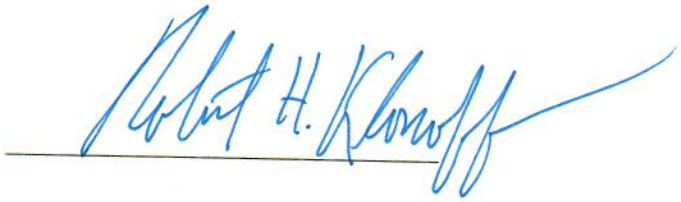
counsel for differentiating between these two groups and not simply asking for a "one size fits all" award.

VII. CONCLUSION

84. In my opinion, the attorneys' fees, out-of-pocket costs, and service awards sought by class counsel are reasonable and should be approved.

* * *

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based on information known to me.



Robert H. Klonoff

March 20, 2023

APPENDIX A

CURRICULUM VITAE

ROBERT H. KLONOFF
Lewis & Clark Law School
10101 S. Terwilliger Blvd.
Portland, Oregon 97219
Tel: 503-768-6935 (Office)
E-Mail: klonoff@lclark.edu

Date of Birth: March 15, 1955
Place of Birth: Portland, Oregon

EDUCATION:

J.D., Yale University, 1979

A.B., University of California, Berkeley, 1976, Majored in Political Science/Economics (Highest Honors)

WORK EXPERIENCE:

Current Positions:

Jordan D. Schnitzer Professor of Law, Lewis & Clark Law School (since 2014)

Panelist, FedArb (alternative dispute resolution)

Prior Positions:

Dean of the Law School, Lewis & Clark Law School (2007-2014)

Douglas Stripp/Missouri Endowed Professor of Law, University of Missouri-Kansas City School of Law (2003-2007)

Jones Day, Washington, D.C. (Partner, 1991-July 2003; Of Counsel, 1989-1991, 2003- 2007)

Adjunct Professor of Law, Georgetown University Law Center (class action law and practice) (1999-2003)

Visiting Professor of Law, University of San Diego School of Law (1988-1989)

Assistant to the Solicitor General of the United States (1986-1988)

Assistant United States Attorney (Criminal Division, District of Columbia) (1983-1986)

Associate, Arnold & Porter, Washington, D.C. (1980-1983)

Law Clerk to the Honorable John R. Brown, Chief Judge, United States Court of Appeals for the Fifth Circuit (1979-1980)

Summer Associate, Baker & Botts, Houston, and Arent, Fox, Kintner, Plotkin & Kahn, Washington, D.C. (1978)

Summer Associate, Sidley & Austin, Washington, D.C. (1977)

SPECIAL HONORS AND ACHIEVEMENTS:

Recipient, Lewis & Clark Law School's 2020 Leo Levenson Award for Excellence in Teaching (the law school's most prestigious award)

Recipient, 2018 Albert Nelson Marquis Lifetime Achievement Award in the field of law from *Who's Who in America*

Member, 2011-2017, United States Judicial Conference Advisory Committee on Civil Rules (appointed by Chief Justice John G. Roberts, Jr., in 2011 as the sole voting member from the law school academy; reappointed May 2014 for a second three-year term)

Elected Member, International Association of Procedural Law

Fulbright Specialist Scholar at the University of Hong Kong Faculty of Law (2016)

Recipient, Oregon Consular Corps Award for Individual Achievement in International Outreach, Portland, Oregon (May 2013)

Associate Reporter, American Law Institute's *Principles of the Law of Aggregate Litigation* (class action project; drafts presented at several annual meetings; final version approved by full ALI in May 2009 annual meeting and published in May 2010)

Elected Member, American Law Institute

Fellow, American Academy of Appellate Lawyers

Sustaining Life Fellow, American Bar Foundation

Academic Fellow, Pound Institute

Recipient, 2007 Award for Outstanding UMKC Law Professor (based on vote of 3d year class)

2007 UMKC Law School Commencement Speaker (based on vote of 3d year class)

Recipient, 2006 UMKC Law School Elmer Pierson Teaching Award for Most Outstanding Teacher in the Law School (selected by the Dean)

Recipient, 2005 President's Award for Outstanding Service from the UMKC Law School Foundation

Reporter, 2005 National Conference on Appellate Justice (co-sponsored by the Federal Judicial Center, National Center for State Courts, and other organizations)

Co-Recipient, District of Columbia Bar's Frederick B. Abramson Award for Superior Service to the Community (June 1998)

Attorney General's Special Achievement Award for Outstanding Work as an Assistant to the Solicitor General of the United States (1986, 1987)

Attorney General's Special Achievement Award for Outstanding Work as an Assistant United States Attorney (1984, 1985)

The Benjamin N. Cardozo Prize for Best Moot Court Brief for Academic Year 1978-1979, Yale Law School

Semi-Finalist, Moot Court Oral Argument, Yale Law School (Fall, 1978)

Phi Beta Kappa

U.C. Berkeley's Most Outstanding Political Science Student (1976)

The Edward Kraft Award for Outstanding Work as a Freshman Student, U.C. Berkeley (1974)

MEMBERSHIPS:

U.S. Supreme Court Bar

Various Federal Circuit and District Courts

District of Columbia Bar

Missouri State Bar

Oregon State Bar

Multnomah County Bar

American Law Institute

American Bar Association

American Bar Association Committee on Class Actions & Derivative Suits (Section of Litigation)

PUBLICATIONS:

Books:

Wright & Miller, Federal Practice and Procedure (co-author with sole responsibility for the three volumes devoted to class actions)

Castanias & Klonoff, Federal Appellate Practice *in a Nutshell* (West 3d ed. forthcoming 2022)

Klonoff, *Introduction to the Study of U.S. Law: Cases and Materials* (West 2d ed. 2021) (with teacher's manual)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (West 6th ed. 2021)

Klonoff, *Federal Multidistrict Litigation in a Nutshell* (West 2020)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (West 5th ed. 2017)

Castanias & Klonoff, *Federal Appellate Practice in a Nutshell* (West 2d ed. 2017)

Klonoff, *Class Actions and Other Multi-Party Litigation: Cases and Materials* (West 4th ed. 2017) (with teacher's manual)

Klonoff, *Introduction to the Study of U.S. Law: Cases and Materials* (West 2016) (with teacher's manual)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (Thomson West 4th ed.) (2012)

Klonoff, Bilich & Malveaux, *Class Actions and Other Multi-Party Litigation: Cases and Materials* (West 3d ed.) (2012) (with teacher's manual)

Klonoff (associate reporter), *Principles of the Law of Aggregate Litigation*, American Law Institute Publications (2010) (along with Samuel Issacharoff, reporter, and associate reporters Richard Nagareda and Charles Silver)

Castanias & Klonoff, *Federal Appellate Practice and Procedure in a Nutshell* (Thomson West) (2008)

Klonoff & Colby, *Winning Jury Trials: Trial Tactics and Sponsorship Strategies* (NITA 3d ed.) (2007)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (Thomson West 3d ed.) (2007)

Klonoff, Bilich & Malveaux, *Class Actions and Other Multi-Party Litigation: Cases and Materials* (Thomson West 2d ed.) (2006) (with teacher's manual)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (Thomson West 2d ed.) (2004)

Klonoff & Colby, *Winning Jury Trials: Trial Tactics and Sponsorship Strategies* (Lexis Nexis 2d ed.) (2002)

Klonoff & Bilich, *Class Actions and Other Multi-Party Litigation: Cases and Materials* (West Group 2000)

Klonoff, *Class Actions and Other Multi-Party Litigation in a Nutshell* (West Group 1999)

Klonoff & Colby, *Sponsorship Strategy: Evidentiary Tactics for Winning Jury Trials* (Michie Co. 1990)

Articles and Book Chapters:

Klonoff, *COVID-19 Aggregate Litigation: The Search for the Upstream Wrongdoer*, 91 Fordham L. Rev. 385 (forthcoming 2022)

Klonoff, *3M's Bankruptcy Maneuver Raises Issues for Justice System* (Law 360, Aug. 11, 2022)

Francis McGovern: The Consummate Facilitator, Teacher, and Scholar, 84 Law & Contemporary Problems 1 (2021) (co-author)

Klonoff, *International Handbook on Class Actions*, chapter on the Future of U.S. Aggregate Litigation, Cambridge University Press (2021)

Klonoff, *The Judicial Panel on Multidistrict Litigation: The Virtues of Unfettered Discretion*, 89 UMKC L. Rev. 1003 (2021)

Klonoff, *Class Action Objectors: The Good, the Bad, and the Ugly*, 89 Fordham L. Rev. 475 (2020)

Klonoff, *Foreword—Class Actions, Mass Torts, and MDLs:The Next 50 Years*, 24 Lewis & Clark Law Review 359 (2020)

Application of the New Discovery Rules in Class Actions: Much Ado About Nothing, 71 Vanderbilt L. Rev. 1949 (2018)

Class Actions in the U.S. and Israel: A Comparative Approach, 19 Theoretical Inquiries in the Law 151 (2018) (co-author)

Class Actions Part II: A Respite from the Decline, 92 N.Y.U. L. Rev. 971 (2017)

The Remedy For Election Fraud Is A New Election, Law 360 (July 20, 2017) (www.law360.com/whitecollar/articles/946569/the-remedy-for-election-fraud-is-a-new-election)

Class Actions in the Year 2025: A Prognosis, 65 Emory L.J. 1569 (2016)

Why Most Nations Do Not Have U.S.-Style Class Actions, 16 BNA Class Action Litigation Report, Vol. 16, No. 10, at 586 (May 22, 2015) (selected for presentation at the May 2015 World Congress of the International Association of Procedural Law, Istanbul, Turkey)

Federal Rules Symposium: A Tribute to Judge Mark R. Kravitz -- Introduction to the Symposium, 18 Lewis & Clark L. Rev. 583 (2014) (co-author)

Class Actions for Monetary Relief Under Rule 23(b)(1)(A) and (b)(1)(B): Does Due Process Require Notice and Opt-Out Rights?, 82 Geo. Wash. L. Rev. 798 (2014)

The Decline of Class Actions, 90 Wash. U. (St. Louis) L. Rev. 729 (2013)

Reflections on the Future of Class Actions, 44 Loy. U. Chi. L.J. 533 (2013)

Richard Nagareda: In Memorium, 80 U. Cin. L. Rev. 289 (2012)

Introduction and Memories of a Law Clerk, 47 Houston L. Rev. 529, 573 (2010)

ALI's Aggregate Litigation Project Has Global Impact, 33 ALI Reporter 7 (Fall 2010)

Book Review, *In the Public Interest*, 39 Env. Law 1225 (2009)

The Public Value of Settlement, 78 Fordham L. Rev. 1177 (2009) (co-author)

Making Class Actions Work: The Untapped Potential of the Internet, 69 U. Pitt. L. Rev. 727 (co-author)(2008), adapted and published in 13 J. Internet Law 1 (2009)

The Class Action Fairness Act: An Ill-Conceived Approach to Class Settlements, 80 Tul. L. Rev. 1695 (co-author) (2006)

The Twentieth Anniversary of Phillips Petroleum v. Shutts, *Introduction to the Symposium*, 74 UMKC L. Rev. 433 (2006)

The Adoption of a Class Action Rule: Some Issues for Mississippi to Consider, 24 Miss. C. L. Rev. 261 (2005)

Antitrust Class Actions: Chaos in the Courts, 11 Stan. J. L. Bus. & Fin. 1 (2005), reprinted in Litigation Conspiracy: An Analysis of Competition Class Actions (Stephen G.A. Pitel ed. Irwin Law 2006), and 3 Canadian Class Action Review 137 (2006)

The Judiciary's Flawed Application of Rule 23's "Adequacy of Representation" Requirement, 2004 Mich. St. L. Rev. 671 (2004)

Class Action Rules — Are They Driven by Substance?, 1 Class Action Litigation Report 504 (Nov. 10, 2000) (co-author)

Response to May 2000 Article on Sponsorship Strategy, 63 Tex. B.J. 754 (Sept. 2000) (co-author)

A Look at Interlocutory Appeals of Class Certification Decisions Under Rule 23(f), 1 Class Action Litigation Report 69 (May 12, 2000) (co-author)

The Mass Tort Class Action Gamble, 7 Metro. Corp. Counsel 1, 8 (Aug. 8, 1999) (co-author)

"Legal Approaches to Sex Discrimination" (co-author), in H. Landrine & E. Klonoff, *Discrimination Against Women: Prevalence, Consequences, Remedies* (Sage Pub. 1997)

Sponsorship Strategy: A Reply to Floyd Abrams and Professor Saks, 52 Md. L. Rev. 458 (1993) (co-author)

A Trial Lawyer's Roadmap for Handling Bad Facts: The Role of Credibility, 16 Trial Diplomacy Journal 139 (July/Aug. 1993) (co-author)

Opening Statement, 17 Litigation 1 (ABA Spring 1991) (co-author)

Contributing Editor, *Criminal Practice Institute Trial Manual*, Young Lawyers Section, Bar Ass'n of D.C. (1986)

The Congressman as Mediator Between Citizens and Government Agencies: Problems and Prospects, 15 Harv. J. Legis. 701 (1979)

A Dialogue on the Unauthorized Practice of Law, 25 Villanova L. Rev. 6 (1979) (co-author)

The Problems of Nursing Homes: Connecticut's Non Response, 31 Admin. L. Rev. 1 (1979)

SIGNIFICANT LEGAL EXPERIENCE:

Argued eight cases before the U.S. Supreme Court

Authored dozens of U.S. Supreme Court filings (certiorari petitions, certiorari oppositions, merits briefs, reply briefs)

Briefed and argued numerous cases before various U.S. circuit and district courts and state trial and appellate courts

Tried dozens of cases (primarily jury trials)

Handled more than 100 class action cases as co-counsel, including *TransUnion v. Ramirez* (U.S. Supreme Court) and *In re National Prescription Opiate Litigation* (Sixth Circuit)

Served as an expert witness in numerous high-profile class action and other aggregate cases, including the *British Petroleum Deepwater Horizon Oil Spill* litigation, the *National Football League Concussion* litigation, the *Volkswagen Clean Diesel* litigation, the *Wells Fargo Unauthorized Accounts* litigation, the *Equifax Data Breach* litigation, the *Syngenta Genetically Modified Corn* litigation, the *Broiler Chicken Antitrust* litigation, and the *Parkland Shooting* civil litigation.

Worked extensively with testifying and consulting experts on class action issues, including economists, securities experts, medical and scientific experts, and leading academics

Presented more than 100 cases to the grand jury while serving as an Assistant U.S. Attorney

Handled hundreds of sentencing hearings, preliminary hearings, and probation revocation hearings

SIGNIFICANT TEACHING AND SPEAKING ENGAGEMENTS

Speaker on Multidistrict Litigation and Moderator on Case Management Breakout Session, Mass Tort MDL Certificate Program, Bolch Judicial Institute, Duke University School of Law (Nov. 7, 2022) (held remotely)

Speaker on Class Actions and Moderator of Class Actions Breakout Session, 2022 Transferee Judges' Conference (approximately 125 federal judges), the Breakers, Palm Beach, Fla. (Nov. 1, 2022)

Speaker, Class and Aggregate Litigation in Europe and North America, New York University School of Law's Campus in Florence, Italy (July 8, 2022)

Speaker and Co-Organizer, McGovern Symposium on Civil Litigation, Duke University School of Law, Durham, North Carolina (May 27, 2022)

Moderator of Panel, Advanced MDL Certificate Program, Duke University School of Law, Durham, North Carolina (May 26, 2022)

Speaker, The Jewish Influences, Life & Legacy of Justice Ruth Bader Ginsburg, Cardozo Society of Washington State and Philadelphia Brandeis Society (April 5, 2022) (held remotely)

Panelist, Mass Torts/Bankruptcy Conference, Fordham University School of Law, New York, New York (Feb. 25, 2022)

Speaker on the Legacy of Justice Ruth Bader Ginsburg (held remotely), Temple Beth Sholom Synagogue, Salem Oregon (June 27, 2021)

Panel Moderator, Mass-Tort MDL Bench-Bar Conference (held remotely), George Washington University Law School, Washington, D.C. (June 10, 2021)

Speaker on Class Actions (held remotely), Oregon Association of Defense Counsel, Portland Oregon (May 20, 2021)

Speaker on Class Actions and Multidistrict Litigation (held remotely), South Ural State University Institute of Law, Chelyabinsk, Russia (April 8, 2021)

Speaker on Class Actions and Multidistrict Litigation (held remotely), Northwestern Pritzker School of Law, Complex Litigation Seminar, Chicago, Illinois (March 31, 2021, and again on March 30, 2022)

Speaker on Multidistrict Litigation, Class Actions, and the *Volkswagen Clean Diesel* Case (held remotely), Bahcesehir University, Istanbul, Turkey (July 15, 2020)

Speaker, Multidistrict Litigation Conference (held remotely), Emory University School of Law, Atlanta, Georgia (June 19, 2020)

Speaker, Class Action Conference, Fordham Law Review and the Institute for Law & Economic Policy, New York, New York (Feb. 27-28, 2020)

Keynote Speaker, Harold Schnitzer Spirit of Unity Peace Leadership Award Ceremony, Salem, Oregon (Nov. 20, 2019).

Conference Chair and Participant, 2019 Symposium on Class Actions and Aggregate Litigation, Pound Civil Justice Institute and Lewis & Clark Law School, Portland, Oregon (Nov. 1-2, 2019).

Speaker, International Class Actions Conference, Vanderbilt Law School, Nashville, Tennessee (Aug. 23, 2019)

Keynote Speaker, Pound Civil Justice Institute, Aggregate Litigation in State Court: Conference of State Court Appellate Judges, San Diego, California (July 27, 2019)

Visiting Professor of Law, University of Bologna School of Law, Ravenna, Italy (July, 2019) (faculty member for summer program on Transnational Torts)

Visiting Professor of Law, University of Trento School of Jurisprudence, Trento, Italy (May, 2019) (taught Introduction to U.S. Law)

Visiting Professor of Law, Royal University of Law and Economics, Phnom Penh, Cambodia (April 2019)

Speaker, Impact Fund Class Action Conference, San Francisco, California (Feb. 22, 2019)

Speaker on Class Actions, 17th Annual Impact Fund Class Action Conference, San Francisco, California (Feb. 23, 2019)

Visiting Professor of Law, National Taiwan University, Taipei, Taiwan (December 2018) (taught course on U.S. Class Actions)

Speaker on the National Football League Concussion case, National Taiwan University, Taipei, Taiwan (December 20, 2018)

Speaker on Class Actions, Live Webinar Broadcast, Rule 23 Will Be Amended in Four Days: Are You Ready, American Bar Association (Nov. 27, 2018)

Speaker, American Bar Association's 22d Annual Institute on Class Actions, Chicago, Illinois (Oct. 18, 2018)

Speaker, MDL at 50 –The 50th Anniversary of Multidistrict Litigation, New York University School of Law, New York, New York (Oct. 12, 2018)

Visiting Professor of Law, University of Bologna School of Law, Ravenna, Italy (July 2018) (faculty member for environmental law program; lectured on environmental class actions)

Speaker on Class Actions, Freie University Faculty of Law, Berlin, Germany (June 26, 2018)

Visiting Professor of Law, Royal University of Law and Economics, Phnom Penh, Cambodia (April 2018) (taught course on Introduction to United States Law)

Co-Chair, Moderator, and Panelist, Posner on Class Actions, Columbia Law School, New York, New York (March 2, 2018)

Panelist on Civil Discovery, Vanderbilt University School of Law, Nashville, Tennessee (October 13, 2017)

Panelist on the Civil Rules Committee Process, University of Arizona College of Law, Tucson, Arizona (October 7, 2017)

Visiting Professor of Law, University of Bologna School of Law, Ravenna, Italy (July 2017) (faculty member for environmental law program; lectured on environmental class actions)

Visiting Professor of Law, University of Trento School of Jurisprudence, Trento, Italy (May 2017) (taught course on Introduction to U.S. Law)

Panelist on Class Actions, Beard Group, Class Action Money and Ethics Conference, New York, New York (May 1, 2017)

Visiting Professor of Law, Tel Aviv University, Tel Aviv, Israel (January 2017) (taught course on class actions)

Panelist on Class Actions, Tel Aviv University, Fifty Years of Class Actions – A Global Perspective (January 4, 2017)

Panelist on Class Actions, New York University Law School Conference on Rule 23@50, New York, New York (December 2, 2016)

Panelist on Class Actions, Appellate Judges Education Institute, Philadelphia, Pennsylvania (November 11, 2016)

Speaker on Class Actions, National Legal Aid Defender Association National Farmworker Conference, Indianapolis, Indiana (November 10, 2016)

Panelist on Class Actions, American Bar Association Class Action Institute, Las Vegas, Nevada (October 20, 2016)

Panelist, Duke University Law School Conference on Class Action Settlements, San Diego, California (October 6, 2016)

Fulbright Scholar, Hong Kong University School of Law (August- September 2016) (taught course on class actions and delivered campus-wide lecture on criminal procedure)

Visiting Professor of Law, National Taiwan University, Taipei, Taiwan (June 2016) (taught course on Introduction to United States Law)

Speaker on Class Actions, University of Zagreb Law School, Zagreb, Croatia (May 11, 2016)

Panelist on Civil Litigation, Association of American Law Schools Annual Meeting, New York, New York (January 8, 2016)

Visiting Professor of Law, Bahçeşehir University School of Law, Istanbul, Turkey (December 2015) (taught Introduction to United States Law)

Participant, Conference on Civil Justice (Pound Institute) Emory University Law School, Atlanta, Georgia (October 15, 2015)

Participant, Conference on Class Actions, Duke Law School, Arlington, Virginia (July 23-24, 2015)

Participant, Conference on Class Actions, Defense Research Institute, Washington, D.C. (July 23-24, 2015)

Participant, Civil Procedure Workshop, Seattle University Law School, Seattle, Washington (July 17, 2015)

Panelist on Class Actions, Annual Meeting, American Association for Justice, Montreal, Canada (July 12, 2015)

Speaker on Class Actions, International Association of Procedural Law, Istanbul, Turkey (May 28, 2015)

Panelist, Subcommittee on Class Actions of U.S. Judicial Conference Advisory Committee on Civil Rules, American Law Institute Annual Meeting, Washington, D.C. (May 17, 2015)

Moderator, Ethical Issues in Class Actions and Non-Class Aggregate Litigation, American Law Institute Annual Meeting, Washington, D.C., (May 17, 2015)

Visiting Professor of Law, University of Trento School of Jurisprudence, Trento, Italy (March 2015) (taught U.S. Class Actions)

Speaker on Class Actions, European University Institute, Fiesole, Italy (February 23, 2015)

Visiting Professor of Law, University of Notre Dame, Fremantle Australia (January 2015) (taught course on U.S. Civil Rights and Civil Liberties)

Visiting Professor of Law, Universidad Sergio Arboleda, Bogota and Santa Marta, Colombia (December 2014) (taught course on Introduction to United States Law)

Visiting Professor of Law, National Taiwan University, Taipei, Taiwan (November 2014) (taught course on Introduction to United States Law)

Panelist, American Bar Association, National Institute on Class Actions, Chicago, Illinois (October 23, 2014)

Visiting Professor of Law, East China University of Political Science and Law, Shanghai, China (October 2014) (taught U.S. Class Actions)

Visiting Professor of Law, Herzen State Pedagogical University of Russia, St. Petersburg, Russia (September 2014) (taught U.S. Class Actions)

Visiting Professor of Law, Royal University of Law and Economics, Phnom Penh, Cambodia (July 2014) (taught Introduction to United States Law)

Speaker on U.S. Legal Education, Universidad Sergio Arboleda School of Law, Bogota, Colombia (June 3 and 5, 2014)

Speaker on Class Actions, Superintendencia de Industria y Comercio, Bogota, Colombia (June 3, 2014)

Speaker on Class Actions and the Fukushima Nuclear Accident, Waseda University School of Law, Tokyo, Japan (January 24, 2014)

Speaker on Class Actions, Osaka Bar Association, Osaka, Japan (January 23, 2014)

Speaker on Class Actions, East China University of Political Science and Law, Shanghai, China (January 15, 2014)

Speaker on Class Actions, AmCham Shanghai, Shanghai, China (January 14, 2014)

Speaker on Development of Animal Law in the Legal Academy, 2013 Animal Law Conference, Stanford Law School, Palo Alto, California (November 25, 2013)

Speaker on U.S. Law and Legal Education, Royal University of Law and Economics, Phnom Penh, Cambodia (October 1, 2013)

Speaker on U.S. Law and Legal Education, Paññāsāstra University of Cambodia, Phnom Penh, Cambodia (October 1, 2013)

Speaker on U.S. Legal Education, International Association of Law Schools International Deans' Forum, National University of Singapore Law School, Singapore (September 26, 2013)

Speaker on Class Actions, Japan Federation of Bar Associations, Tokyo, Japan (September 19, 2013)

Speaker on Class Actions, Waseda University School of Law, Tokyo, Japan (September 19, 2013)

Speaker on Ethics of Aggregate Settlements, American Association for Justice Annual Meeting, San Francisco, California (July 22, 2013)

Speaker on the British Petroleum Class Action Settlement, International Water Law Conference, National Law University of Delhi, Delhi, India (May 31, 2013)

Speaker on U.S. Supreme Court Confirmation Process, Jewish Federation of Greater Portland's Food for Thought Festival, Portland, Oregon (April 21, 2013)

Speaker on Class Actions, Class Action Symposium, George Washington University Law School, Washington, D.C. (March 8, 2013)

Speaker on Class Actions, Impact Fund Class Action Conference, Oakland, California (March 1, 2013)

Speaker on Class Actions, Hong Kong University Department of Law (November 15, 2012)

Speaker on Class Actions, Fudan University Law School (Shanghai, China) (November 13, 2012)

Keynote Speaker, National Consumer Law Center Symposium, Seattle, Washington (October 28, 2012)

Speaker, American Bar Association, National Institute on Class Actions, Chicago, Illinois (October 25, 2012)

Speaker, Conference on Class Actions, Washington University St. Louis School of Law and the Institute for Law and Economic Policy (April 27, 2012)

Speaker, Conference on Class Actions, Loyola Chicago School of Law (April 13, 2012)

Panelist on leadership and world peace with Former South African President F.W.

De Klerk, University of Portland (February 29, 2012)

Panelist on class actions before the Standing Committee on Rules of Practice and Procedure, Phoenix, Arizona (January 5, 2012)

Speaker on Class Actions Lawsuits in the U.S., University of the Philippines, College of Law, Quezon City, Philippines (August 2011)

Speaker on Environmental Class Actions, Kangwon University Law School, Chuncheon, South Korea (August 2011)

Speaker on Class Actions, Federal Judicial Center Conference on Class Actions, Duke University School of Law (May 20, 2011)

Speaker, Conference on Aggregate Litigation, University of Cincinnati College of Law (April 1, 2011)

Speaker on Class Actions, Seoul National University School of Law (May 18, 2010)

Keynote Speaker (addressing US Supreme Court confirmation process), Alaska Bar Annual Meeting (April 28, 2010)

Speaker, Conference on the Future of Animal Law, Harvard Law School (April 11, 2010)

Speaker, Conference on Aggregate Litigation: Critical Perspectives, George Washington University Law School (Mar. 12, 2010)

Speaker, U.S. Supreme Court Confirmation Process, Multnomah County Bar Association and City Club of Portland, (Sept. 30, 2009)

Speaker on Class Actions, American Legal Institutions, and American Legal Education at National Law Schools of India in Bangalore, Hyderabad, Calcutta, Jodhpur, and Delhi (August 2009)

Speaker, China/U.S. Conference on Tort and Class Action Law, Renmin University of China School of Law, Beijing, China (July 11-12, 2009)

Speaker on Class Actions, Southeastern Association of Law Schools annual meeting, Palm Beach, Florida (August 1, 2008)

Speaker on Class Actions, National Foundation for Judicial Excellence (meeting of 150 state appellate court judges), Chicago, Illinois (July 12, 2008)

Speaker on Class Actions, Practising Law Institute, New York, NY (July 10, 2008)

Speaker at Conference on Class Actions in Europe and North America, sponsored by New York University School of Law, the American Law Institute, and the European University Institute, Florence, Italy (June 13, 2008)

Speaker on Class Actions at the American Bar Association Tort and Insurance Section Meeting, Washington, D.C. (Oct. 26, 2007)

Speaker on Antitrust Class Actions at the American Bar Association's Annual Antitrust Meeting, Washington D.C. (April 18, 2007)

Chair, Organizer, and Moderator of Class Action Symposium at UMKC School of Law (April 7, 2006) (other speakers (26 in all) included, *e.g.*, Professors Arthur Miller, Edward Cooper, Sam Issacharoff, Geoffrey Miller, and Linda Mullenix, as well as several prominent federal judges and practicing lawyers)

Speaker on Class Actions, Missouri CLE (Nov. 18, 2005)

Speaker on Class Actions, Practising Law Institute (July 29, 2005)

Speaker on Class Actions, Kansas CLE (June 23, 2005)

Speaker on Class Actions at Bureau of National Affairs Seminar on the Class Action Fairness Act of 2005 (June 17, 2005)

Visiting Lecturer on Class Actions, Peking University (May 30-June 3, 2005)

Speaker on Oral Argument, American Bar Association 2005 Section of Litigation Annual Conference (April 22, 2005) (part of panel including Second Circuit Chief Judge Walker and several others)

Speaker on Class Actions, Federal Trade Commission/Organization for Economic Co-operation and Development, Workshop on Consumer Dispute Resolution and Redress in the Global Marketplace (April 19, 2005)

Speaker at Antitrust Class Action Symposium, University of Western Ontario College of Law (April 1, 2005)

Speaker at Class Action Symposium, Mississippi College of Law (February 18, 2005)

Speaker on Class Actions, Practising Law Institute (July 30, 2004)

Visiting Lecturer on Class Actions, Peking University (June 2004)

Visiting Lecturer on Class Actions, Tsinghua University (June 2004)

Speaker at Class Action Symposium, Michigan State University (April 16-17, 2004)

Speaker on U.S. Supreme Court advocacy, David Prager Advanced Appellate Institute (Kansas City Metropolitan Bar Association) (Feb. 27, 2004)

Speaker on Class Actions, Institute of Continuing Legal Education in Georgia (Oct. 24, 2003)

Speaker on Class Actions, Practising Law Institute (July 31, 2003)

Speaker on Class Actions, Practising Law Institute (Aug. 5, 2002)

Speaker on Class Actions, Practising Law Institute (Aug. 16, 2001)

Speaker on many occasions throughout the country on "Sponsorship Strategy" (1990-present) and advocacy before the U.S. Supreme Court (1988-present)

OTHER PROFESSIONAL ACTIVITIES:

Member of American Bar Association Group Evaluating Qualifications of Merrick Garland to serve on the U.S. Supreme Court (reviewed Judge Garland's civil procedure opinions)

Member, Editorial Board of International Journal of Law in a Changing World (South Ural University, Chelyabinsk, Russia)

Board Member, The Judge John R. Brown Scholarship Foundation

Advisory Board, The Flawless Foundation (an organization that serves troubled children)

Member, Board of Directors, Citizens' Crime Commission (Portland, Oregon) (2007-2011)

Advisory Board Consulting Editor, *Class Action Litigation Report* (BNA)

Served on numerous UMKC School of Law committees, including Programs (Chair), Promotion and Tenure, Appointments, and Smith Chair Appointment

Chair of pro bono program for all 27 offices of Jones Day (2000-2004); also previously Chair of Washington office pro bono program (1992-2003)

Member, Board of Directors, Bread for the City (a D.C. public interest organization providing medical, legal, and social services) (2001-2003)

Master, Edward Coke Appellate Practice Inn of Court in Washington, D.C. (other participants include Ted Olson, Seth Waxman, Ken Starr, Walter Dellinger, and several sitting appellate judges) (2001-2003)

Member, Board of Directors, Washington Lawyers' Committee for Civil Rights and Urban Affairs (2000-2003); Advisory Board Member (2003-present)

Member, D.C. Court of Appeals Committee on Unauthorized Practice of Law (1997-2000)

Handled and supervised numerous pro bono matters (*e.g.*, death penalty and other criminal defense, civil rights, veterans' rights)

Played a major role in establishing a walk-in free legal clinic in Washington, D.C.'s Shaw neighborhood

VOLUNTEER WORK:

Numerous guest speaker appearances at public schools and retirement homes; volunteer at local soup kitchen; volunteer judge for Classroom Law Project.

EXHIBIT 3

ELIZABETH A. FEGAN (*pro hac vice*)
beth@feganscott.com
FEGAN SCOTT LLC
150 S. Wacker Dr., 24th Floor
Chicago, IL 60606
Telephone: (312) 741-1019
Facsimile: (312) 264-0100

Steve W. Berman (*pro hac vice*)
steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMTIN ZAKIKHANI, KIMBERLY ELZINGA, THEODORE MADDOX JR., MICHAEL SUMMA, JACQUELINE WASHINGTON, PATTI TALLEY, ANA OLACIREGUI, ELAINE PEACOCK, MELODY IRISH, and DONNA TINSLEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR COMPANY, HYUNDAI MOTOR AMERICA, KIA CORPORATION, and KIA AMERICA, INC.,

Defendants.

Case No.: 8:20-cv-01584-SB-JDE

DECLARATION OF BRENDA EVANS IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Judge: Hon. Stanley Blumenfeld, Jr.
Date: April 21, 2023
Time: 8:30 a.m.
Courtroom: 6C

I, Brenda Evans, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness.

2. I am one of the named Plaintiffs in the above-captioned action and submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement. I believe I provided meaningful assistance to Class Counsel during this case, and I hope the Court will approve my request of a $2,500 service payment as a Class Representative.

3. I am a resident of Crystal Springs, Mississippi. I purchased my 2014 Hyundai Santa Fe Sport, VIN number 5XYZT3LB8EG184554, on June 25, 2018.

4. I joined this lawsuit as a plaintiff on February 25, 2022, with the filing of *Evans, et al v. Hyundai Motor Company, et al.*, Case No. 8:22-cv-00300-SB-JDE (C.D. Cal.) ("*Evans*"), which was consolidated with this action on September 6, 2022.

5. I joined this lawsuit because I was concerned about the safety risks created by the Anti-lock Braking System ("ABS") defect, and that my vehicle's value had diminished because of the defect. I was also concerned about Defendants selling these vehicles with a defect and the vehicles owners being unaware of it.

6. In filing the lawsuit, I hoped that Defendants would accept responsibility for the ABS defect, provide a solution to protect all affected vehicle owners, and compensate owners for harm they suffered because of Defendants' actions regarding the defect.

7. I have invested time and energy into this lawsuit. Over the course of the litigation, I had many conversations with my attorneys regarding the ABS defect, the claims alleged in the lawsuit, and eventually, the settlement. As a Hyundai vehicle owner, I was able to describe my experience purchasing my vehicle, the research I undertook before I bought my vehicle, and my experience learning about the ABS defect. I understand that these conversations and explanations assisted my attorneys

in meaningful ways, such as bringing the lawsuit, litigating the claims, and ultimately reaching a settlement.

8. I joined this case as a plaintiff prepared and committed to participate as necessary and required of me, including preserving and producing documents, responding to discovery, sitting for a deposition, and even testifying at trial.

9. Altogether, I would estimate that I have spent about ten hours participating in and helping oversee this litigation on behalf of the Class. I discussed the case and its progress, including providing information regarding my Class Vehicle and the ABS defect, obtaining case updates, and analyzing the proposed settlement terms, by phone and email with my attorneys. I also reviewed case-related documents, like the complaint and settlement, to stay up to date on the litigation and provide feedback to my attorneys.

10. I still have my Class Vehicle and I had the recall repair performed. I intend to enjoy the benefits of the extended warranty provided under the settlement.

11. I believe this a good settlement and I recommend its approval because I believe it is fair and provides appropriate relief for my claims relating to the ABS defect. Despite the burdens it imposed on me, I am glad that I had the opportunity to represent the Class in this lawsuit and that I was able to help recover a valuable a settlement for the Class.

12. I observed my attorneys' work throughout this case, and they were diligent, communicative, professional, and addressed all my needs and concerns in the litigation.

13. Bringing this lawsuit and standing up for my fellow Hyundai and Kia owners was not an easy decision. When I decided to participate and file this class action, I understood I had a responsibility to the Class. I was also aware that my name would be affiliated with the publicly filed lawsuit, and that anyone might find my name associated with a lawsuit through a simple internet search. Despite the risk of

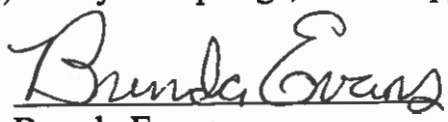
publicity surrounding the lawsuit, I felt it was important to bring the case because of the serious nature of the dangerous ABS defect. I felt something had to be done to fix the defect, and to provide benefits to all affected Hyundai or Kia owners who unknowingly purchased vehicles containing dangerous defects.

14. For my time and contribution, I respectfully request that the Court award me a $2,500 service payment. I believe that my involvement in this case helped motivate Hyundai and Kia to create a solution for the dangerous ABS defect, and also provided substantive value to other Hyundai and Kia owners.

* * *

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

Executed on March 16, 2023, in Crystal Springs, Mississippi.



Brenda Evans

EXHIBIT 4

ELIZABETH A. FEGAN (*pro hac vice*)
beth@feganscott.com
FEGAN SCOTT LLC
150 S. Wacker Dr., 24th Floor
Chicago, IL 60606
Telephone: (312) 741-1019
Facsimile: (312) 264-0100

Steve W. Berman (*pro hac vice*)
steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMTIN ZAKIKHANI, KIMBERLY ELZINGA, THEODORE MADDOX JR., MICHAEL SUMMA, JACQUELINE WASHINGTON, PATTI TALLEY, ANA OLACIREGUI, ELAINE PEACOCK, MELODY IRISH, and DONNA TINSLEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR COMPANY, HYUNDAI MOTOR AMERICA, KIA CORPORATION, and KIA AMERICA, INC.,

Defendants.

Case No.: 8:20-cv-01584-SB-JDE

DECLARATION OF MINDA BRIADDY IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Judge: Hon. Stanley Blumenfeld, Jr.
Date: April 21, 2023
Time: 8:30 a.m.
Courtroom: 6C

I, Minda Briaddy, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness.

2. I am one of the named Plaintiffs in the above-captioned action and submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement. I believe that I have provided meaningful assistance to Class Counsel during this case, and I hope that the Court will approve my request of a $2,500 service payment as a Class Representative.

3. I am a resident of Saranac Lake, New York. I purchased my 2014 Hyundai Santa Fe Sport, VIN number 5XYZUDLB2EG221164, on or about September 15, 2017.

4. I joined this lawsuit as a plaintiff on February 25, 2022, with the filing of *Evans, et al. v. Hyundai Motor Company, et al.*, Case No. 8:22-cv-00300-SB-JDE (C.D. Cal.) ("*Evans*"), which was consolidated with this action on September 6, 2022.

5. I joined this lawsuit because I was concerned about the safety risks created by the Anti-lock Braking System ("ABS") defect, and that my vehicle's value had diminished because of the defect. I was also concerned about Defendants selling these vehicles with a defect and the vehicles owners being unaware of it.

6. In filing the lawsuit, I hoped that Defendants would accept responsibility for the ABS defect, provide a solution to protect all affected vehicle owners, and compensate owners for harm they suffered because of Defendants' actions regarding the defect.

7. I have invested time and energy into this lawsuit. Over the course of the litigation, I had many conversations with my attorneys regarding the ABS defect, the claims alleged in the lawsuit, and eventually, the settlement. As a Hyundai vehicle owner, I was able to describe my experience purchasing my vehicle, the research I undertook before I bought my vehicle, and my experience learning about the ABS

defect. I understand that these conversations and explanations assisted my attorneys in meaningful ways, such as bringing the lawsuit, litigating the claims, and ultimately reaching a settlement.

8. I joined this case as a plaintiff prepared and committed to participate as necessary and required of me, including preserving and producing documents, responding to discovery, sitting for a deposition, and even testifying at trial.

9. Altogether, I would estimate that I have spent about ten hours participating in and helping oversee this litigation on behalf of the Class. I discussed the case and its progress, including providing information regarding my Class Vehicle and the ABS defect, obtaining case updates, and analyzing the proposed settlement terms, by phone and email with my attorneys. I also reviewed case-related documents, like the complaint and settlement, to stay up to date on the litigation and provide feedback to my attorneys.

10. I had the recall repair performed, but I recently traded in my Class Vehicle. Even though I no longer own my vehicle, I believe this a good settlement and I recommend its approval because I believe it is fair and provides appropriate relief for class member claims relating to the ABS defect. Despite the burdens it imposed on me, I am glad that I had the opportunity to represent the Class in this lawsuit and that I was able to help recover a valuable a settlement for the Class.

11. I observed my attorneys' work throughout this case, and they were diligent, communicative, professional, and addressed all my needs and concerns in the litigation.

12. Bringing this lawsuit and standing up for my fellow Hyundai and Kia owners was not an easy decision. When I decided to participate and file this class action, I understood I had a responsibility to the Class. I was also aware that my name would be affiliated with the publicly-filed lawsuit, and that anyone might find my name associated with a lawsuit through a simple internet search. Despite the risk of

publicity surrounding the lawsuit, I felt it was important to bring the case because of the serious nature of the dangerous ABS defect. I felt something had to be done to fix the defect, and to provide benefits to all affected Hyundai or Kia owners who unknowingly purchased vehicles containing dangerous defects.

13. For my time and contribution, I respectfully request that the Court award me a $2,500 service payment. I believe that my involvement in this case helped motivate Hyundai and Kia to create a solution for the dangerous ABS defect, and also provided substantive value to other Hyundai and Kia owners.

* * *

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

Executed on March 14, 2023, in Saranac Lake, New York.

Minda Briaddy

EXHIBIT 5

ELIZABETH A. FEGAN (*pro hac vice*)
beth@feganscott.com
FEGAN SCOTT LLC
150 S. Wacker Dr., 24th Floor
Chicago, IL 60606
Telephone: (312) 741-1019
Facsimile: (312) 264-0100

Steve W. Berman (*pro hac vice*)
steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMTIN ZAKIKHANI, KIMBERLY ELZINGA, THEODORE MADDOX JR., MICHAEL SUMMA, JACQUELINE WASHINGTON, PATTI TALLEY, ANA OLACIREGUI, ELAINE PEACOCK, MELODY IRISH, and DONNA TINSLEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR COMPANY, HYUNDAI MOTOR AMERICA, KIA CORPORATION, and KIA AMERICA, INC.,

Defendants.

Case No.: 8:20-cv-01584-SB-JDE

DECLARATION OF ANTHONY VACCHIO IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Judge: Hon. Stanley Blumenfeld, Jr.
Date: April 21, 2023
Time: 8:30 a.m.
Courtroom: 6C

I, Anthony Vacchio, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness.

2. I am one of the named Plaintiffs in the above-captioned action and submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement. I believe I provided meaningful assistance to Class Counsel during this case, and I hope the Court will approve my request of a $2,500 service payment as a Class Representative.

3. I am a resident of Montrose, Minnesota. I purchased my 2016 Hyundai Santa Fe Sport, VIN number 5XYZTDLB0GG323505, on or around January 24, 2022.

4. I joined this lawsuit as a plaintiff on February 25, 2022, with the filing of *Evans, et al v. Hyundai Motor Company, et al.*, Case No. 8:22-cv-00300-SB-JDE (C.D. Cal.) ("*Evans*"), which was consolidated with this action on September 6, 2022.

5. I joined this lawsuit because I was concerned about the safety risks created by the Anti-lock Braking System ("ABS") defect, and that my vehicle's value had diminished because of the defect. I was also concerned about Defendants selling these vehicles with a defect and the vehicles owners being unaware of it.

6. In filing the lawsuit, I hoped that Defendants would accept responsibility for the ABS defect, provide a solution to protect all affected vehicle owners, and compensate owners for harm they suffered because of Defendants' actions regarding the defect.

7. I have invested time and energy into this lawsuit. Over the course of the litigation, I had many conversations with my attorneys regarding the ABS defect, the claims alleged in the lawsuit, and eventually, the settlement. As a Hyundai vehicle owner, I was able to describe my experience purchasing my vehicle, the research I undertook before I bought my vehicle, and my experience learning about the ABS

defect. I understand that these conversations and explanations assisted my attorneys in meaningful ways, such as bringing the lawsuit, litigating the claims, and ultimately reaching a settlement.

8. I joined this case as a plaintiff prepared and committed to participate as necessary and required of me, including preserving and producing documents, responding to discovery, sitting for a deposition, and even testifying at trial.

9. Altogether, I would estimate that I spent five hours participating in and helping oversee this litigation on behalf of the Class. I discussed the case and its progress, including providing information regarding my Class Vehicle and the ABS defect, obtaining case updates, and analyzing the proposed settlement terms, by phone and email with my attorneys. I also reviewed case-related documents, like the complaint and settlement, to stay up to date on the litigation and provide feedback to my attorneys.

10. I traded in my vehicle last year after the parties reached settlement at mediation. Even though I no longer own my vehicle, I believe this a good settlement and I recommend its approval because I believe it is fair and provides appropriate relief for class member claims relating to the ABS defect. Despite the burdens it imposed on me, I am glad that I had the opportunity to represent the Class in this lawsuit and that I was able to help recover a valuable a settlement for the Class.

11. I observed my attorneys' work throughout this case, and they were diligent, communicative, professional, and addressed all my needs and concerns in the litigation.

12. Bringing this lawsuit and standing up for my fellow Hyundai and Kia owners was not an easy decision. When I decided to participate and file this class action, I understood I had a responsibility to the Class. I was also aware that my name would be affiliated with the publicly filed lawsuit, and that anyone might find my name associated with a lawsuit through a simple internet search. Despite the risk of

publicity surrounding the lawsuit, I felt it was important to bring the case because of the serious nature of the dangerous ABS defect. I felt something had to be done to fix the defect, and to provide benefits to all affected Hyundai or Kia owners who unknowingly purchased vehicles containing dangerous defects.

13. For my time and contribution, I respectfully request that the Court award me a $2,500 service payment. I believe that my involvement in this case helped motivate Hyundai and Kia to create a solution for the dangerous ABS defect, and also provided substantive value to other Hyundai and Kia owners.

* * *

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

Executed on March 15, 2023, in Montrose, Minnesota.

Anthony Vacchio