

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et al.*,

Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

**JOINT DECLARATION OF RICHARD A. SPEIRS AND BRETT S. KRANTZ IN  
SUPPORT OF (I) LEAD PLAINTIFFS' MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF  
ALLOCATION; AND (II) CO-LEAD COUNSEL'S MOTION FOR  
AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

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We, Richard A. Speirs and Brett S. Krantz, declare, pursuant to 28 U.S.C. § 1746, as follows: I, Richard A. Speirs, am of Counsel, at Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”) and I, Brett S. Krantz, am a partner at Kohrman Jackson Krantz LLP (“KJK”), which together are Court-appointed Co-Lead Counsel for Plaintiffs and Class Representatives Sheryl Cohen Fine and John Risner (“Plaintiffs” or “Class Representatives”) in the above-captioned action (the “Action”).<sup>1</sup> We each have personal knowledge of the matters set forth herein (other than those matters relating to the fees and expenses incurred by the others’ firms to which we attest separately) based on our participation in the prosecution and settlement of the claims asserted on behalf of the Class in this Action.

1. We respectfully submit this Declaration in support of Plaintiffs’ motion, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for final approval of the proposed \$2,175,000 settlement (the “Settlement”) with Defendants, which the Court preliminarily approved by Revised Order dated September 3, 2024 (the “Revised Prelim. App. Order”) (ECF No. 156), and final approval of the proposed plan for allocating the proceeds of the Net Settlement Fund to eligible Class Members (the “Plan of Allocation”) (collectively, the “Final Approval Motion”).

2. We also respectfully submit this Declaration in support of Co-Lead Counsel’s motion,<sup>2</sup> pursuant to Rule 23(h) and 54 of the Federal Rules of Civil Procedure for an award of attorneys’ fees in the amount of 28% of the Settlement Fund, which equates to \$609,000; payment

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated August 27, 2024 (the “Stipulation”), previously filed with the Court. ECF No. 154-3.

All exhibits referenced herein are attached to this declaration. For clarity, citations to exhibits that themselves have attached exhibits will be referenced as “Ex. \_-\_-”. The first numerical reference is to the designation of the entire exhibit attached to this declaration and the second reference is to the exhibit designation within the exhibit itself.

<sup>2</sup> “Plaintiffs’ Counsel” or “Co-Lead Counsel” means Cohen Milstein Sellers & Toll PLLC and Kohrman Jackson & Krantz LLP.

of Plaintiffs' Counsel's expenses in the amount of \$336,349.03; and awards to Class Representatives Sheryl Cohen Fine and John Risner (in the amount of \$7,500 each), in accordance with the Private Securities Litigation Reform Act of 1995 ("PSLRA") for the time and expense incurred in connection with their representation of the Class during the course of this hard-fought litigation (the "Fee and Expense Application").

3. As part of the Revised Preliminary Approval Order, the Court directed that notice of the Settlement be disseminated to the Class. *See* Revised Prelim. App. Order (ECF No. 156) at ¶5. Pursuant to the Revised Preliminary Approval Order, Epiq Class Action & Claims Solutions, Inc. ("Epiq"), the Court-approved Settlement Administrator, implemented a comprehensive notice program under the direction of Co-Lead Counsel, whereby notice was given to potential Class Members by mail and/or publication. *See* Declaration of Joseph Mahan Regarding Dissemination Publication, Report on Objections or Requests for Exclusion Received to Date, dated November 20, 2024 ("Mahan Decl."), attached hereto as Ex. 1-A.

4. In total, to date, 1,711 copies of the Postcard Notice have been disseminated by Epiq to potential Class Members. To date, no requests for exclusion have been received and no objections have been filed with the Court or received by Co-Lead Counsel. *See id.* ¶3-9. The deadline for requests for exclusions and objections is November 28, 2024. *See* Revised Prelim. App. Order (ECF No. 156) at ¶12.

5. Both the Final Approval Motion and the Fee and Expense Application have the full support of the Class Representatives.

## **I. INTRODUCTION**

6. On May 27, 2021, Bowl America and Bowlero Corp. ("Bowlero") entered into an Agreement and Plan of Merger, pursuant to which, among other things, Bowlero would acquire the outstanding shares of Bowl America common stock for \$44 million not including a special dividend of \$0.60 per share payable to Bowl America stockholders at the closing (the "Merger").

On August 11, 2021, with Defendants holding a majority of the voting stock of Bowl America, stockholders voted to approve the Merger. On August 18, 2021, the Merger closed with Bowlero paying \$8.53 for each share of Bowl America common stock outstanding; an amount that was lower than the trading price of the stock on the day the merger was announced.

7. On August 4, 2021, Anita G. Zucker, Trustee of the Anita G. Zucker Trust Dated April 4, 2007, as Subsequently Amended or Restated, and Anita G. Zucker, Trustee of the Article 6 Marital Trust, Under the First Amended and Restated Jerry Zucker Revocable Trust dated April 2, 2007 (the “Trusts”) commenced an action on their own behalf and on behalf of all other similarly situated Bowl America stockholders, against Bowl America’s Board of Directors, Cheryl A. Dragoo (“Dragoo”), Merle Fabian (“Fabian”), Gloria M. Bragg (“Bragg”), Nancy E. Hull (“Hull”), Allan L. Sher (“Sher”) and Ruth Macklin (together the “Director Defendants”), and Bowl America, Bowlero, and Duff & Phelps Securities LLC (“Duff & Phelps”). Subsequently, the Court appointed the Trusts as Lead Plaintiffs.

8. The Trusts asserted claims under Section 14(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and Rule 14a-9 promulgated thereunder, and under Maryland law for breach of fiduciary duty and aiding and abetting breach of fiduciary duty in connection with the Merger. The Complaint alleged that the Defendants, who were controlling stockholders, issued a false and misleading Merger Proxy in connection with the vote on the merger between Bowl America and Bowlero, and breached their fiduciary duties by approving an unreasonable and excessive Termination Fee thereby causing damage to minority stockholders who allegedly received inadequate consideration.

9. The proposed Settlement provides for the resolution of all claims in the Action in exchange for a cash payment of \$2.175 million (the “Settlement Amount”) for the benefit of the Class. As detailed herein, Plaintiffs and Co-Lead Counsel believe that the proposed Settlement represents an excellent result for the Class, particularly considering the ongoing risks associated

with the pending summary judgment motions, a potential decertification or modification of the Class, the amount of provable damages and continued litigation in general through trials and appeals, which could extend the litigation for years and might result in a smaller recovery for the Class or no recovery at all.

10. The Parties reached the Settlement after nearly three years of vigorously contested litigation. Co-Lead Counsel's efforts involved, among other things: (i) conducting a comprehensive investigation into the allegedly wrongful acts, which included, among other things, a review and analysis of Bowl America's filings with the U.S. Securities and Exchange Commission ("SEC"), (ii) a review and analysis of analysts' reports and other publicly available documents; (iii) briefing Defendants' motions to dismiss; (iv) extensive discovery efforts that included preparing written discovery, reviewing and analyzing documents produced by Defendants and non-parties; (v) searching for and reviewing of documents produced by Plaintiffs in response to Defendants document requests; (vi) taking or defending multiple depositions; (vii) fully briefing and arguing a motion for class certification; (viii) conducting full expert discovery including depositions; (ix) briefing a motion to compel discovery of privileged documents; (x) briefing cross-motions for summary judgment; and (xi) engaging in contested mediation discussions.

11. On June 7, 2024, the Parties participated in an in-depth mediation session with Judge Adam B. Adelson of the United States District Court for the District of Maryland (formerly Magistrate Judge Abelson). In preparation for the mediation, the Parties provided detailed mediation statements to Judge Abelson which addressed issues of both liability and damages in connection with the Class claims. The Parties were not able to reach an agreement at this mediation session but continued negotiations through Judge Abelson. After further discussions with Judge Abelson, he made a "mediator's recommendation" to settle the Action for \$2,175,000, which Judge Abelson announced was accepted by all Parties.

12. Based on these and the below-described efforts, Class Representatives and Co-Lead

Counsel are well informed of the strengths and weaknesses of the claims and defenses in the Action, and believe the Settlement represents a very favorable outcome for the Class and is in the best interests of its members. For all the reasons set forth herein and in the accompanying memoranda and declarations, Class Representatives and Co-Lead Counsel respectfully submit that the Settlement is “fair, reasonable, and adequate” in all respects, and the Court should grant final approval pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

13. In addition, Class Representatives seek approval of the proposed Plan of Allocation. Co-Lead Counsel developed the Plan of Allocation with the assistance of their damages expert. The Plan of Allocation provides for the distribution of the Net Settlement Fund to each Class Member on a *pro rata* basis, in the amount of approximately \$0.55 per share (after deducting fees and expenses) as described in the Notice.

14. Finally, Co-Lead Counsel, on behalf of Plaintiffs’ Counsel, seek approval of their request for attorneys’ fees and payment of Litigation Expenses, as set forth herein and in the accompanying Co-Lead Counsel’s Memorandum of Law in Support of Motion for an Award of Attorneys’ Fees and Expenses (“Fee Brief”). As discussed in detail in the Fee Brief, the requested 28% fee is reasonable under the circumstances of this case and within the range of percentage awards granted by courts in the Fourth Circuit in comparable complex litigation. Additionally, the fairness and reasonableness of the request is confirmed by a lodestar cross-check and is warranted in light of the extent and quality of the work performed and the result achieved. Likewise, the requested Litigation Expenses of \$336,349.03, and the requested awards to Class Representatives, Sheryl Cohen Fine and John Risner are also fair and reasonable under the circumstances of this case.

15. Accordingly, for the reasons set forth in the Fee Brief and for the additional reasons set forth herein, Co-Lead Counsel respectfully submit that the request for attorneys’ fees and payment of Litigation Expenses, and the awards to Class Representatives be approved.

## II. PROSECUTION OF THE ACTION

### A. Commencement of the Action and Appointment of Lead Plaintiffs and Co-Lead Counsel

16. Prior to filing the Action, Plaintiffs<sup>3</sup>, through Co-Lead Counsel, conducted a thorough investigation relating to the claims, defenses, and underlying events and transactions that are the subject of the Action. This process included reviewing and analyzing: (i) documents filed publicly by Bowl America with the SEC; (ii) research reports issued by financial analysts concerning the Company; (iii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company and the Defendants; (iv) public records related to Bowl America's real estate holdings; and (v) the applicable law governing the claims and potential defenses.

17. On August 4, 2021, the Trusts filed a class action complaint on their own behalf and on behalf of all other similarly situated Bowl America stockholders, against Defendants asserting claims under Section 14(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rule 14a-9 promulgated thereunder for issuing a materially misleading Merger Proxy, and under Maryland law for breach of fiduciary duty and aiding and abetting breach of fiduciary duty in connection with the Merger.

18. By Order dated October 6, 2021 (ECF No. 8), the Court appointed the Trusts as Lead Plaintiffs and Cohen Milstein and KJK as Co-Lead Counsel.

19. After filing an initial amended complaint, on November 29, 2021, Lead Plaintiffs filed a Second Amended Class Action Complaint (ECF No. 8) which asserted similar causes of action for securities law violations, breach of fiduciary duty, and aiding and abetting against Duff & Phelps and Bowlero.

### B. Defendants' Motion to Dismiss and Lead Plaintiffs' Response

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<sup>3</sup> "Plaintiffs" refers to the Trusts who were the original Lead Plaintiffs and were later replaced by the Class Representatives, Fine and Risner.

20. On January 28, 2022, all defendants moved to dismiss all claims under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Following the completion of briefing on the Motions to Dismiss, on May 27, 2022, the Court issued a Memorandum Opinion and Order (ECF Nos. 32 and 33) dismissing without prejudice Counts I, II, V, and VI of the Second Amended Complaint, and dismissing Bowl America, Bowlero and Duff & Phelps as defendants in the Action. The Court sustained Lead Plaintiffs' breach of fiduciary duty claims relating to the alleged unreasonable Termination Fee asserted in Counts III and IV.

21. On June 21, 2022, Lead Plaintiffs filed the Third Amended Complaint (ECF No. 36), to add an additional allegation concerning this Court's supplemental jurisdiction over the remaining state law breach of fiduciary duty claims asserted in Counts III and IV. On July 21, 2022, Defendants moved again to dismiss the Third Amended Complaint, or in the alternative for a more definite statement (ECF No. 38).

22. On August 17, 2022, Lead Plaintiffs filed a Motion for a Scheduling Order and Discovery. (ECF Nos. 40, 41 and 42).

23. On August 22, 2022, Lead Plaintiffs filed their opposition to Defendants motions to dismiss the Third Amended Complaint. (ECF No. 43).

24. On October 11, 2022, the Court issued a Memorandum Opinion and Order (ECF Nos. 51, 52, and 53) which granted, in part, and denied, in part, the second motion to dismiss and terminated Duff & Phelps, Bowl America and Bowlero as Defendants in the case. (ECF Nos. 52 and 53).

25. Also on October 11, 2022, the Court issued a scheduling order which required the parties to submit a joint status report on March 9, 2023.

26. On October 26, 2022, Defendants filed their answer to the Third Amended Complaint (ECF No. 55), denying the remaining allegations and asserting certain affirmative

defenses.

**C. Discovery and Class Certification**

27. On November 14, 2022, the Court entered an Amended Scheduling Order (ECF No. 57) and discovery commenced.

28. On December 7, 2022, the Court approved the Stipulation and Order Regarding Confidentiality of Discovery Material. (ECF No. 59).

29. Prior to February 1, 2023, Co-Lead Counsel communicated periodically with Plaintiffs Fine and Risner concerning their possible representation of the proposed Class together with Lead Plaintiffs.

30. On February 1, 2023, the Court approved the Stipulation and Proposed Order Regarding Plaintiffs Motion for Class Certification. (ECF No. 61).

31. By Order dated February 6, 2023, the Court approved the joinder of Fine and Risner as additional named plaintiffs in the Action. (ECF No. 63).

32. On February 17, 2023, Lead Plaintiffs and proposed class representatives Fine and Risner, filed their motion for class certification seeking to represent a class of minority stockholders of Bowl America.<sup>4</sup> (ECF Nos. 64 and 65).

33. On February 21, 2023, Defendants filed an Amended Answer to the Third Amended Complaint. (ECF No. 66).

34. On March 15, 2023, the Court entered an Order Granting Stipulation of Dismissal of Defendant Ruth Macklin without prejudice. (ECF No. 76).

35. After full briefing the Court held a class certification hearing on June 2, 2023. (ECF No. 84). On June 15, 2023, the Court issued a Memorandum Opinion and Order certifying the

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<sup>4</sup> Lead Plaintiffs, the Trusts, continued to lead the litigation until June 15, 2023, when the Court certified the original class and appointed plaintiffs Fine and Risner as Class Representatives.

proposed class. (ECF Nos. 85 and 86). The Court denied Lead Plaintiffs' motion to be appointed as class representatives but appointed Plaintiffs Fine and Risner to serve as class representatives and appointed Cohen Milstein and KJK as Class Counsel. The certified Class is defined as;

All holders of Bowl America Class A common stock who, as of May 27, 2021: (1) were entitled to vote on the Merger; and (2) continued to hold such stock until the closing of the Merger on August 18, 2021. The class excludes the Defendants, their family members, heirs, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

36. On August 11, 2023, the Court entered an Order Regarding an Amended Case Schedule. (ECF No. 89).

37. Between November 2022 and December 2023, the Parties engaged in fact and expert discovery which consisted of the following:

(i) Plaintiffs propounded 17 requests for the production of documents to Defendants, served 37 requests for admission directed to Defendants, and served subpoenas on several non-parties; (ii) Plaintiffs obtained and reviewed approximately 23,373 pages of documents from their discovery requests; (iii) Plaintiffs filed a motion to compel discovery against Defendants with respect to certain documents which were withheld or redacted on the basis of privilege; (iv) Plaintiffs conducted 6 depositions of Defendants and non-parties and 2 expert depositions; (v) Plaintiffs each responded to 19 document requests and 14 interrogatories propounded by Defendants and produced approximately 1,647 pages of documents in response to Defendants' discovery requests; (vi) Plaintiffs Fine and Risner provided deposition testimony; (vii) the Parties engaged in numerous written and telephonic meet and confer sessions regarding discovery, class certification, and case scheduling matters; and (viii) the Parties engaged in full expert discovery including preparation of reports and depositions.

38. On October 12, 2023, the Court entered an Order dismissing the Trusts from the Action as Lead Plaintiffs without prejudice but they remained part of the Class. (ECF No. 92).

39. On September 15, 2023, Plaintiffs served (not filed, per the Court's local rules) Defendants with a motion to compel the production of certain documents withheld on the basis of the attorney-client and work product privileges ("Motion to Compel). On October 13, 2023, Plaintiffs filed their Motion to Compel. On October 27, 2023, Defendants served their opposition to Plaintiffs' Motion to Compel. On November 8, 2023, Plaintiffs served their reply brief in support of the Motion to Compel. On November 13, 2023, pursuant to Local Rule 104.7, Plaintiffs

filed the Motion to Compel briefing with the Court regarding the assertion of attorney client and work product privileges. (ECF No. 118).

40. In a Memorandum Opinion dated December 7, 2023, Magistrate Judge A. David Copperthite granted in part and denied in part Plaintiffs' Motion to Compel. (ECF No. 121).

41. On February 1, 2024, Plaintiffs filed a Motion for Partial Summary Judgment on Liability with respect to Defendants' breach of fiduciary duty in approving the alleged unreasonable Termination Fee. (ECF Nos. 125, 126, 127, 128 and 129).

42. On March 4, 2024, Defendants filed their Cross-Motion for Summary Judgment on the affirmative defenses of exculpation and the business judgment rule, and also filed their Opposition to Plaintiffs' Motion for Partial Summary Judgment. (ECF Nos 130, 131, and 132).

43. On April 3, 2024, Plaintiffs filed their combined Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment and their Reply in Further Support of their Motion for Partial Summary Judgment. (ECF Nos. 134, 135, 136, and 137).

44. On April 18, 2024, Defendants filed their Reply in Further Support of their Motion for Summary Judgment. (ECF Nos. 139 and 140).

**D. Mediation Efforts, Settlement Negotiations, and Preliminary Approval of the Settlement**

45. By Order dated April 26, 2024, (ECF No. 141), the Court referred the parties to this Action to Judge Abelson for a settlement conference. Pursuant to Judge Abelson's procedures, the Parties submitted mediation statements with exhibits concerning liability and damages.

46. The Parties engaged in an in-person mediation session with Judge Abelson on June 7, 2024. The session ended without any agreement being reached. Following the mediation, over the next several weeks the Parties continued discussions with Judge Abelson to further explore the possibility of a settlement.

47. After further discussions with Judge Abelson, on June 26, 2024, he made a

mediator's proposal to settle the action for \$2,175,000.00. On July 2, 2024, Judge Abelson communicated that both sides accepted the proposed settlement and the Parties executed an agreement in principle.

48. At various times during discovery, the Parties had attempted to explore the possibility of a negotiated resolution of the Action, but no progress was made. Only after the Court ordered the Parties to engage in mediation with Judge Abelson were they able to achieve the Settlement.

49. On August 27, 2024, the Parties entered into the Stipulation, which reflects the final and binding agreement among the Parties and supersedes the agreement in principle to settle the Action, and Plaintiffs submitted their Unopposed Motion for Preliminary Approval of Settlement and Approval of Notice to the Class. (ECF No. 154).

50. On September 3, 2024, the Court entered the Revised Preliminary Approval Order directing that this Notice of the Settlement be provided to potential Class Members, and scheduling the Settlement Hearing to, among other things, consider whether to grant final approval of the Settlement. (ECF No. 156).

### **III. THE RISKS OF CONTINUED LITIGATION**

51. The Settlement provides a certain and substantial benefit to the Class in the form of a non-reversionary cash payment of \$2.175 million. As explained more fully below, there were significant risks that the Class might recover substantially less than the Settlement Amount—or nothing at all—if the case were to proceed to a jury trial, followed by inevitable appeals. In the lead-up to trial, Plaintiffs would face expensive pre-trial motion practice following a decision on the summary judgment motions, motions *in limine*, and further challenges to class certification and damages. There was no guarantee that the Class would surmount these hurdles and, even if they did, later achieve any recovery, let alone one greater than \$2.175 million.

#### **A. Risks in Proving Liability and Damages**

52. Plaintiffs believe that the claims asserted against Defendants were strong and that substantial evidence to support the allegations has been adduced, but they recognize that there are significant risks to establishing both liability and damages including significant defenses asserted by Defendants and recovering a litigated judgment greater than the Settlement Amount.

53. Plaintiffs would face challenges in proving to the ultimate fact finder that Defendants breached their fiduciary duties in approving the Termination Fee. Defendants strenuously argued at the motion to dismiss and summary judgment stages, and would continue to maintain at trial if Plaintiffs overcame Defendants' summary judgment motion -- that (among other things) Plaintiffs would be unable to overcome the exculpatory provision in Bowl America's charter.

54. Even if Plaintiffs proved the unreasonableness of the Termination Fee at summary judgment or trial, Defendants would certainly argue to the jury that Plaintiffs cannot prove that Defendants received "an improper benefit or profit in money, property, or services" or acted with "active and deliberate dishonesty" under Maryland law. Defendants will also assert that Plaintiffs cannot rebut the business judgment rule and accordingly they are not liable under the Maryland statute. Defendants would likely seek to present evidence that Termination Fee was reasonable and more significantly, that they did not act with active or deliberate dishonesty.

55. Defendants would further argue that Plaintiffs would be unable to establish that the Defendants acted fraudulently or unconscionably in approving the Merger which is one standard under the statutory defense available to Defendants.

56. Plaintiffs faced ongoing risks associated with the pending motions for summary judgment, Defendants' intention to revisit class certification, *in limine* motions seeking to limit damages or exclude evidence or expert testimony, trial, and likely appeals, which would extend the litigation for years and might lead to a smaller recovery or no recovery at all.

57. As to Defendants' intentions for the Court to re-visit the class certification, and

their summary judgment motion, any modification or reversal of its class certification decision or granting of summary judgment in Defendants' favor potentially would have resulted in little or no recovery for the Class and could eliminate all or a significant portion of Plaintiffs' damages.

58. Plaintiffs' damages expert opined that the maximum damages was \$7.232 million. Defendants' damages expert opined that there were no damages, but at most no more than \$2.4 million. Given these conflicting opinions there was a serious risk Plaintiffs would not be able to recover the full \$7.232 million and a significant risk of recovering damages of zero or substantially less than \$2.175 million.

59. Even surviving summary judgment in full and prevailing at trial would not have guaranteed a recovery larger than the \$2.175 million Settlement. *See Miller v. Asensio & Co., Inc.*, 364 F.3d 223, 235 (4th Cir. 2004) (affirming judgment on jury verdict determining liability but awarding zero damages to plaintiffs); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441 (11th Cir. 1997) (jury verdict of \$81 million for plaintiffs against accounting firm reversed on appeal on loss causation grounds and judgment entered for defendant); *In re BankAtlantic Bancorp, Inc.*, 2011 WL 1585605, at \*20-22 (S.D. Fla. Apr. 25, 2011) (following jury verdict for plaintiffs on liability, district court granted defendants' motion for judgment as a matter of law), *aff'd*, 688 F.3d 713 (11th Cir. 2012).

## **B. Other Risks**

60. Plaintiffs would have to prevail at several later stages of the litigation, each of which presents significant risks in complex class actions such as this Action. As discussed above, Plaintiffs faced ongoing risks associated with the class certification, which Defendants intended to challenge before trial, possibly leading to a lengthy appellate process. Indeed, even if the class decision remained unaltered, Defendants could have petitioned to appeal pursuant to Rule 23(f).

61. Setting class certification aside, Plaintiffs need to overcome (in full or in large part) Defendants' cross-motion for summary judgment and anticipated *in limine* motions, and, of course, prevail at trial. As an initial matter, there was no assurance that Plaintiffs' key evidence

and testimony relating to liability and damages would be admitted as evidence by the Court at trial. Negative rulings could have seriously affected Plaintiffs' ability to successfully try the case. Establishing damages at trial would have been an intense expert-driven endeavor. Expert testimony can often rest on many assumptions, any of which risks being rejected by a jury. A jury's reaction to such expert testimony is highly unpredictable, and Plaintiffs recognize that, in a such a battle, there is the possibility that a jury could be swayed by Defendants' expert(s) and find there were no damages, or that damages are only a fraction of the amount claimed by Plaintiffs. Thus, the amount of damages that the class actually could recover at trial, even if successful on all liability issues, was uncertain.

62. Given these significant litigation risks, Plaintiffs and Co-Lead Counsel believe the Settlement represents an excellent result for the Class that also eliminates the substantial delay and expense of continued litigation.

**C. The Settlement Is Reasonable in Light of Potential Recovery in the Action**

63. In addition to the risks of litigation discussed above, the Settlement is also fair and reasonable in light of the potential recovery of available damages. Plaintiffs' damages expert has estimated that class-wide maximum reasonably recoverable damages are approximately \$7.232 million, after removing excluded Defendants who are not in the Class. This estimated amount assumes complete success for the Class in establishing Defendants' liability, and further that the trier of fact would reject all of Defendants' arguments for no damages or significantly reduced damages.

64. The \$2.175 million Settlement represents approximately 30% of Plaintiffs' estimated maximum damages and approximately 90% of the maximum damages calculated by Defendants' expert.

65. As such, the Settlement falls well within the range of recovery that courts regularly approve. According to Cornerstone Research, which conducts annual and semi-annual reviews of

securities class action settlements, for cases with total estimated damages (based on Cornerstone’s analysis of settlements of less than \$25 million from 2014 to 2022 plaintiffs recovered 18.8% of total estimated damages and 15.2% of estimated damages in 2023. *See* Ex. 1-B, Laarni T. Bulan and Laura E. Simmons, Securities Class Action Settlements – 2023 Review and Analysis (Cornerstone Research 2024), at 6.

66. Having achieved a recovery of approximately 30% of the maximum estimated damages, Plaintiffs greatly exceeded the average recovery for sub-\$25 million settlements in securities class actions.

67. If Defendants prevailed on any or all of their arguments concerning liability, Plaintiffs would have recovered far less, if anything.

#### **IV. CLASS REPRESENTATIVES’ COMPLIANCE WITH THE REVISED PRELIMINARY APPROVAL ORDER**

68. Pursuant to the Revised Preliminary Approval Order, Co-Lead Counsel and the Court- approved Settlement Administrator, Epiq Class Action and Claims Solutions, Inc. (“Epiq”), implemented a comprehensive notice program whereby notice was given to potential Class Members by mail and publication.

69. The notice program included individual notification by mail in the form of the Postcard Notice in order to save costs, publication of the Summary Notice over the PR Newswire and posting of the long form Notice on Epiq’s website, from which copies of the Notice can be reviewed and downloaded. *See generally*, Ex. 1-A and Ex. 1-C, the Notice.

70. Pursuant to the Revised Preliminary Approval Order, Co-Lead Counsel instructed Epiq to disseminate copies of the Postcard Notice and to publish the Summary Notice. Contemporaneously with the mailing of the Postcard Notice, Co-Lead Counsel instructed Epiq to post downloadable copies of the Notice online at [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com) (the “Settlement Webpage”).

71. As detailed in the Mahan Declaration, attached hereto as Exhibit 1-A, Epiq mailed the Postcard Notice to Settlement Class Members as well as banks, brokerage firms, and other third-party nominees whose clients may be Class Members. *Id.* at ¶¶ 3-9. To disseminate the Postcard Notice, beginning on September 10, 2024, Epiq mailed a copy of the Postcard Notice to the individuals and organizations identified in the Company's transfer agent records. *Id.* at ¶5. In addition, Epiq maintains a proprietary database with names and addresses of the largest and most common banks, brokerage firms, institutions, and other third-party nominees. On September 17, 2024, Epiq caused the Postcard Notice to be mailed to the 962 nominees and institutional groups contained in the Epiq master mailing list. *Id.* at ¶6.

72. As of November 20, 2024, a total of 1,711 potential Class Members have been mailed or emailed copies of the Postcard Notice. *Id.* at ¶7.

73. On September 23, 2024, in accordance with the Revised Preliminary Approval Order, Epiq caused the Summary Notice to be published over *PR Newswire*. *Id.* at ¶10.

74. Co-Lead Counsel also caused Epiq to establish the Settlement Webpage, which became operational on September 17, 2024, to provide potential Class Members with information concerning the Settlement, including exclusion and objection; the date and time of the Settlement Hearing; and downloadable versions of the Notice, as well as copies of the Stipulation and Revised Preliminary Approval Order. *Id.* at ¶¶13-14.

75. Epiq maintains a toll-free telephone number for potential Class Members to call and obtain information about the Settlement and/or request a Notice. Epiq promptly responds to each telephone inquiry and will continue to address potential Class Members' inquiries. *Id.* at ¶¶ 11-12.

76. The notices and webpage informed potential Class Members that the deadline to file objections to the Settlement, the proposed Plan of Allocation, and/or the Fee and Expense Application is November 28, 2024, and that the deadline to request exclusion from the Settlement

Class is November 28, 2024.

77. Through November 20, 2024, no requests for exclusion have been received. Mahan Decl., Ex. 1-A at ¶16.

78. In addition, to date, no objections to the Settlement, the Plan of Allocation, and/or the requested amount of attorneys' fees and expenses have been entered on the Court's docket or have otherwise been received by Co-Lead Counsel or Epiq. *Id.* at ¶ 18<sup>5</sup>.

79. Plaintiffs will file additional papers by December 5, 2024, which will address any objections that may be received. Plaintiffs' reply papers will include a supplemental declaration from Epiq addressing whether any requests for exclusion have been received.

#### **V. ALLOCATION OF THE NET PROCEEDS OF THE SETTLEMENT**

80. The Plan of Allocation is set forth on page 9 of the Notice. *See* Ex. 1-C (Notice). Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all Class Members who do not exclude themselves will receive a distribution of the Net Settlement Fund (*i.e.*, the Settlement Fund less (a) any Taxes, (b) any Notice and Administration Costs, (c) any Litigation Expenses awarded by the Court, and (d) any attorneys' fees awarded by the Court). As set forth in the Stipulation, the Net Settlement Fund will be distributed among eligible Class Members according to the plan of allocation approved by the Court. Co-Lead Counsel believe that the proposed Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Fund among Class Members who suffered losses as a result of the conduct alleged in the Third Amended Complaint.

81. The Net Settlement Fund will be distributed on a pro rata basis to Eligible Stockholders. Subject to Court approval in the Class Distribution Order, Class Counsel will direct

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<sup>5</sup> One potential objector Kristen Beery Hahn called the Court to register her objection. *See* Ex. 1-D. There is no evidence that Ms. Hahn is a Class Member and, in any event, no objection has been filed by her to date. Co-Lead Counsel, upon being advised of Ms. Hahn's inquiry, provided her with the long form notice detailing the procedures for objections.

the Settlement Administrator to allocate the Net Settlement Fund among Eligible Stockholders on a pro rata, per-share basis and distribute the Net Settlement Amount to Eligible Stockholders.

82. For Eligible Beneficial Holders whose Merger Consideration was distributed through Cede, as nominee for the Depository Trust Company ("DTC"), the Settlement Administrator shall send their portion of the Net Settlement Fund to DTC for distribution. The Settlement Administrator shall instruct DTC Participants to distribute the Eligible Beneficial Holders' portion of the Net Settlement Fund to Eligible Beneficial Holders in the same manner in which the DTC Participants distributed proceeds in connection with the Merger.

83. The Settlement Administrator shall provide DTC Participants with a list of Excluded Persons and direct the DTC Participants not to distribute any payment to any Excluded Person. DTC's sole obligation in connection with the Settlement shall be to distribute the Eligible Beneficial Holders' portion of the Net Settlement Fund to DTC Participants in accordance with this Paragraph and DTC rules and procedures, and DTC shall not be responsible for any errors in the calculation of any distribution or for any failure by the Settlement Administrator, Defendants, or Class Counsel to identify the Excluded Persons.

84. For Eligible Record Holders, the Settlement Administrator shall send their portion of the Net Settlement Fund to the address listed on the stockholder register or other relevant books and records of Bowl America or its transfer agent.

85. If there is any balance remaining in the Escrow Account after six (6) months from the date of initial distribution (whether by reason of tax refunds; uncashed checks; amounts returned by Excluded Persons, to the extent they receive settlement payments; or for any other reason), Class Counsel may petition to reallocate such balance among Eligible Stockholders who deposited the checks sent (or had the funds paid directly by DTC) in the initial distribution in an equitable and economic fashion. Thereafter, any remaining balance which in the Settlement Fund shall be distributed at the direction of the Court.

86. Overall, the Plan of Allocation will fairly and rationally allocate the proceeds of the Settlement among eligible Class Members. Accordingly, Plaintiffs respectfully submit that the Plan of Allocation is fair and reasonable and should be approved by the Court.

87. To date, no objections to the proposed Plan of Allocation have been received by Co-Lead Counsel or the Settlement Administrator or posted on the Court's docket. *See* Mahan Decl., Ex. 1-A at ¶18.

## **VI. APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

### **A. Consideration of Relevant Factors Justifies the Requested Fee**

88. Consistent with the Notice to the Class, Co-Lead Counsel seek a fee award of 28% of the Settlement Fund.

89. Co-Lead Counsel submit that, for the reasons discussed below and in the accompanying Fee Brief, such a fee would be reasonable and appropriate under the circumstances before the Court.

#### **1. Class Representatives Support the Fee and Expense Application**

90. Class Representatives Fine and Risner, who oversaw the prosecution of the Action and were directly involved in settlement discussions, have evaluated and support the Fee and Expense Application. *See* Ex. 1-G ("Fine Decl.") at ¶¶ 8-9; Ex. 1-H ("Risner Decl.") at ¶¶ 8-9.

#### **2. The Amount Involved and the Results Obtained**

91. Courts in the Fourth Circuit consider the result achieved to be an important factor in making a fee award. *See* Mem. of Law in Supp. of Co-Lead Counsel's Mot. for an Award of Attorneys' Fees and Expenses Fee, at 8-9. As discussed above, the \$2,175,000 Settlement is a very favorable result when considered on its own, and in view of the substantial risks and obstacles to achieving a recovery and the potential difficulties of being able to enforce a judgment after trial if the Action were to continue to trial and through likely post-trial motions and appeals.

92. The recovery was the result of very thorough and efficient prosecutorial and investigative efforts, complicated motion practice, full fact and expert discovery, and vigorous settlement negotiations. As a result of this Settlement, hundreds of Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery in the absence of a settlement.

### **3. The Complexity and Duration of the Litigation**

93. This Action presented substantial challenges from the outset of the case, which were skillfully navigated by Plaintiffs' Counsel over the past three years. The specific risks faced by the Class in proving Defendants' liability and damages are detailed above in Section III. These case-specific risks are in addition to the more typical risks accompanying securities class action litigation, such as the fact that this Action was ultimately governed by Maryland corporate law and was undertaken largely on a contingent basis with no guarantee of a favorable result, *see* Section III, *infra*.

### **4. The Time and Labor of Plaintiffs' Counsel**

94. The investigation, prosecution, and settlement of the claims asserted in the Action required diligent efforts on the part of Plaintiffs' Counsel. The many tasks undertaken by Plaintiffs' Counsel in this case are detailed above. *See* Section II.

95. Among other efforts, Plaintiffs' Counsel conducted a comprehensive investigation in connection with the preparation of several complaints; opposed Defendants' Motions to Dismiss; engaged in rigorous class, fact, and expert discovery efforts, including defending the depositions of the two Class Representatives, exchanging multiple expert reports, and conducted expert depositions; fully briefed and argued class certification; and undertook an extensive settlement process with experienced defense counsel and Judge Abelson as mediator. At all times throughout the pendency of the Action, Plaintiffs' Counsel's efforts were driven and focused on advancing the

litigation to bring about the most successful outcome for the Class, whether through settlement or trial. *Id.*

96. Attached hereto are counsel declarations, which are submitted in support of Co-Lead Counsel's request for an award of attorneys' fees and payment of litigation expenses. *See* the Declaration of Daniel S. Sommers on Behalf of Cohen Milstein Sellers & Toll PLLC in Support of Application for an Award of Attorneys' Fees and Expenses ("Sommers Decl."), and the Declaration of Brett S. Krantz on behalf of Kohrman Jackson & Krantz LLP in Support of Application for an award of Attorneys' Fees and Litigation Expenses ("Krantz Decl."). Exs. 1-E, Ex. 1-F, respectively.

97. Included with these declarations are schedules that summarize the time of each firm, as well as each firm's litigation expenses by category (the "Fee and Expense Schedules"). The attached declarations and the Fee Schedules report the amount of time spent by Plaintiffs' Counsel and their "lodestar" calculations, *i.e.*, their hours multiplied by their current hourly rates. As explained in each declaration, they were prepared from records regularly prepared and maintained by the respective firms.

98. Plaintiffs' Counsel have collectively expended over 4100 hours prosecuting the Action. *See* Exs. 1-E, 1-F. The resulting collective "lodestar" is \$3,285,382.25. *Id.*<sup>6</sup> The requested fee of \$609,000 (28% of the Settlement Fund) results in a negative "multiplier" of 0.18 on Plaintiffs' Counsel's lodestar.

99. The current hourly rates of Plaintiffs' Counsel here range from \$425 to \$1320 for partners, \$995 to \$1215 for Of Counsel, and \$275 to \$775 for associates and other attorneys. *See* Exs. 1-E, 1-F. It is respectfully submitted that the hourly rates for attorneys and professional

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<sup>6</sup> Cohen Milstein's total hours was 2700.75 and its lodestar \$2,540,656.25. KJK's total hours was 1,452.8 and its lodestar was \$744,726.00 which comprise the collective hours and lodestars of the two firms. *See* Exs. 1-E, 1-F.

support staff included in these schedules are reasonable and customary within the securities class action bar.

100. Co-Lead Counsel will continue to work on the administration of the Settlement after the final Settlement Hearing without seeking any further compensation.

#### **5. The Reputation and Expertise of Plaintiffs' Counsel**

101. The expertise and experience of Plaintiffs' Counsel are described in each firm's resume, attached hereto as Exs. 1-E, 1-F.

102. As demonstrated in the firm resumes of Cohen Milstein and KJK, attached hereto as Exs. 1-E, 1-F, Co-Lead Counsel are highly skilled law firms that focus their practices on securities, class action and complex litigation. Indeed, Cohen Milstein has substantial experience in litigating securities fraud class actions and negotiated dozens of other class settlements, which have been approved by courts throughout the country. *See id.* KJK has a similar background in litigating securities cases and large complex litigation matters. *Id.*

103. Plaintiffs' Counsel's experience, collectively, certainly added valuable leverage during the course of the litigation and in the settlement negotiations.

## **6. Standing and Caliber of Opposing Counsel**

104. The quality of the work performed by Plaintiffs' Counsel in attaining the Settlement should also be evaluated in light of the quality of opposing counsel. Here, Defendants were represented by two of the most preeminent defense firms, DLA Piper LLP and Foley & Lardner LLP. Defense counsel in this case are highly skilled and experienced securities attorneys with vast resources. In the face of this knowledgeable and formidable defense, Plaintiffs' Counsel were nonetheless able to develop a case that was sufficiently strong to persuade Defendants to settle on terms that are favorable to the Settlement Class.

## **7. The Contingency Risk Faced by Plaintiffs' Counsel**

105. From the outset, Plaintiffs' Counsel understood that they were embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being fully compensated for the substantial investment of time and money the case would require. In undertaking that responsibility Plaintiffs' Counsel were obligated to ensure that sufficient resources were dedicated to the prosecution of the Action, and that funds were available to compensate staff and to cover the considerable costs that a case such as this requires. With an average lag time of several years for these cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Although Plaintiffs' Counsel received relatively small payments from the Trusts at the early stage of the litigation (\$250,000), they are obligated under the retainer agreement to repay the Trusts for that advance, and received no other compensation for most of the time spent litigating the Action and. Plaintiffs' Counsel incurred more than 4,100 hours of time for a total lodestar of \$3,285,382.25 and incurred \$336,349.03<sup>7</sup> in out-of-pocket expenses in prosecuting the Action for the benefit of the Class.

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<sup>7</sup> Cohen Milstein incurred \$236,570.92 in expenses and KJK incurred \$99,778.11 including \$3,257.78 paid by the Trusts which will be repaid from any award. Exs. 1-E, 1-F.

106. Plaintiffs' Counsel know from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint or win at trial, or to convince sophisticated defendants to engage in serious settlement negotiations at meaningful levels. Plaintiffs' Counsel are aware of many hard-fought lawsuits where, because of the discovery of facts unknown when the case was commenced, or changes in the law during the pendency of the case, or a decision of a judge or jury following a trial on the merits, excellent professional efforts of members of the plaintiffs' bar produced no fee for counsel.

107. Federal circuit court cases include numerous opinions affirming dismissals with prejudice in securities cases. The many appellate decisions affirming summary judgment dismissals show that even surviving a motion to dismiss is not a guarantee of recovery. *See, e.g., McCabe v. Ernst & Young, LLP*, 494 F.3d 418 (3d Cir. 2007); *In re Oracle Corp. Sec. Litig.*, 627 F.3d 376 (9th Cir. 2010); *In re Silicon Graphics Sec. Litig.*, 183 F.3d 970 (9th Cir. 1999); *Phillips v. Scientific-Atlanta, Inc.*, 489 F. App'x. 339 (11th Cir. 2012); *In re Smith & Wesson Holding Corp. Sec. Litig.*, 669 F.3d 68 (1st Cir. 2012); *In re Digi Int'l Inc. Sec. Litig.*, 14 F. App'x. 714 (8th Cir. 2001); *Geffon v. Micrion Corp.*, 249 F.3d 29 (1st Cir. 2001).

108. Successfully opposing a motion for summary judgment is also not a guarantee that plaintiffs will prevail at trial. While only a few securities class actions have been tried before a jury, several have been lost in their entirety, such as *Weston Family Partnership LLLP, et al. v. Twitter, Inc., et al.*, Case No. 20-17465 (9th Cir. 2022), *In re JDS Uniphase Securities Litigation*, Case No. C-02-1486 CW (EDL), slip op. (N.D. Cal. Nov. 27, 2007), or substantially lost as to the main case, such as *In re Clarent Corp. Securities Litigation*, Case No. C-01-3361 CRB, slip op. (N.D. Cal. Feb. 16, 2005).

109. Even plaintiffs who succeed at trial may find their verdict overturned by a post-trial motion for a directed verdict or on appeal. *See, e.g., In re BankAtlantic Bancorp, Inc.*, No. 07-cv-

61542-UU, 2011 WL 1585605 (S.D. Fla. Apr. 25, 2010) (after plaintiffs' jury verdict, court granted defendants' motion for judgment as a matter of law), *aff'd*, 688 F. 3d 713 (11th Cir. 2012) (trial court erred, but defendants entitled to judgment as matter of law); *Ward v. Succession of Freeman*, 854 F.2d 780 (5th Cir. 1998) (reversing plaintiffs' jury verdict for securities fraud); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation); *Glickenhau & Co., et al. v. Household Int'l, Inc., et al.*, 787 F.3d 408 (7th Cir. 2015) (reversing and remanding jury verdict of \$2.46 billion after 13 years of litigation); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441 (11th Cir. 1997) (reversing \$81 million jury verdict and dismissing case with prejudice).

110. Moreover, the path to maintaining a favorable jury verdict can be arduous and time consuming. *See, e.g., In re Apollo Grp., Inc. Sec. Litig.*, No. CV-04-2147-PHX-JAT, 2008 WL 3072731 (D. Ariz. Aug. 4, 2008), *rev'd*, No. 08-16971, 2010 WL 5927988 (9th Cir. June 23, 2010) (trial court rejecting unanimous verdict for plaintiffs, which was later reinstated by the Ninth Circuit Court of Appeals) and judgment re-entered (*id.*) after denial by the Supreme Court of the United States of defendants' Petition for Writ of Certiorari (*Apollo Grp. Inc. v. Police Annuity and Benefit Fund*, 562 U.S. 1270 (2011)).

111. As discussed in greater detail above, success was by no means assured. Defendants strongly disputed whether Plaintiffs could establish a breach of fiduciary duty and overcome Defendants formidable statutory defenses. In addition, Defendants would no doubt have contended, if the case proceeded past summary judgment, that even if liability existed, the amount of damages was either nothing or substantially lower than Plaintiffs alleged. Were this Settlement not achieved, Plaintiffs and Plaintiffs' Counsel faced potentially years of costly and risky trial and appellate litigation against Defendants, with ultimate success far from certain.

**B. Request for Litigation Expenses**

112. Plaintiffs' Counsel seek payment from the Settlement Fund of their litigation expenses, which were reasonably and necessarily incurred in connection with commencing and prosecuting the claims against Defendants.

113. As set forth in the Fee and Expense Schedules, Plaintiffs' Counsel's litigation expenses in connection with the prosecution of the Action total \$336,349.03. *See* Exs. 1-E, 1-F. As attested to, these expenses are reflected on the books and records maintained by each firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of counsel's expenses. The expenses are set forth in detail in Plaintiffs' Counsel's declarations, which identify the specific category of expense—*e.g.*, experts' fees, deposition costs, travel costs, online/computer research, and settlement administration and notice costs. Exs. 1-E, 1-F.

114. As noted in the Preliminary Approval Motion, the expense portion of Plaintiff's Counsel's request would not exceed \$360,000. The long form Notice posted on the Settlement Webpage stated that the fee request would be 28% and provided an estimated net per share recovery of (\$0.55) that included a calculation based on expenses of up to \$360,000. However, in preparation of the papers for final approval, it came to Co-Lead counsel's attention that the final version of that long form Notice as published on the website, inadvertently omitted an explicit reference to the maximum expense number of \$360,000 that had been originally included in the proposed notice attached to Plaintiffs' Motion for Preliminary Approval. Compare Ex. 1-C at ¶58 and ECF No. 154-3 at ¶56. Plaintiffs' Counsel notes that to date, no class member has inquired further about the expenses or objected to the long form Notice.

115. From the beginning of the case, Plaintiffs' Counsel were aware that they might not recover any of their expenses, and, at the very least, would not recover anything until the Action was successfully resolved. Thus, Plaintiffs' Counsel were motivated to take steps to manage

expenses without jeopardizing the vigorous and efficient prosecution of the case. Cohen Milstein and KJK<sup>8</sup> collectively paid \$336,349.03 in expenses. A description of the expenses incurred by Co-Lead Counsel by category is included in the individual firm declarations submitted on behalf of Cohen Milstein and KJK. *See* 1-E, 1-F.

116. Plaintiffs' Counsel's expenses include fees and costs for, among other things: (i) experts and consultants in connection with various stages of the litigation; (ii) electronic discovery; (iii) deposition-related expenses; (iv) online factual and legal research; (v) court fees; (vi) travel expenses; and (vii) settlement administration and notice costs. Courts have consistently found that these kinds of expenses are payable from a fund recovered by counsel for the benefit of a class.

117. Much of Plaintiffs' Counsel's expenses were for the fees of Plaintiffs' experts and for notice and settlement administration costs (\$284,869.00<sup>9</sup> or 85% of total expenses). *See* Exs. 1-E at ¶7, 1-F at ¶9. As noted above, Co-Lead Counsel consulted with an expert in the fields of deal termination fees, valuation and damages. Plaintiffs' Counsel utilized their expert in connection with class certification, to assist with discovery and provide expert opinion, in preparation for mediation and in connection with the development of the proposed Plan of Allocation. Plaintiffs' expert was essential to the prosecution of the Action.

118. Another substantial component of Plaintiffs' Counsel's was administrative costs such as court filing fees and the cost of court reporters, videographers, and transcripts in connection with the depositions counsel took or defended in connection with discovery. Those costs amounted to \$18,034.02. *See* Exs. 1-E at ¶7, 1-F ¶9.

119. Travel costs in connection with the litigation and costs related to working meals,

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<sup>8</sup> KJK received a payment of \$3,257.78 on its expenses from the Trusts. Co-Lead Counsel is seeking reimbursement of those expenses paid on behalf of the Class to reimburse the Trusts. Ex. 1-E.

<sup>9</sup> Expert costs totaled \$214,890, and notice and settlement administration costs were \$69,979. Exs. 1-E at ¶7, 1-F at ¶9.

lodging, and transportation total \$22,065.56. All airfare is at economy rates. *See* Exs. 1-E, 1-F.

120. Plaintiffs' Counsel's expenses also include the costs of computerized research services such as Lexis, Westlaw, and PACER in the amount of \$4,288.38. It is standard practice for attorneys to use online services to assist them in researching legal and factual issues, and indeed, courts recognize that these tools create efficiencies in litigation and ultimately save money for clients and the class.

121. The other expenses for which Plaintiffs' Counsel seek payment are the types of expenses that are necessarily incurred in litigation and routinely paid by clients in non-contingent cases. These expenses include, among others, court fees, duplicating costs, long-distance and conference calling, and postage and delivery expenses. All of the litigation expenses incurred by Plaintiffs' Counsel, including the costs for settlement administration and notice, were reasonable and necessary for the successful litigation of the Action.

### **C. Payments to Class Representatives**

122. The PSLRA specifically provides that an "award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class" may be made to "any representative party serving on behalf of a class." 15 U.S.C. § 78u-4(a)(4). Accordingly, Class Representatives Fine and Risner seek reimbursement of their reasonable costs incurred directly for their work representing the Class. *See* Ex. 1-G at ¶7; Ex. 1-H at ¶7.

123. Specifically, Fine seeks reimbursement of \$7,500 for the time she dedicated to the Action. *See* Ex. 1-G at ¶7. Risner seeks reimbursement of \$7,500 for the time he dedicated to the Action. *See* Ex. 1-H at ¶7. These costs are included within the \$360,000 maximum expenses provided set forth Class Plaintiffs' Preliminary Approval Motion. As discussed in Class Representatives supporting declarations, each one actively and effectively fulfilled their obligations as a representative of the Class, complying with all of the many demands placed upon them during the litigation and settlement of the Action, and providing valuable assistance to Co-

Lead Counsel. Each (i) regularly communicated with counsel regarding the posture and progress of the Action; (ii) reviewed significant pleadings, motions, and briefs filed in the Action; (iii) worked with Co-Lead Counsel to produce documents and written discovery responses to Defendants; (iv) prepared for and participated in depositions; and (v) consulted with counsel during the course of the settlement discussions, and evaluated and approved the proposed Settlement. Exs. 1-G, 1-H. These efforts required Plaintiffs to dedicate time and resources to the Action that they would have otherwise devoted to their professional endeavors and are precisely the types of activities courts have found support reimbursement to class representatives.

**D. The Reaction of the Settlement Class to the Fee and Expense Application**

124. As mentioned above, consistent with the Revised Preliminary Approval Order, a total of 1,711 Postcard Notices have been mailed or emailed to potential Class Members advising them that Co-Lead Counsel would seek an award of attorneys' fees not to exceed 28% of the Settlement Fund, and seek payment of expenses \$360,000. *See* Mahan Decl., Ex. 1-A at ¶¶ 3-9.

125. Additionally, the Summary Notice was disseminated over *PR Newswire*. *Id.* at ¶ 10. The long form Notice and the Stipulation have also been available on the Settlement Webpage maintained by the Settlement Administrator. *Id.* at ¶ 13-14.<sup>10</sup>

126. While the deadline set by the Court for Class Members to object to the requested fees and expenses has not yet passed, to date there have been no objections to the requested fees and expenses.

127. Co-Lead Counsel will respond to any objections in their reply papers, which are due to be filed with the Court on December 5, 2024.

**VII. MISCELLANEOUS EXHIBITS**

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<sup>10</sup> Class Members' motion for approval of the Settlement and Co-Lead Counsel's motion for an award of attorneys' fees and expenses will also be posted on the Settlement Webpage.

128. Attached hereto as Exhibit 1-I is a compendium of unreported cases, in alphabetical order, cited in the accompanying memoranda of law.

### VIII. CONCLUSION

129. In view of the significant recovery for the Settlement Class and the substantial risks of this Action, as described herein and in the accompanying Final Approval Brief, Class Representatives respectfully submit that the Settlement should be approved as fair, reasonable, and adequate and the proposed Plan of Allocation should be approved as fair and reasonable. Co-Lead Counsel submit that the requested fee in the amount of 28% (\$609,000) of the Settlement Fund should be approved as fair and reasonable, the request for payment of \$336,349.03 in Litigation Expenses, and Class Representatives' requests for \$7,500 each should also be approved.

130. We each declare under the penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct.

Executed this 21st day of November, 2024.

/s/ Richard A. Speirs  
Richard A. Speirs

/s/ Brett S. Krantz  
Brett S. Krantz

# EXHIBIT 1-A

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et. al.*,

Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et. al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

**DECLARATION OF JOSEPH MAHAN REGARDING  
NOTICE DISSEMINATION, PUBLICATION,  
AND REPORT ON OBJECTIONS OR REQUESTS FOR EXCLUSION RECEIVED TO  
DATE**

I, Joseph Mahan, hereby declare as follows:

1. I am a Settlement Project Manager at Epiq Class Action and Claims Solution, Inc. (“Epiq”). Pursuant to ¶5 of the Revised Order dated September 3, 2024 (“Preliminary Approval Order”), Epiq was appointed as the Settlement Administrator to supervise and administer the notice procedure in connection with the settlement (the “Settlement”) of the above-captioned action (the “Action”). I have the responsibility for overseeing all aspects of the notice and administration services performed by Epiq with respect to the Settlement.

2. I respectfully submit this Declaration in order to provide the Court with information regarding, among other things: (1) the mailing of the Notice of Pendency and Proposed Settlement of Stockholder Class Action, Settlement Hearing, and Motion for Attorneys’ Fees and Expenses (“Notice”); (2) the publication of the Summary Notice; and (3) the establishment of the website and toll-free number dedicated to this class action, in accordance with the Preliminary Approval Order. I am over 21 years of age and am not a party to this Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

### **MAILING OF THE NOTICE**

3. The Court’s Preliminary Approval Order required Epiq to, among other things, mail the Postcard Notice to potential Class Members. A true and correct copy of the Postcard Notice is attached hereto as Exhibit A.

4. Epiq maintains a proprietary database (the “Broker Database”) of 962 brokerage firms, banks and other financial institutions as published by Securities Dealers of North America, and The Depository Trust & Clearing Corporation (“DTC”) participant members to be used in notifying record holders of class actions.

5. On September 10, 2024, Epiq was provided with the transfer agent's list relating to Bowl America Inc. ("Bowl America or the "Company") common stock who were paid \$8.53 per share for each share held at the time of the Merger with Bowlero Corp. ("Bowlero") on August 18, 2021 and are not excluded from the Class (the "Class" or "Settlement Class"). The electronic file contained the names and addresses of 265 potential Class Members.

6. Epiq entered the data referenced above into a segregated database (the "Epiq Mailing Database") to be used for the mailing of the Notice to potential Class Members. On September 17, 2024, pursuant to ¶5 of the Preliminary Approval Order, Epiq caused the Notice to be mailed via the United States Postal Service ("USPS") by first class mail, postage prepaid, to the 962 brokers and other nominees referred to in ¶4 above and 265 potential Class Members referred to in ¶5 above. Epiq mailed a total of 1,227 Notices in this initial mailing.

7. As of November 20, 2024, in response to the Notice mailing, Epiq has received bulk requests from brokers and other nominees for 965 Notices for them to forward to their customers, in which 445 were requested via Postcard Notice and 520 were requested via email. Epiq has also received an additional 39 names and addresses of potential Class Members from brokerage firms, banks, institutions and other nominees, in the form of disks, emails, labels and lists, requesting that the Notices be mailed to these individuals. Epiq is in the process of mailing Notice to these additional records as well.

8. Epiq leases and maintains a Post Office Box (P.O. Box 3805, Portland, OR 97208-3805) for the receipt of all undeliverable mail and written communications necessary to implement the Settlement.

9. As of November 20, 2024, the USPS had returned approximately 16 Notices as undeliverable without forwarding addresses.

**PUBLICATION OF SUMMARY NOTICE**

10. On September 23, 2024, Epiq caused the Summary Notice to be published in the *PR Newswire*. A copy of the press release is attached hereto as Exhibit B.

**CALL CENTER SERVICES**

11. Epiq reserved a toll-free phone number for the Settlement, (888) 874-4173, and published that toll-free number in the Notice and on the Settlement Website.

12. The toll-free number became operational on September 17, 2024. The toll-free number connects callers with an Interactive Voice Recording (“IVR”). The IVR provides potential Class Members and others who call the toll-free telephone number access to additional information that has been pre-recorded. The toll-free telephone line with pre-recorded information is available 24 hours a day, 7 days a week. Specifically, the pre-recorded message provides callers with a brief summary of the Settlement and the option to select one of several more detailed recorded messages addressing frequently asked questions. The IVR also allows callers to request that a copy of the Notice to be mailed to them or the caller may opt to speak live with a trained operator. Callers are able to speak to a live operator regarding the status of the Settlement and/or obtain answers to questions they may have, Monday through Friday from 9:00 a.m. to 6:00 p.m. Eastern Time (excluding official holidays). During other hours, callers may leave a message for an agent to call them back. Epiq has promptly responded to each telephone inquiry and will continue to address potential Class Members’ inquiries.

**SETTLEMENT WEBSITE**

13. Pursuant to the Preliminary Approval Order, Epiq, in coordination with Co-Lead Counsel, designed, implemented and currently maintains a website dedicated to the Action

(www.BowlAmericaSecuritiesLitigation.com) (the “Settlement Website”). The address for the Settlement Website is set forth in the Notice and Summary Notice.

14. The Settlement Website became operational on September 17, 2024, and is accessible 24 hours a day, 7 days a week. Among other things, the Settlement Website includes information regarding the Action and the proposed Settlement, including the exclusion, objection, and the date and time of the Court’s Settlement Hearing. In addition, copies of the Notice, Stipulation, Preliminary Approval Order, and other documents related to the Action are posted on the Settlement Website and are available for downloading. Epiq will continue operating, maintaining and, as appropriate, updating the Settlement Website until the conclusion of this administration.

**REQUESTS FOR EXCLUSION AND OBJECTIONS RECEIVED TO DATE**

15. Pursuant to this Court’s Preliminary Approval Order, the Notice, Summary Notice, and Settlement Website inform Class Members that requests for exclusion from the Class must be received by November 28, 2024. The Notice directs Class Members who wish to request exclusion to mail their request to Bowl America, Inc. Settlement, c/o Epiq, P.O. Box 3805, Portland, OR 97208-3805. The Notice also sets forth the information that must be included in each request for exclusion. Epiq monitors all mail delivered to this P.O. Box.

16. As of the date of this Declaration, Epiq has not received any requests for exclusion.

17. The Notice, Summary Notice, and Settlement Website also inform Class Members that they may object to the Settlement, the proposed Plan of Allocation or Lead Counsel’s motion for an award of attorneys’ fees and expenses; the objection must be in writing, and filed with the Court and delivered to representatives of Lead Counsel and Settling Defendants’ Counsel such that they are received on or before November 28, 2024.

18. Through November 20, 2024, Epiq has not received, or been informed of, any objections to the Settlement, the Plan of Allocation, or Co-Lead Counsel's motion for attorneys' fees and expenses.

I declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge.

Executed this 20<sup>th</sup> day of November, 2024, at Philadelphia, PA.

*Joseph Mahan*  
\_\_\_\_\_  
Signer ID: TQTMZNF512...  
Joseph Mahan  
Epiq Class Action and Claims Solutions, Inc.

# Exhibit A

Bowl America, Inc. Settlement  
c/o Epiq  
PO Box 3805  
Portland, OR 97208-3805

**Legal Notice**

**To: All holders of Bowl America Class A common stock who, as of May 27, 2021: (1) were entitled to vote on the Merger; and (2) continued to hold such stock until the closing of the Merger on August 18, 2021. The class excludes the Defendants, their family members, heirs, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.**

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A proposed \$2,175,000.00 Settlement has been reached in a class action lawsuit titled, *Fine, et al., v. Bowl America, Inc., et al.*, 1:21-cv-01967-SAG (D. Md.). The lawsuit alleges that Cheryl A. Drago, Merle Fabian, Nancy E. Hull, Gloria M. Bragg and Allan L. Sher (deceased) (the “Defendants”) breached fiduciary duties owed to Bowl America stockholders in connection with the Merger and/or aided and abetted such alleged breaches of duty. Defendants deny all allegations of wrongdoing and liability.

**Who is Included? Records indicate that you may be a member of the Class.** The Class is defined as: all holders of Bowl America Class A common stock who, as of May 27, 2021: (1) were entitled to vote on the Merger; and (2) continued to hold such stock until the closing of the Merger on August 18, 2021. The class excludes the Defendants, their family members, heirs, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

**What does the Settlement Provide?** If you are a member of the Class, you may be eligible to receive a distribution from the Settlement proceeds. Specifically, the Net Settlement Fund will be distributed on a *pro rata* basis to those Class Members who held Bowl America shares at the time such shares were converted into the right to receive the Merger Consideration in connection with the Closing and are not excluded from the Class. **Class Members do not need to submit a claim form or take any other action in order to be entitled to receive a distribution from the Settlement.** Rather, distribution from the Settlement to Eligible Stockholders will be paid directly.

**Your Other Options.** If you want to keep any right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Released Plaintiffs’ Claims, then you must take steps to remove yourself from the Class. This is called excluding yourself or “opting out.” If you submit a valid exclusion request, you will not be legally bound by the Settlement or anything that happens in the Action, and you will not receive any payment from the Net Settlement Fund. The deadline to exclude yourself is **November 28, 2024**. If you do not exclude yourself, you may object to the proposed Settlement, the proposed Plan of Allocation, or Class Counsel’s request for a Fee and Expense Award by **November 28, 2024**.

The Court has scheduled a Settlement Hearing in this case on **December 12, 2024 at 9:00 a.m.**, before The Honorable Stephanie A. Gallagher, either in person at the Court, or remotely by telephone or videoconference to, among other things, determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to the Class and in the best interests of the Class. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. You or your own lawyer may attend and ask to appear at the hearing, but you are not required to do so. The hearing could reschedule to a different date or time, so please check the Settlement website for those details.

**More Information.** Complete information about your rights and options, as well as important documents (including the Settlement Agreement) are available at [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com). You may also call toll-free 1-888-874-4173.

# Exhibit B

# Announcing a Class Action Settlement affecting former holders of Bowl America Class A common stock

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NEWS PROVIDED BY

**United States District Court for the District of Maryland, Northern Division →**

Sep 23, 2024, 08:00 ET

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BALTIMORE, Md., Sept. 23, 2024 /PRNewswire/ -- A proposed \$2,175,000.00 Settlement has been reached in a class action lawsuit titled, *Fine, et al., v. Bowl America, Inc., et al.*, 1:21-cv-01967- SAG (D. Md.). The lawsuit alleges that Cheryl A. Dragoo, Merle Fabian, Nancy E. Hull, Gloria M. Bragg and Allan L. Sher (deceased) (the "Defendants") breached fiduciary duties owed to Bowl America stockholders in connection with the Merger and/or aided and abetted such alleged breaches of duty. Defendants deny all allegations of wrongdoing and liability.

**Who is Included?** The Settlement Class is defined as all holders of Bowl America Class A common stock who, as of May 27, 2021: (1) were entitled to vote on the Merger; and (2) continued to hold such stock until the closing of the Merger on August 18, 2021. The class excludes the Defendants, their family members, heirs, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

**What does the Settlement Provide?** If you are a member of the Class, you may be eligible to receive a distribution from the Settlement proceeds. Specifically, the Net Settlement Fund will be distributed on a *pro rata* basis to those eligible Class Members who held Bowl America shares at the time such shares were converted into the right to receive the Merger Consideration in connection with the Closing and are not excluded from the Class. **Class Members do not need to submit a claim form or take any other action in order to be entitled to receive a distribution from the Settlement.** Rather, distribution from the Settlement to Eligible Stockholders will be paid directly.

**Your Other Options.** If you want to keep an right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Released Plaintiffs' Claims, then you must take steps to remove yourself from the Class. This is called excluding yourself or "opting out." If you submit a valid exclusion request, you will not be legally bound by the Settlement or anything that happens in the Action, and you will not receive any payment from the Net Settlement Fund. The deadline to exclude yourself is **November 28, 2024**. If you do not exclude yourself, you may object to the object to the proposed Settlement, the proposed Plan of Allocation, or Class Counsel's request for a Fee and Expense Award by **November 28, 2024**.

The Court has scheduled a Settlement Hearing in this case on **December 12, 2024 at 9:00 a.m.**, before The Honorable Stephanie A. Gallagher, either in person at the Court, or remotely by telephone or videoconference to, among other things, determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to the Class and in the best interests of the Class. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. You or your own lawyer may attend and ask to appear at the hearing, but you are not required to do so. The hearing could reschedule to a different date or time, so please check the Settlement website for those details.

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URL // [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com)

SOURCE United States District Court for the District of Maryland, Northern Division

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## EXHIBIT 1-B



# CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

## Securities Class Action Settlements

2023 Review and Analysis

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Analyses in this report are based on nearly 2,200 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2023. See page 17 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

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# 2023 Highlights

In 2023, while the number of settled securities class actions declined 21% relative to the 15-year high in 2022, the median settlement amount, median “simplified tiered damages,” and median total assets of issuer defendants all remained at historically elevated levels.<sup>1</sup>

- There were 83 securities class action settlements in 2023 with a total settlement value of approximately \$3.9 billion, compared to 105 settlements in 2022 with a total settlement value of approximately \$4.0 billion. (page 3)
- The median settlement amount of \$15 million is the highest level since 2010 and represents an increase of 11% from 2022, while the average settlement amount (\$47.3 million) increased by 25% over 2022. (page 4)
- There were nine mega settlements (equal to or greater than \$100 million), with a total settlement value of \$2.5 billion. (page 3)
- In 2023, 34% of cases settled for more than \$25 million, the highest percentage since 2012. (page 4)
- Median “simplified tiered damages” declined 16% from the record high in 2022, but remained at elevated levels compared to the prior nine years.<sup>2</sup> (page 5)
- Issuer defendant firms involved in cases that settled in 2023 were 19% larger than defendant firms in 2022 settlements as measured by median total assets, which reached its highest level since 1996. (page 5)
- The median duration from the case filing to the settlement hearing date of 3.7 years in 2023 was unusually high. Since the Reform Act’s passage, the time to settle reached this level in only one other year (2006). (page 14)

**Figure 1: Settlement Statistics**

(Dollars in millions)

	2018–2022	2022	2023
Number of Settlements	420	105	83
Total Amount	\$19,545.7	\$3,974.7	\$3,927.3
Minimum	\$0.4	\$0.7	\$0.8
Median	\$11.7	\$13.5	\$15.0
Average	\$46.5	\$37.9	\$47.3
Maximum	\$3,640.9	\$842.9	\$1,000.0

Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented.

# Author Commentary

## Insights and Findings

Continuing an increase observed in 2022, the size of settled cases in 2023 (measured by the median settlement amount) reached the highest level in over a decade. This occurred despite a decline in median “simplified tiered damages,” a measure of potential shareholder losses that our research finds to be the single most important factor in explaining individual settlement amounts.

The size of the issuer defendant firms involved in cases settled in 2023 (measured by median total assets) also increased. Indeed, median total assets for defendants in 2023 settlements reached an all-time high among post-Reform Act settlements and was 19% higher than in 2022. Issuer defendant assets serve, in part, as a proxy for resources available to fund a settlement and are highly correlated with settlement amounts. Thus, the increase in defendant assets likely contributed to the growth in settlement amounts in 2023.

One factor causing the increase in asset size of defendant firms in cases settled in 2023 may be that, overall, these firms were more mature than in prior years. Specifically, the median age as a publicly traded firm was 16 years, compared to the median age of 11 years for cases settled from 2014 to 2022. In addition, the percentage of cases settled in 2023 that involved firms in the financial sector (over 15%) was higher than the prior nine-year average. Firms in the financial sector involved in securities class action settlements have consistently reported higher total assets than other issuer firm defendants.

In 2023, cases took longer to settle. They also reached more advanced stages prior to resolution, including a smaller proportion of cases settled before a ruling on class certification compared to prior years. Since longer periods to reach settlement are also correlated with higher settlement amounts, this increase is consistent with the higher overall median settlement value.

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Longer times to reach a settlement and more advanced litigation stages are also typically correlated with greater case activity, as measured by the number of entries on the court dockets. Surprisingly, the median number of docket entries increased only slightly compared to 2022. This, and the fact that over 80% of cases settled in 2023 had been filed by the end of 2020, suggests that the lengthened time to settlement can potentially be explained by delays related to the COVID-19 pandemic.

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## Looking Ahead

While we do not necessarily expect new record highs in settlement dollars in the upcoming years, it is possible that settlement amounts will remain at relatively high levels, based on recent trends in securities class action filings, including elevated levels of Disclosure Dollar Loss and Maximum Dollar Loss. (See Cornerstone Research’s [Securities Class Action Filings—2023 Year in Review](#).)

Further, the most recent emergence of case filings related to the 2023 bank failures, combined with a relatively high proportion in the last few years of settled cases involving financial firms, may result in a continued rise in the asset size of issuer defendants involved in settlements. This may also contribute to high settlement amounts.

Additionally, considering the levels of filing activity in recent years, we do not anticipate dramatic increases in the number of cases settled in the upcoming years.

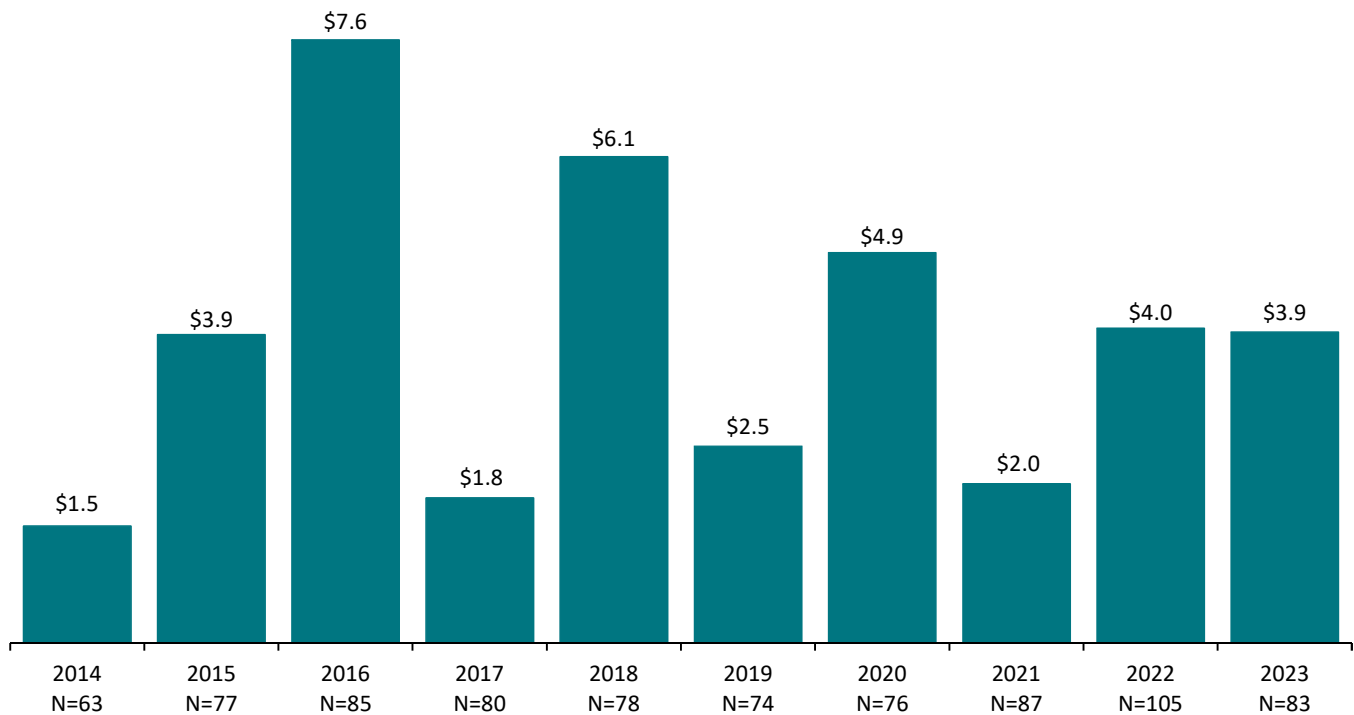
—Laarni T. Bulan and Laura E. Simmons

# Total Settlement Dollars

- While the number of settlements in 2023 declined by more than 20% from 2022, 2023 total settlement dollars were roughly the same as in 2022.
- The nine mega settlements in 2023—the highest number since 2016—ranged from \$102.5 million to \$1 billion. (See Appendix 4 for an analysis of mega settlements.)
- Cases involving institutional investors as lead plaintiffs represented 86% of total settlement dollars in 2023, in line with the percentage in 2022.

**Figure 2: Total Settlement Dollars  
2014–2023**

(Dollars in billions)



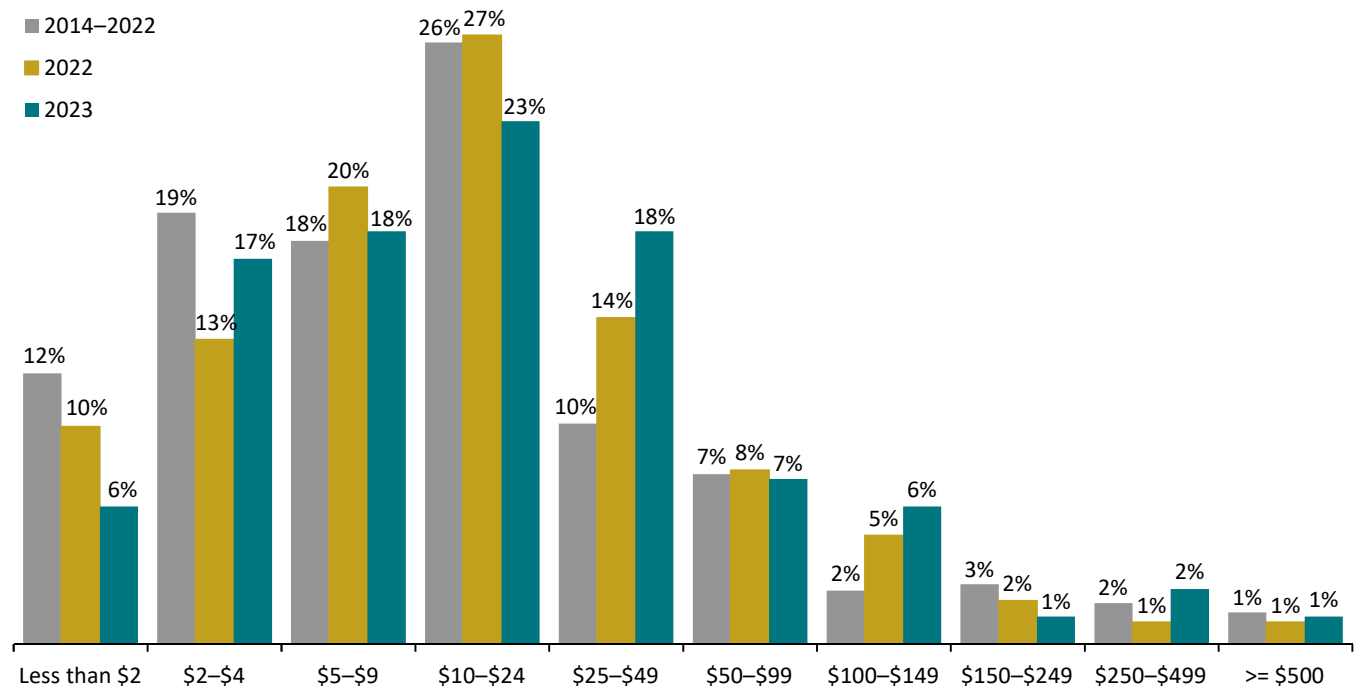
Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented. “N” refers to the number of cases.

# Settlement Size

- The median settlement amount in 2023 was \$15 million, an 11% increase from 2022 and 44% higher than the 2014–2022 median (\$10.4 million). Median values provide the midpoint in a series of observations and are less affected than averages by outlier data.
- The average settlement amount in 2023 was \$47.3 million, a 25% increase from 2022. (See Appendix 1 for an analysis of settlements by percentiles.)
- In 2023, 6% of cases settled for less than \$2 million, the lowest percentage since 2013.
- The percentage of settlement amounts greater than \$25 million (34%) was the highest since 2012, driven in part by the continued increase in settlement amounts in the \$25 million to \$50 million range.
- Issuers that have been delisted from a major exchange and/or declared bankruptcy prior to settlement are generally associated with lower settlement amounts. The number of such issuers declined from 10% in 2022 to a new all-time low of 7% in 2023, contributing to the higher overall median settlement amount in 2023.<sup>3</sup>

Figure 3: Distribution of Settlements  
2014–2023

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented. Percentages may not sum to 100% due to rounding.

# Type of Claim

## Rule 10b-5 Claims and “Simplified Tiered Damages”

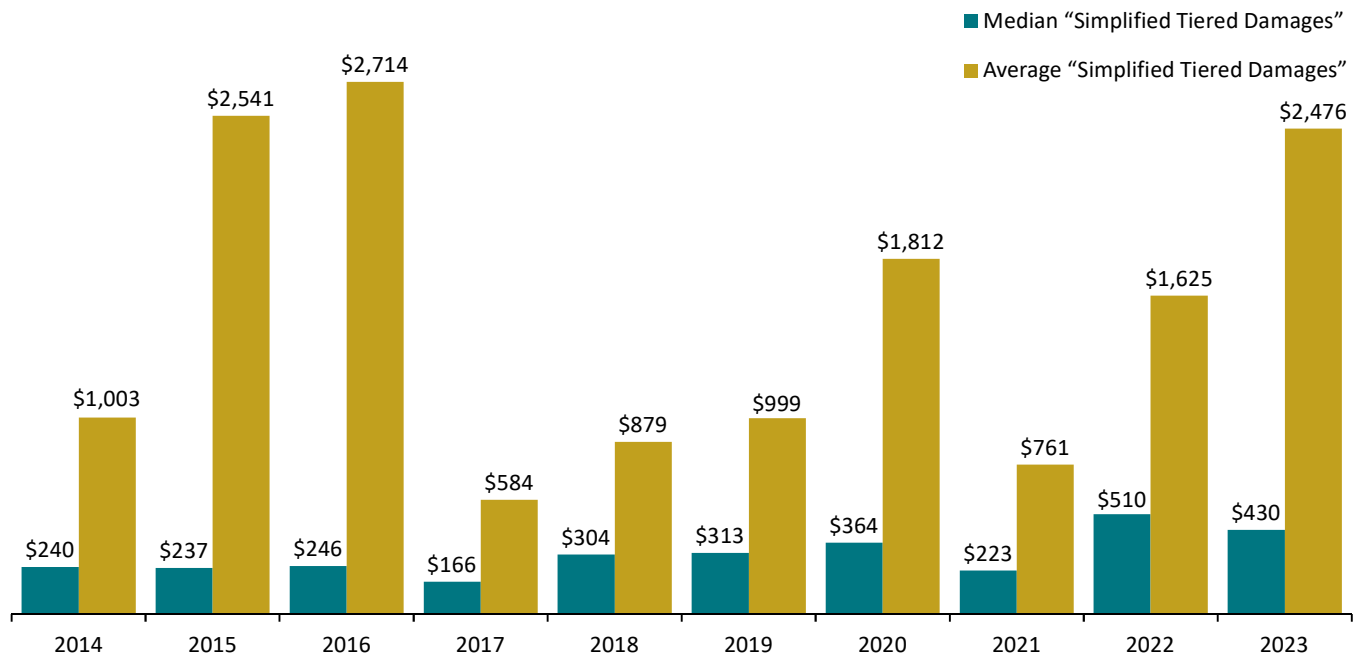
“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior for cases involving Rule 10b-5 claims. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.<sup>4</sup>

Cornerstone Research’s analysis finds this measure to be the most important factor in estimating settlement amounts.<sup>5</sup> However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

- In 2023, the average “simplified tiered damages” was nearly six times as large as the median, the largest difference since 2016. This difference was primarily driven by seven cases with “simplified tiered damages” exceeding \$5 billion.
- Higher “simplified tiered damages” are typically associated with larger issuer defendants. Consistent with the elevated levels of “simplified tiered damages,” the median total assets of issuer defendants among settled cases in 2023 was \$3.1 billion—154% higher than the prior nine-year median and higher than any other post-Reform Act year.
- Higher “simplified tiered damages” are also generally associated with larger Maximum Dollar Loss (MDL).<sup>6</sup> In 2023, the median MDL fell only slightly from the historical high in 2022. (See Appendix 7 for additional information on median and average MDL.)

Figure 4: Median and Average “Simplified Tiered Damages” in Rule 10b-5 Cases 2014–2023

(Dollars in millions)

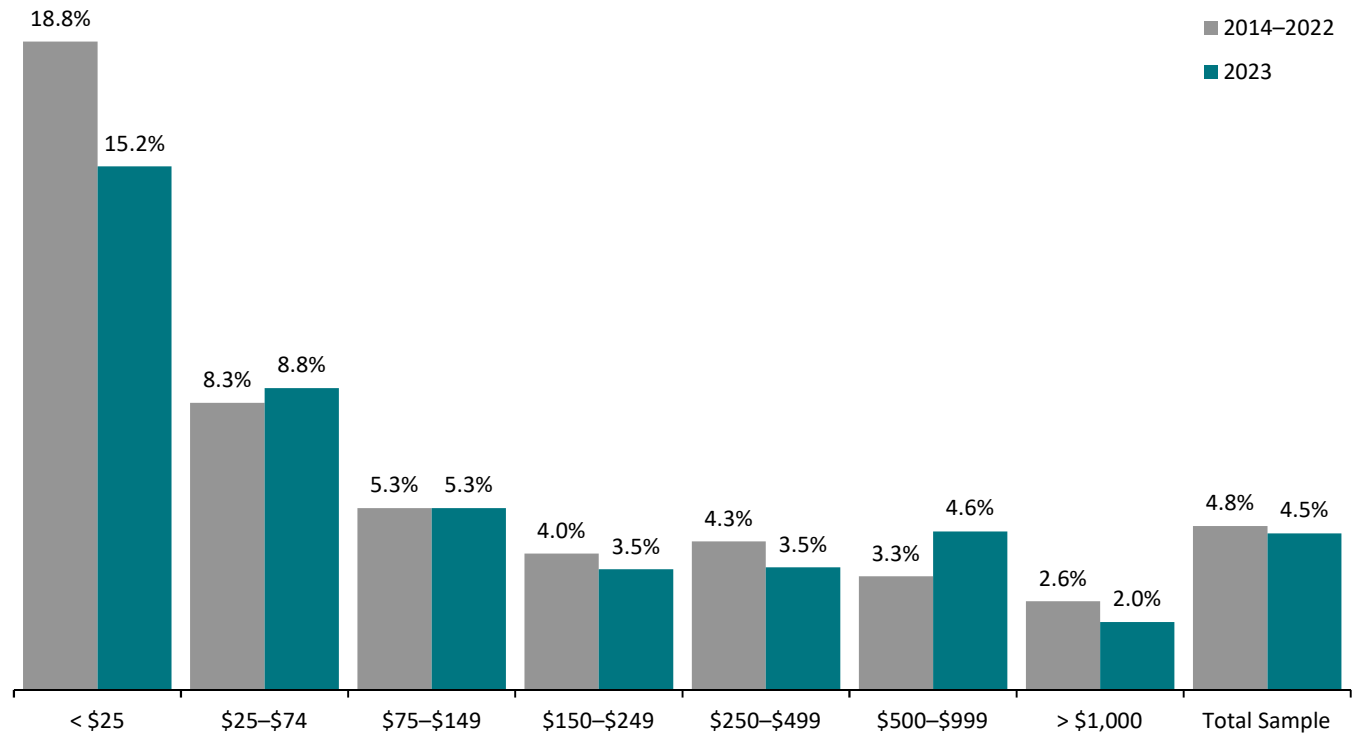


Note: “Simplified tiered damages” are adjusted for inflation based on class period end dates and are estimated for common stock only; 2023 dollar equivalent figures are presented. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

- Larger cases, as measured by “simplified tiered damages,” typically settle for a smaller percentage of damages.
- In 2023, the overall median settlement as a percentage of “simplified tiered damages” of 4.5% increased 27% from 2022, but was in-line with the prior nine-year average percentage. (See Appendix 5 for additional information on median and average settlement as a percentage of “simplified tiered damages.”)
- The median settlement as a percentage of “simplified tiered damages” of 4.6% for cases with “simplified tiered damages” from \$500 million to \$1 billion reached a five-year high in 2023.

Figure 5: Median Settlement as a Percentage of “Simplified Tiered Damages” by Damages Ranges in Rule 10b-5 Cases 2014–2023

(Dollars in millions)



Note: Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

## Plaintiff-Estimated Damages

In their motions for settlement approval, plaintiffs typically report an estimate of aggregate damages (“plaintiff-estimated damages”).<sup>7</sup>

As explained in Cornerstone Research’s *Approved Claims Rates in Securities Class Actions* (2020), “plaintiff-estimated damages” are often represented as plaintiffs’ “best-case scenario” or the “maximum potential recovery” calculated by plaintiffs. However, the authors highlight a “selection bias” present in these data due to potential plaintiff counsel incentives to report “the lower end of the range of estimated total aggregate damages” to be able “to demonstrate to the court a high settlement amount relative to potential recovery.” To the extent such incentives exist, their impact may vary across cases. Detailed information on plaintiffs’ methodology to determine the reported amount is not disclosed. Hence, it is not possible to determine from the settlement documents the degree to which the methodologies employed are consistent across cases.

With the significant caveats above, “plaintiff-estimated damages” represent an additional measure of potential shareholder losses that may be used alongside “simplified tiered damages” in conjunction with settlement analyses.

## '33 Act Claims and “Simplified Statutory Damages”

For Securities Act of 1933 ('33 Act) claim cases—those involving only Section 11 and/or Section 12(a)(2) claims—potential shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as “simplified statutory damages.”<sup>8</sup>

- The median length of time from case filing to settlement hearing date for '33 Act claim cases was greater than four years—the longest observed duration in any post–Reform Act year for this type of case.

- There were 10 settlements for cases with only '33 Act claims in 2023, with the majority of those cases filed in federal court (7) as opposed to state court (3).<sup>9</sup>
- In 2023, the percentage of cases with an underwriter defendant was 70%, down from the prior nine-year average of 88%.

**Figure 6: Settlements by Nature of Claims  
2014–2023**

(Dollars in millions)

	Number of Settlements	Median Settlement	Median “Simplified Statutory Damages”	Median Settlement as a Percentage of “Simplified Statutory Damages”
Section 11 and/or Section 12(a)(2) Only	84	\$9.9	\$158.1	7.5%

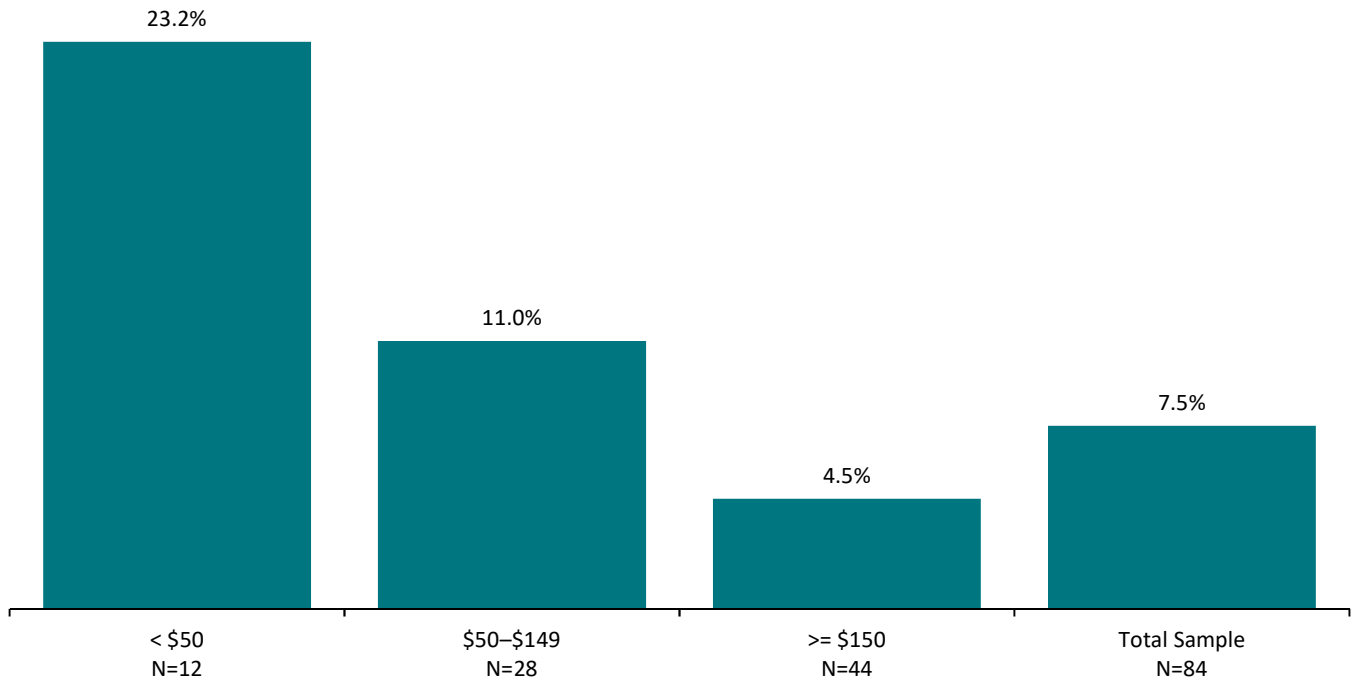
	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	123	\$14.7	\$307.4	6.6%
Rule 10b-5 Only	596	\$10.3	\$291.7	4.5%

Note: Settlement dollars and damages are adjusted for inflation; 2023 dollar equivalent figures are presented.

- Over 2014–2023, the median size of issuer defendants (measured by total assets) was 40% smaller for cases with only '33 Act claims relative to those that also included Rule 10b-5 claims.
- The smaller size of issuer defendants in cases with only '33 Act claims is consistent with most of these cases involving initial public offerings (IPOs). From 2014 through 2023, 80% of all cases with only '33 Act claims have involved IPOs.
- In 2023, however, the median total assets for settled cases with only '33 Act claims (\$2.5 billion) was over four times as large as the median total assets for such cases in 2014–2022 (\$580 million).

**Figure 7: Median Settlement as a Percentage of “Simplified Statutory Damages” by Damages Ranges in '33 Act Claim Cases 2014–2023**

(Dollars in millions)



**Jurisdictions of Settlements of '33 Act Claim Cases**

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
State Court	0	2	4	5	4	4	7	6	6	3
Federal Court	2	2	6	3	4	5	1	10	3	7

Note: “N” refers to the number of cases. This analysis excludes cases alleging Rule 10b-5 claims.

# Analysis of Settlement Characteristics

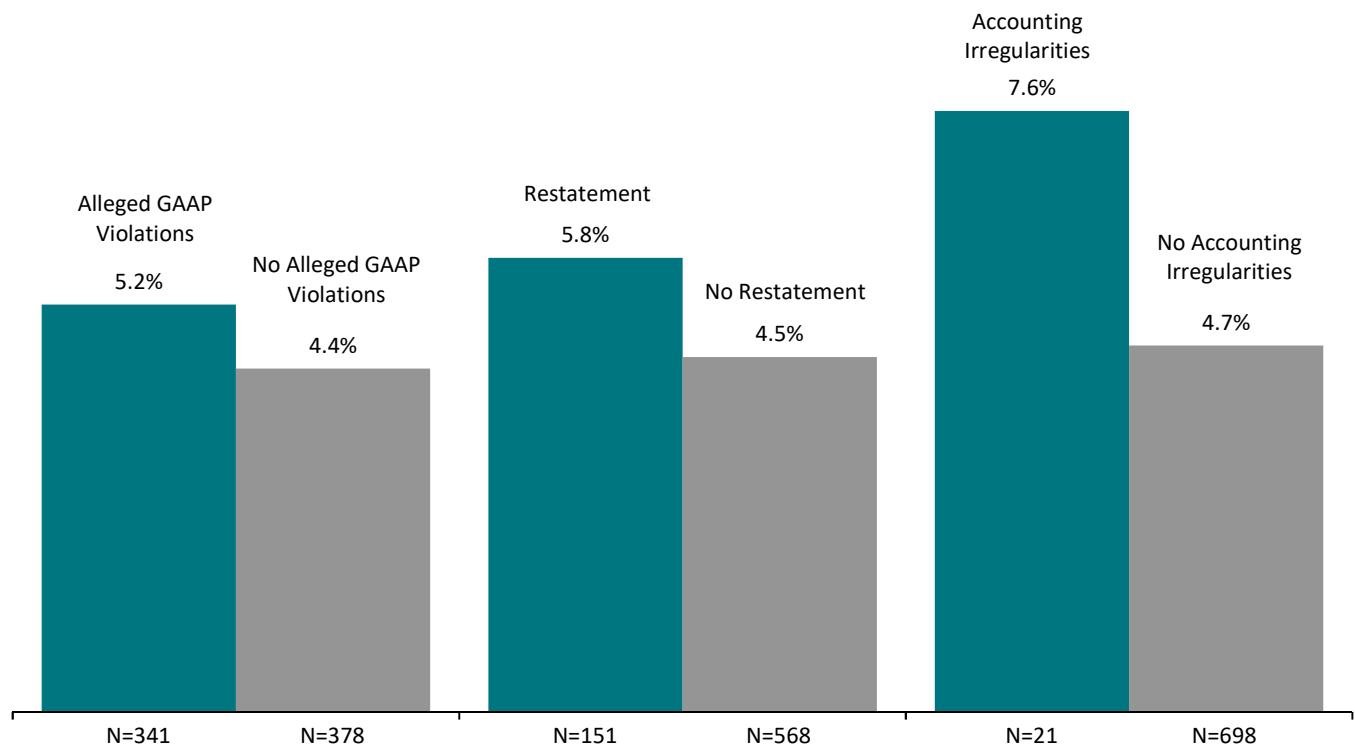
## GAAP Violations

This analysis examines allegations of GAAP violations in settlements of securities class actions involving Rule 10b-5 claims, including two sub-categories of GAAP violations—financial statement restatements and accounting irregularities.<sup>10</sup> For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.<sup>11</sup>

- The percentage of settled cases in 2023 alleging GAAP violations (37%) remained well below the prior nine-year average (49%).
- Contributing to the low number of GAAP cases settled in 2023 were continued low levels of cases involving financial statement restatements and accounting irregularities. In particular, 14% of settled cases in 2023 involved a restatement of financial statements, compared to 22% for the prior nine years. Only 1% of settled cases in 2023 involved accounting irregularities.

- Auditor codefendants were involved in only 2% of settled cases, consistent with the past few years but substantially lower than the average from 2014 to 2022.

Figure 8: Median Settlement as a Percentage of “Simplified Tiered Damages” and Allegations of GAAP Violations 2014–2023



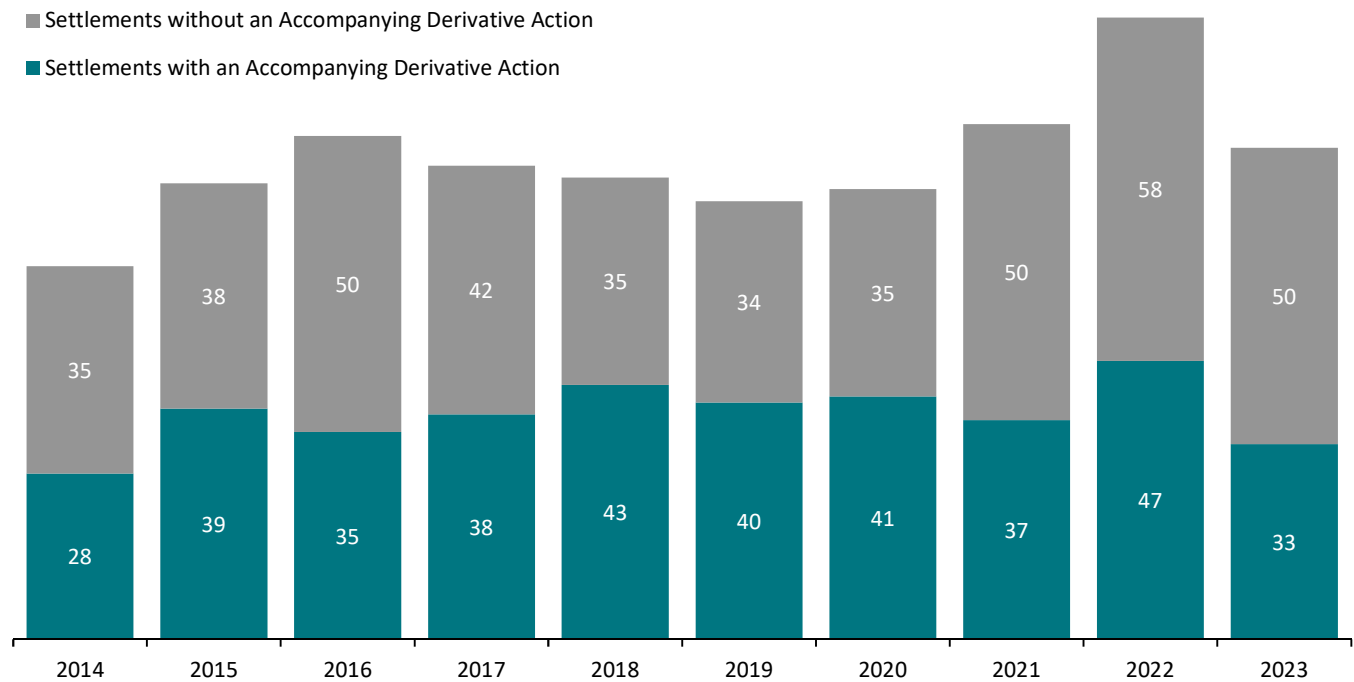
Note: “N” refers to the number of cases. This analysis is limited to cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

## Derivative Actions

- Securities class actions often involve accompanying (or parallel) derivative actions with similar claims, and such cases have historically settled for higher amounts than securities class actions without accompanying derivative matters.<sup>12</sup>
- The percentage of cases involving accompanying derivative actions in 2023 (40%) was the lowest since 2011, in part driven by a reduction in the number of cases filed in Delaware (13) compared to the prior four-year average (17).
- For cases settled during 2019–2023, 40% of parallel derivative suits were filed in Delaware. California and New York were the next most common venues, representing 19% and 17% of such settlements, respectively.

- It is commonly understood that most parallel derivative actions do not settle for monetary amounts (other than plaintiffs’ attorney fees). However, the likelihood of a monetary settlement among parallel derivative actions is higher when the securities class action settlement is large, as shown in Cornerstone Research’s *Parallel Derivative Action Settlement Outcomes*.<sup>13</sup>

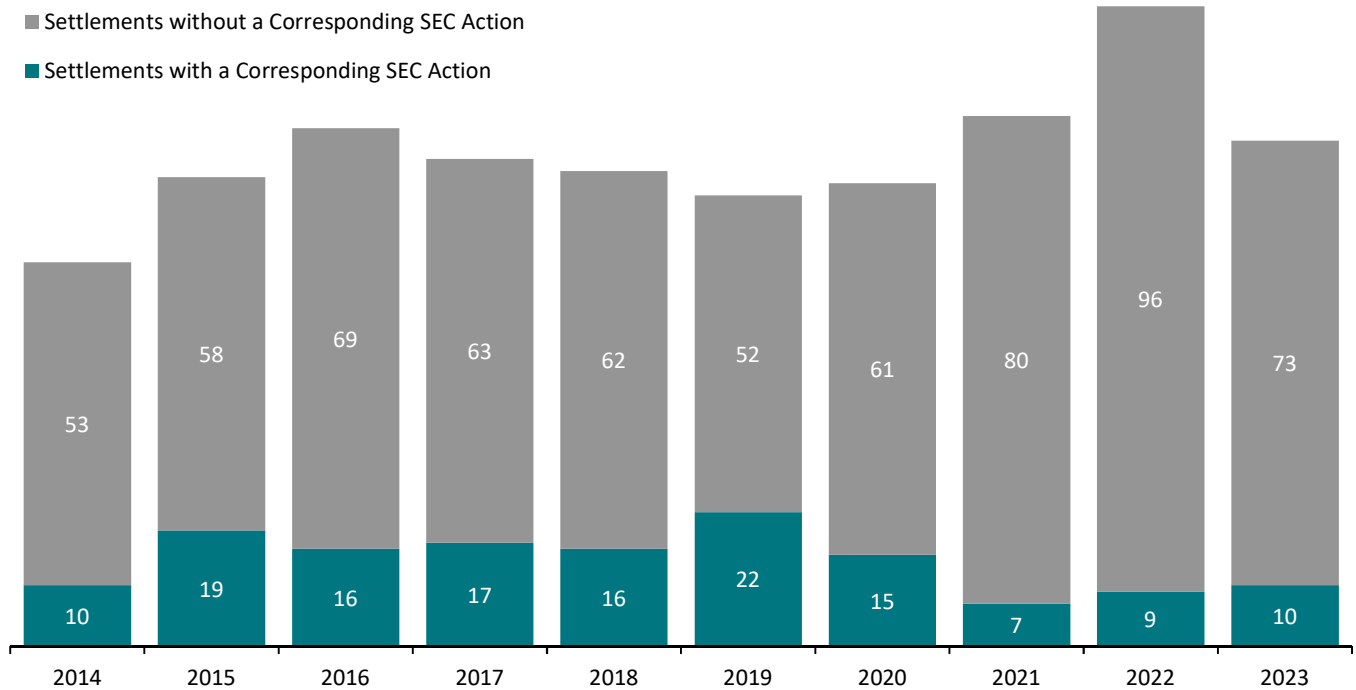
Figure 9: Frequency of Derivative Actions 2014–2023



## Corresponding SEC Actions

- The percentage of settled cases in 2023 involving a corresponding SEC action was 12%. This represents a slight rebound from 2021 and 2022, when this percentage was less than 10%, but is still well below the prior nine-year average of 19%.
- Historically, cases with a corresponding SEC action have typically been associated with substantially higher settlement amounts.<sup>14</sup> However, this pattern did not hold in 2023 when, for the third time in the past 10 years, the median settlement amount for cases with a corresponding SEC action was less than that for cases without such an action.
- Among 2023 settled cases that involved a corresponding SEC action, 70% also had an institutional investor as a lead plaintiff, up from 33% in 2022.

Figure 10: Frequency of SEC Actions  
2014–2023



## Institutional Investors

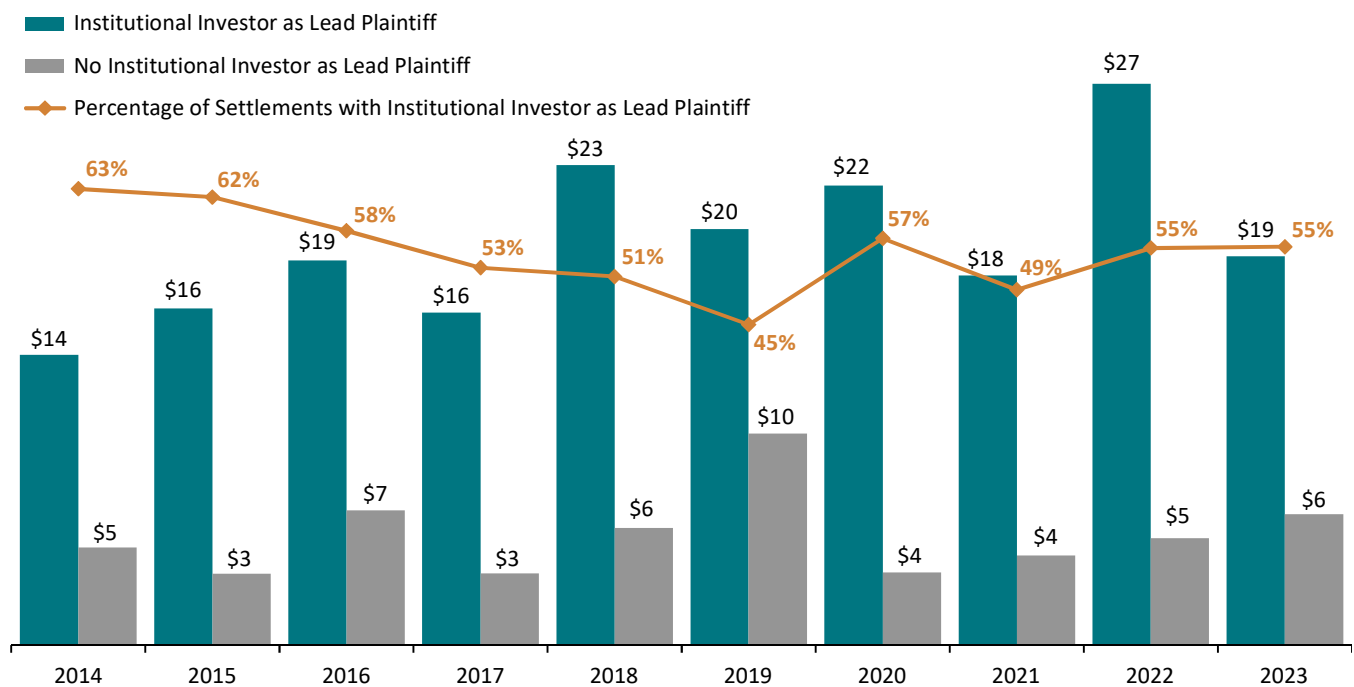
As discussed in prior reports, increasing institutional investor participation as lead plaintiff in securities litigation was a focus of the Reform Act.<sup>15</sup> Indeed, in years following passage of the Reform Act, institutional investor involvement as lead plaintiffs did increase, particularly in cases with higher “simplified tiered damages.”

- In 2023, for cases involving an institutional investor as lead plaintiff, median “simplified tiered damages” and median total assets were two times and nine times higher, respectively, than the median values for cases without an institutional investor as a lead plaintiff.

- In 2023, a public pension plan served as lead plaintiff in nearly two-thirds of cases with an institutional lead plaintiff.
- Institutional investor participation as lead plaintiff continues to be associated with particular plaintiff counsel. For example, in 2023 an institutional investor served as a lead plaintiff in over 88% of settled cases in which Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) and/or Bernstein Litowitz Berger & Grossmann LLP (“Bernstein Litowitz”) served as lead or co-lead plaintiff counsel. In contrast, institutional investors served as lead plaintiff in 21% of cases in which The Rosen Law Firm, Pomerantz LLP, or Glancy Prongay & Murray LLP served as lead or co-lead plaintiff counsel.

Figure 11: Median Settlement Amounts and Institutional Investors 2014–2023

(Dollars in millions)



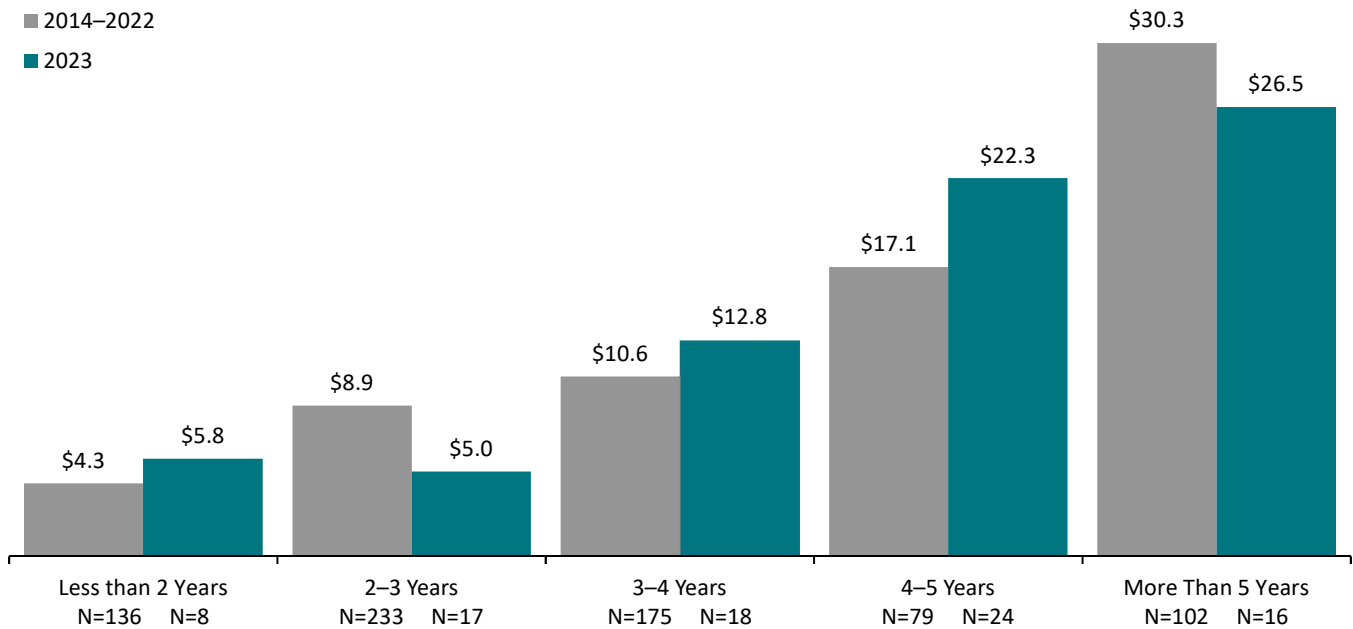
Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented.

# Time to Settlement and Case Complexity

- Overall, less than one-third of cases settled in 2023 settled within three years of filing.
- Cases involving an institutional lead plaintiff continued to take longer to settle. In particular, cases settled in 2023 with an institutional lead plaintiff had a median time to settle of over 4.2 years compared to 3.4 years for cases without an institutional lead plaintiff.
- In 2023, the median time to settle for cases with GAAP allegations was almost a year longer than the median for cases without GAAP allegations.
- Historically, cases with The Rosen Law Firm, Pomerantz LLP, or Glancy Prongay & Murray LLP as lead or co-lead plaintiff counsel settled within three years of case filing. However, cases settled in 2023 with these firms acting as plaintiff counsel collectively took 3.9 years to settlement, a level reached in only one other year (2009). These three law firms were lead or co-lead plaintiff counsel in approximately 30% of cases in 2023.
- The presence of Robbins Geller as lead or co-lead plaintiff counsel is associated with a longer duration between filing and settlement. Cases settled in 2023 with Robbins Geller acting as lead or co-lead plaintiff counsel (28% of settled cases) had a median time to settle of 4.1 years compared to 3.5 years for cases in which the law firm was not involved.<sup>16</sup>
- The number of docket entries can be viewed as a proxy for the time and effort expended by plaintiff counsel and/or case complexity. Median docket entries in 2023 (142) increased only slightly from 2022 (138).

Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2014–2023

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented. “N” refers to the number of cases.

# Case Stage at the Time of Settlement

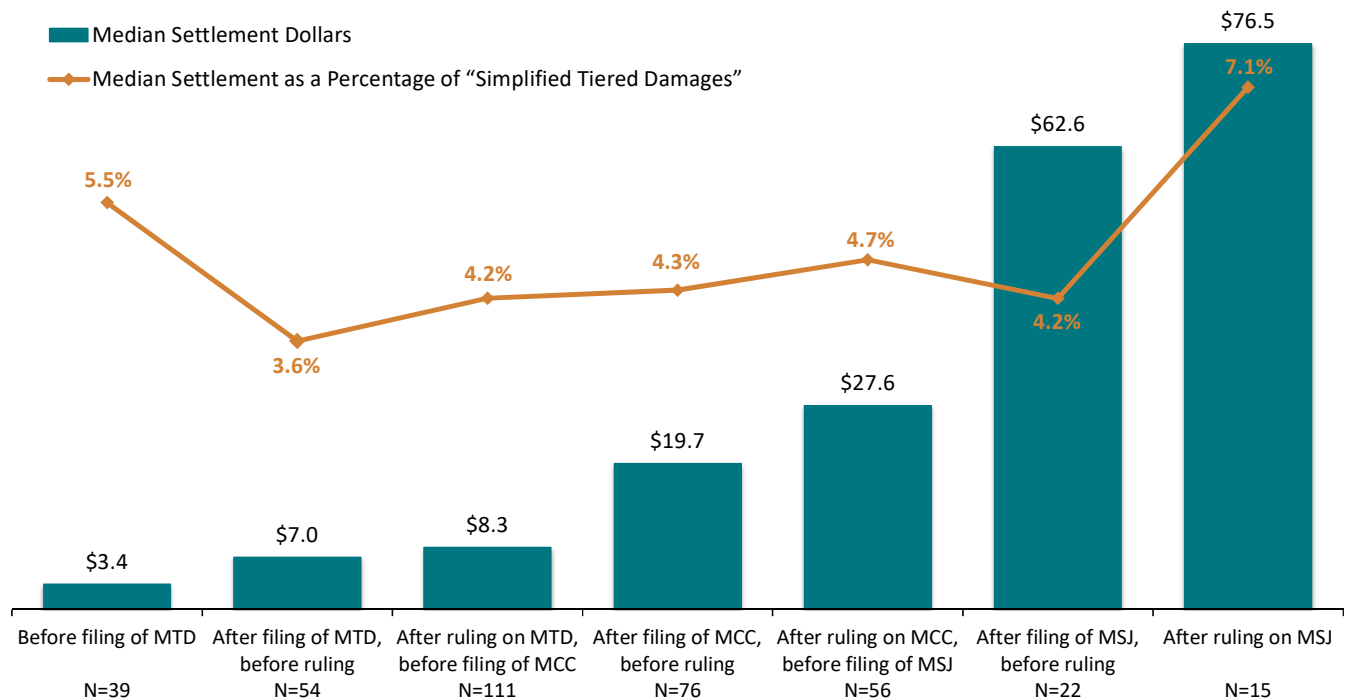
Using data obtained through collaboration with Stanford Securities Litigation Analytics (SSLA), this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

- Cases settling at later stages continue to be larger in terms of total assets and “simplified tiered damages.”
- For example, both median total assets and median “simplified tiered damages” for cases that settled in 2023 after the ruling on a motion for class certification were over two times the respective medians for cases that settled in 2023 prior to such a motion being ruled on.
- In the five-year period from 2019 through 2023, over 90% of cases settled prior to the filing of a motion for summary judgment.

- In 2023, cases settling at later stages continued to include an institutional lead plaintiff at a higher percentage. Specifically, 68% of cases that settled after the filing of a motion for class certification involved an institutional lead plaintiff compared to 41% of cases that settled prior to the filing of such a motion.

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement 2019–2023

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented. “N” refers to the number of cases. MTD refers to “motion to dismiss,” MCC refers to “motion for class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

# Cornerstone Research's Settlement Analysis

This research applies regression analysis to examine the relations between settlement outcomes and certain securities case characteristics. Regression analysis is employed to better understand the factors that are important for estimating what cases might settle for, given the characteristics of a particular securities class action.

## Determinants of Settlement Outcomes

Based on the research sample of cases that settled from January 2006 through December 2023, important determinants of settlement amounts include the following:

- “Simplified tiered damages”
- Maximum Dollar Loss (MDL)—the dollar-value change in the defendant issuer’s market capitalization from its class period peak to the first trading day without inflation
- The most recently reported total assets prior to the settlement hearing date for the defendant issuer
- Number of entries on the lead case docket
- Whether there were accounting allegations
- Whether there was an SEC action with allegations similar to those included in the underlying class action complaint, as evidenced by a litigation release or an administrative proceeding against the issuer, officers, directors, or other defendants
- Whether there were criminal charges against the issuer, officers, directors, or other defendants with allegations similar to those included in the underlying class action complaint
- Whether there was a derivative action with allegations similar to those included in the underlying class action complaint

- Whether, in addition to Rule 10b-5 claims, Section 11 claims were alleged and were still active prior to settlement
- Whether the issuer has been delisted from a major exchange and/or has declared bankruptcy (i.e., whether the issuer was “distressed”)
- Whether an institutional investor acted as lead plaintiff
- Whether securities other than common stock/ADR/ADS were included in the alleged class

Cornerstone Research analyses show that settlements were higher when “simplified tiered damages,” MDL, issuer defendant asset size, or the number of docket entries was larger, or when Section 11 claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving accounting allegations, a corresponding SEC action, criminal charges, an accompanying derivative action, an institutional investor lead plaintiff, or securities in addition to common stock included in the alleged class.

Settlements were lower if the issuer was distressed.

More than 75% of the variation in settlement amounts can be explained by the factors discussed above.

# Research Sample

# Data Sources

- The database compiled for this report is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. The sample contains only cases alleging fraudulent inflation in the price of a corporation's common stock.
- Cases with alleged classes of only bondholders, preferred stockholders, etc., cases alleging fraudulent depression in price, and mergers and acquisitions cases are excluded. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 2,199 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2023. These securities class actions correspond to approximately \$141.2 billion in total settlement dollars, adjusted for inflation and expressed in 2023 dollars. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).<sup>17</sup>
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.<sup>18</sup> Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.<sup>19</sup>

In addition to SCAS, data sources include Dow Jones Factiva, Bloomberg, the Center for Research in Security Prices (CRSP) at University of Chicago Booth School of Business, Standard & Poor's Compustat, Refinitiv Eikon, court filings and dockets, SEC registrant filings, SEC litigation releases and administrative proceedings, LexisNexis, Stanford Securities Litigation Analytics (SSLA), Securities Class Action Clearinghouse (SCAC), and public press.

# Endnotes

- <sup>1</sup> Reported dollar figures and corresponding comparisons are adjusted for inflation; 2023 dollar equivalent figures are presented in this report.
- <sup>2</sup> “Simplified tiered damages” are calculated for cases that settled in 2006 or later, following the U.S. Supreme Court’s 2005 landmark decision in *Dura Pharmaceuticals Inc. v. Broudo*, 544 U.S. 336. “Simplified tiered damages” is based on the stock-price declines associated with the alleged corrective disclosure dates that are described in the settlement plan of allocation.
- <sup>3</sup> Comparison to “all-time” refers to the inception of Cornerstone Research’s database of post–Reform Act settlements beginning in 1996.
- <sup>4</sup> The “simplified tiered damages” approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the “true value” of the stock during the alleged class period (or “value line”). This proxy for damages utilizes an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant’s common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement benchmarking may differ substantially from damages estimates developed in conjunction with case-specific economic analysis.
- <sup>5</sup> Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017).
- <sup>6</sup> MDL is the dollar-value change in the defendant issuer’s market capitalization from its class period peak to the first trading day without inflation.
- <sup>7</sup> Catherine J. Galley, Nicholas D. Yavorsky, Filipe Lacerda, and Chady Gemayel, *Approved Claims Rates in Securities Class Actions: Evidence from 2015–2018 Rule 10b-5 Settlements*, Cornerstone Research (2020). Data on “plaintiff-estimated damages” is made available to Cornerstone Research through collaboration with Stanford Securities Litigation Analytics (SSLA). SSLA tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice (DOJ). The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at <https://sla.law.stanford.edu/>.
- <sup>8</sup> The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the “value” of the security on the first complaint filing date. For purposes of “simplified statutory damages,” the “value” of the security on the first complaint filing date is assumed to be the security’s closing price on this date. Similar to “simplified tiered damages,” the estimation of “simplified statutory damages” makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity.
- <sup>9</sup> As noted in prior reports, the March 2018 U.S. Supreme Court decision in *Cyan Inc. v. Beaver County Employees Retirement Fund (Cyan)* held that ‘33 Act claim securities class actions could be brought in state court. While ‘33 Act claim cases had often been brought in state courts before *Cyan*, filing rates in state courts increased substantially following this ruling. This trend reversed, however, following the March 2020 Delaware Supreme Court decision in *Salzberg v. Sciabacucchi* upholding the validity of federal forum-selection provisions in corporate charters. See, for example, *Securities Class Action Filings—2021 Year in Review*, Cornerstone Research (2022).
- <sup>10</sup> The two sub-categories of accounting issues analyzed in Figure 8 of this report are (1) restatements—cases involving a restatement (or announcement of a restatement) of financial statements, and (2) accounting irregularities.
- <sup>11</sup> *Accounting Class Action Filings and Settlements—2023 Review and Analysis*, Cornerstone Research, forthcoming in spring 2024.
- <sup>12</sup> To be considered an accompanying (or parallel) derivative action, the derivative action must have underlying allegations that are similar or related to the underlying allegations of the securities class action and either be active or settling at the same time as the securities class action.
- <sup>13</sup> *Parallel Derivative Action Settlement Outcomes*, Cornerstone Research (2022).
- <sup>14</sup> As noted in prior reports, it could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on [www.sec.gov](http://www.sec.gov) involving the issuer defendant or other named defendants with allegations similar to those in the underlying class action complaint.
- <sup>15</sup> See, for example, *Securities Class Action Settlements—2006 Review and Analysis*, Cornerstone Research (2007); Michael A. Perino, “Have Institutional Fiduciaries Improved Securities Class Actions? A Review of the Empirical Literature on the PSLRA’s Lead Plaintiff Provision,” St. John’s Legal Studies Research Paper No. 12-0021 (2013).
- <sup>16</sup> Although Robbins Geller is associated with a longer duration to settlement, its presence as lead or co-lead plaintiff counsel is not associated with significantly higher settlements as a percentage of “simplified tiered damages.”
- <sup>17</sup> Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>. Bullet updated in July 2024 to include additional detail.
- <sup>18</sup> Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- <sup>19</sup> This categorization is based on the timing of the settlement hearing date. If a new partial settlement equals or exceeds 50% of the then-current settlement fund amount, the entirety of the settlement amount is re-categorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50% of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

# Appendices

## Appendix 1: Settlement Percentiles

(Dollars in millions)

Year	Average	10th	25th	Median	75th	90th
2014		\$2.2	\$3.7		\$17.0	\$64.4
2015		\$1.7	\$2.8		\$20.9	\$120.9
2016		\$2.4	\$5.3		\$41.9	\$185.4
2017		\$1.9	\$3.2		\$19.0	\$44.0
2018		\$1.8	\$4.4		\$30.0	\$59.6
2019		\$1.7	\$6.7		\$23.8	\$59.6
2020		\$1.6	\$3.8		\$23.8	\$62.8
2021		\$1.9	\$3.5		\$20.1	\$65.9
2022		\$2.1	\$5.2		\$36.4	\$74.8
2023		\$3.0	\$5.0		\$33.3	\$101.0

Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented.

## Appendix 2: Settlements by Select Industry Sectors

2014–2023

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Financial	91	\$17.8	\$313.3	5.3%
Technology	106	\$9.4	\$318.2	4.3%
Pharmaceuticals	122	\$8.5	\$242.5	3.9%
Telecommunication	28	\$11.4	\$381.0	4.4%
Retail	51	\$15.2	\$350.4	4.6%
Healthcare	21	\$10.1	\$240.4	6.0%

Note: Settlement dollars and “simplified tiered damages” are adjusted for inflation; 2023 dollar equivalent figures are presented. “Simplified tiered damages” are calculated only for cases involving Rule 10b-5 claims (whether alone or in addition to other claims).

**Appendix 3: Settlements by Federal Circuit Court  
2014–2023**

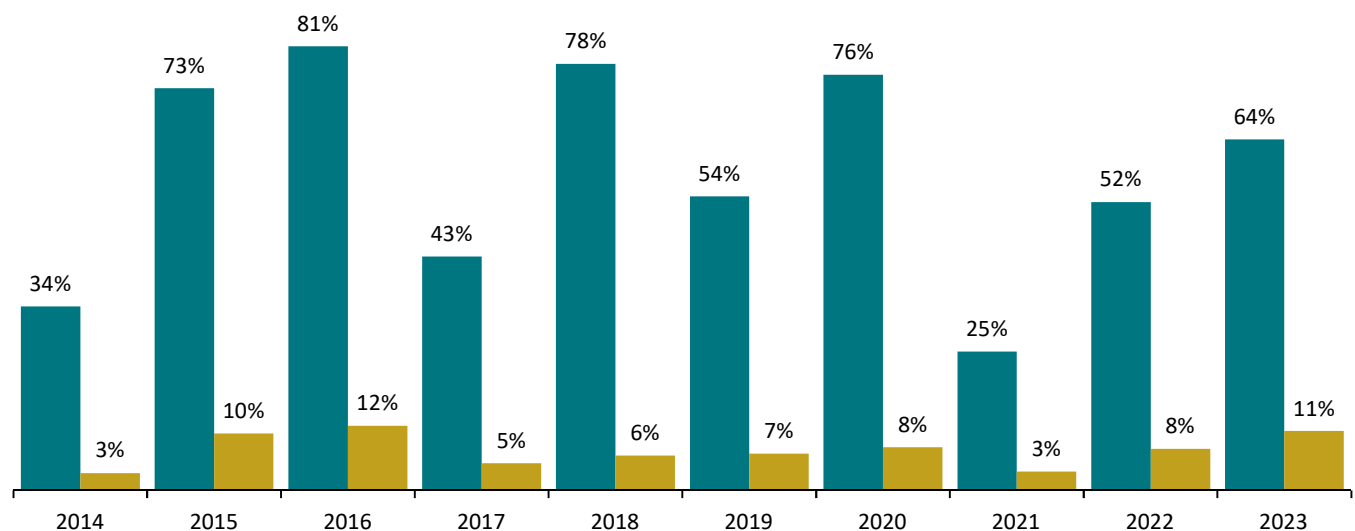
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	20	\$14.1	2.8%
Second	212	\$8.9	4.9%
Third	85	\$7.3	4.9%
Fourth	23	\$24.5	3.9%
Fifth	38	\$11.7	4.7%
Sixth	35	\$15.8	6.7%
Seventh	40	\$18.0	3.7%
Eighth	14	\$48.3	4.6%
Ninth	190	\$9.0	4.4%
Tenth	19	\$12.4	5.3%
Eleventh	36	\$13.7	4.7%
DC	4	\$27.9	2.2%

Note: Settlement dollars are adjusted for inflation; 2023 dollar equivalent figures are presented. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

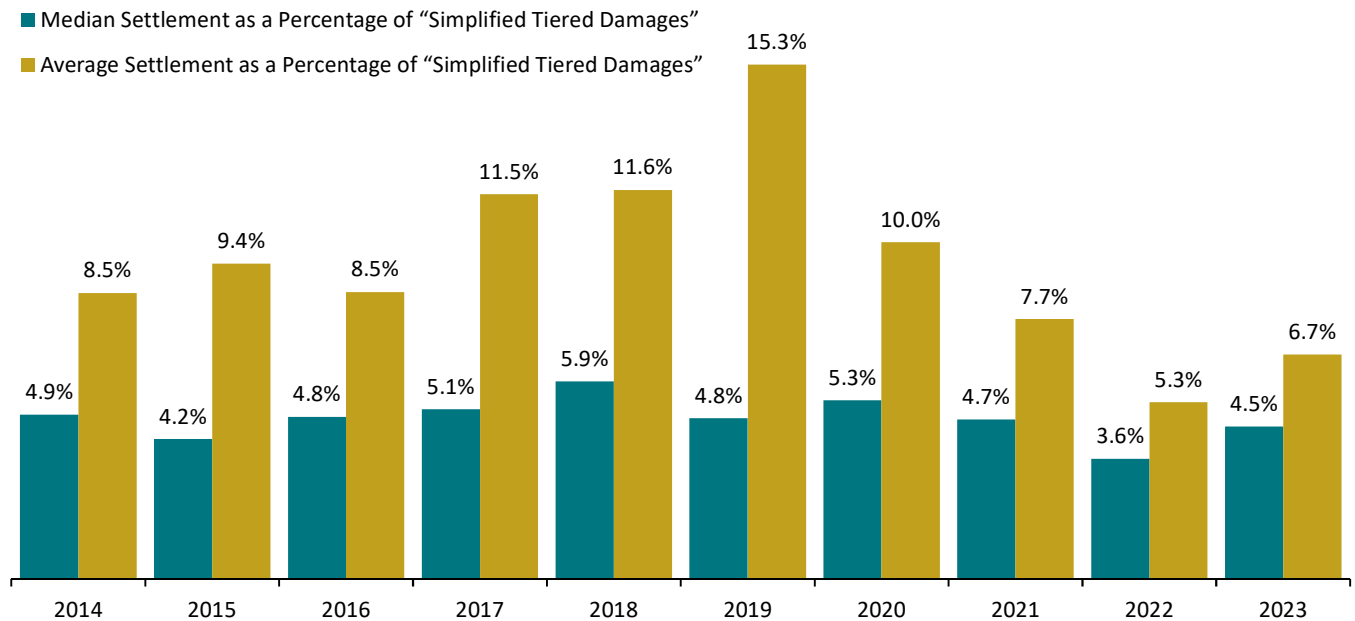
**Appendix 4: Mega Settlements  
2014–2023**

- Total Mega Settlement Dollars as a Percentage of All Settlement Dollars
- Number of Mega Settlements as a Percentage of All Settlements



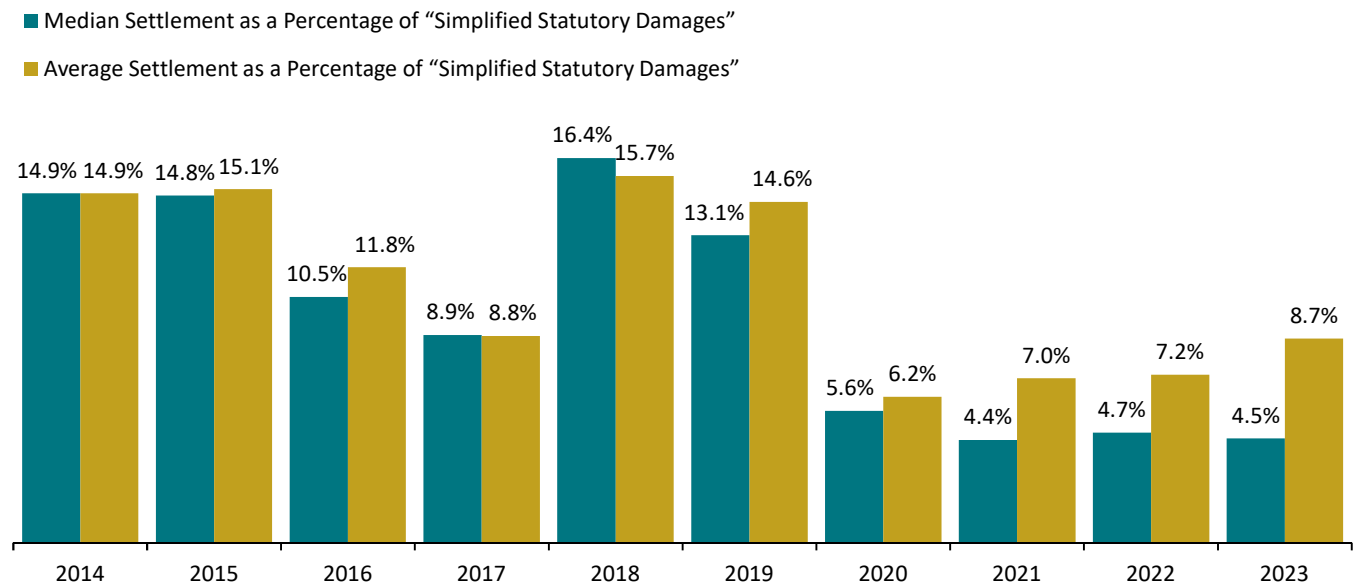
Note: Mega settlements are defined as total settlement funds equal to or greater than \$100 million.

**Appendix 5: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”  
2014–2023**



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

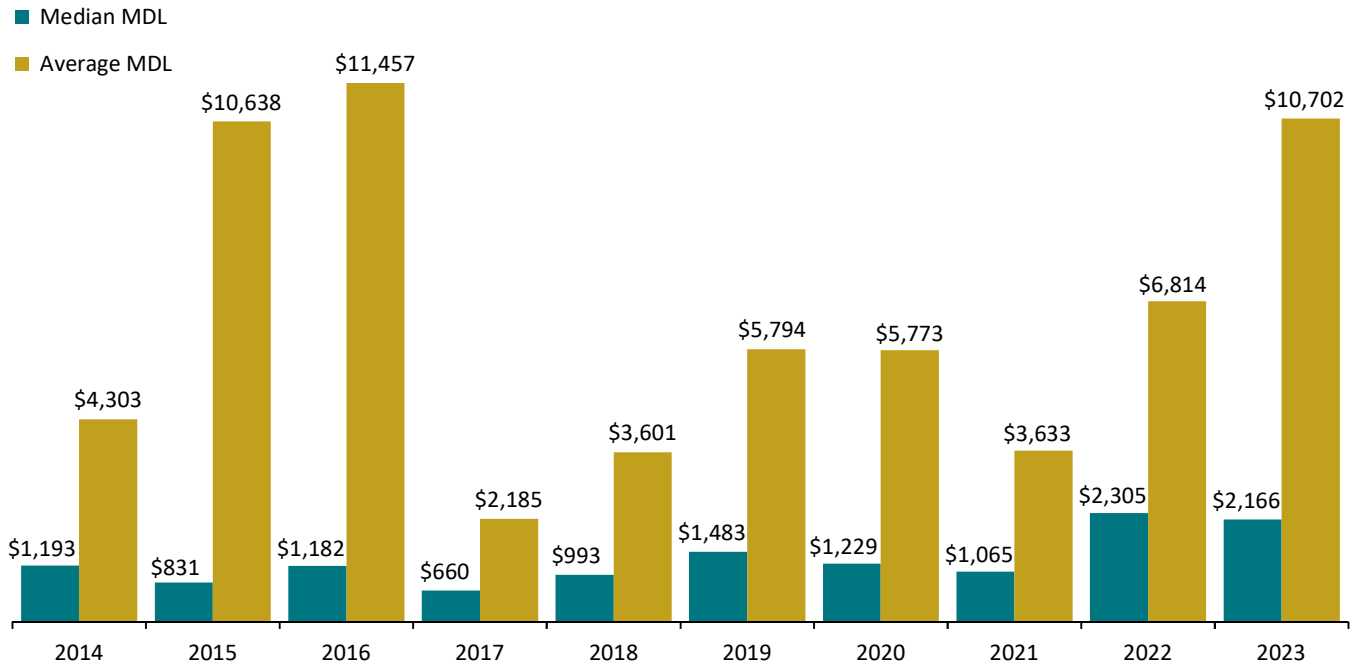
**Appendix 6: Median and Average Settlements as a Percentage of “Simplified Statutory Damages”  
2014–2023**



Note: “Simplified statutory damages” are calculated only for cases alleging Section 11 (’33 Act) claims and no Rule 10b-5 claims.

**Appendix 7: Median and Average Maximum Dollar Loss (MDL)**  
2014–2023

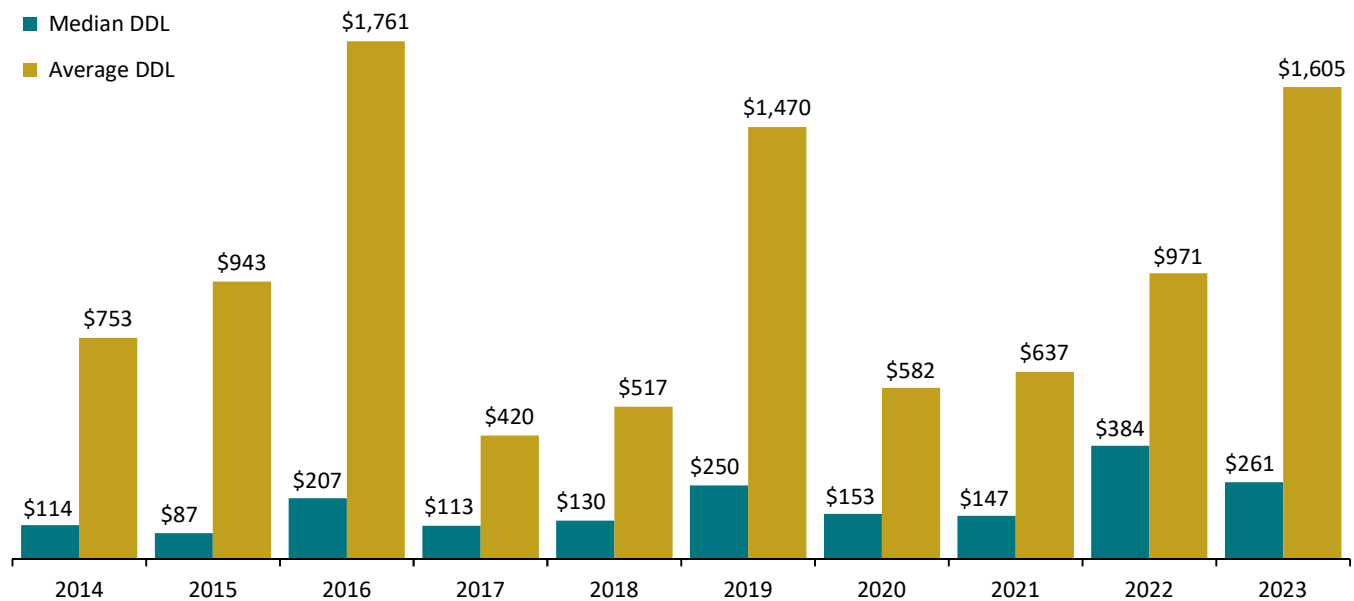
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates; 2023 dollar equivalents are presented. MDL is the dollar-value change in the defendant issuer’s market capitalization from its class period peak to the first trading day without inflation. This analysis excludes cases alleging ‘33 Act claims only.

**Appendix 8: Median and Average Disclosure Dollar Loss (DDL)**  
2014–2023

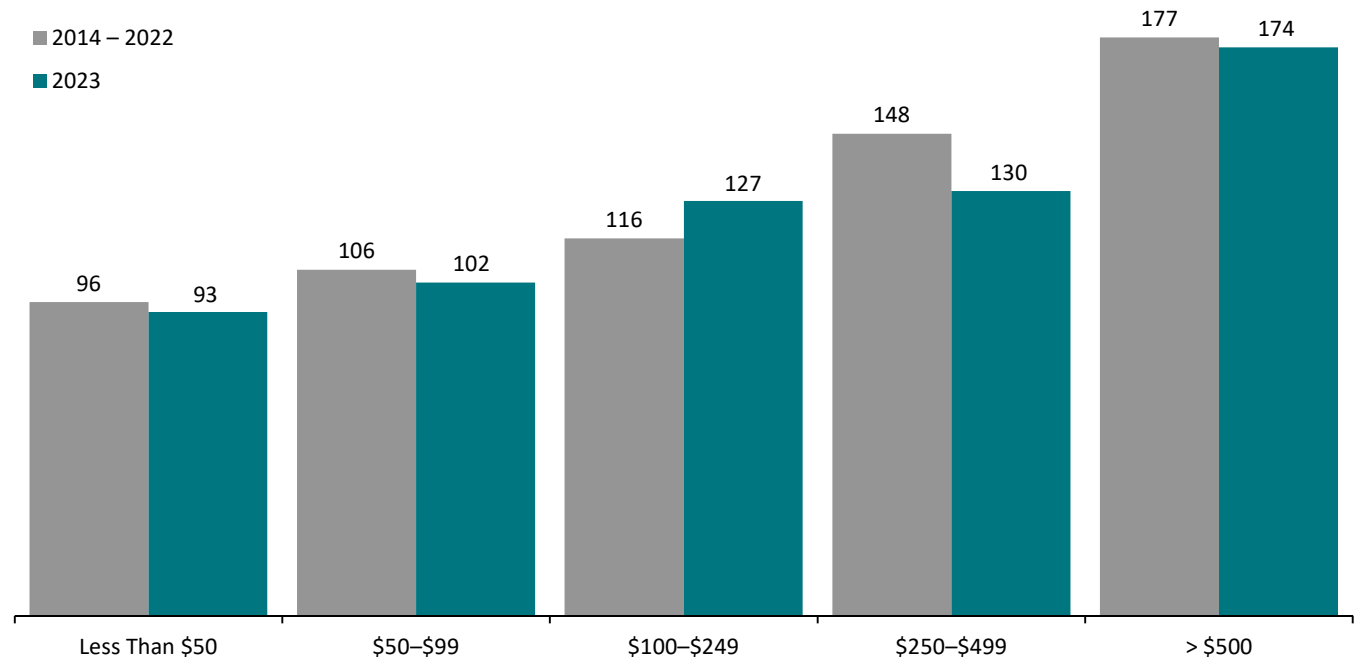
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates; 2023 dollar equivalents are presented. DDL is the dollar-value change in the defendant firm’s market capitalization between the end of the class period to the first trading day without inflation. This analysis excludes cases alleging ‘33 Act claims only.

**Appendix 9: Median Docket Entries by “Simplified Tiered Damages” Range  
2014–2023**

(Dollars in millions)



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

# About the Authors

## **Laarni T. Bulan**

Ph.D., Columbia University; M.Phil., Columbia University; B.S., University of the Philippines

Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities and other complex litigation addressing class certification, damages, and loss causation issues; mergers and acquisitions (M&A) and firm valuation; and corporate governance, executive compensation, and risk management issues. She has also consulted on cases related to insider trading, market manipulation and trading behavior, financial institutions and the credit crisis, derivatives, foreign exchange, and securities clearing and settlement.

Dr. Bulan has published notable academic articles in peer-reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

## **Laura E. Simmons**

Ph.D., University of North Carolina at Chapel Hill; M.B.A., University of Houston; B.B.A., University of Texas at Austin

Laura Simmons is a senior advisor with Cornerstone Research. She has more than 25 years of experience in economic consulting. Dr. Simmons has focused on damages and liability issues in securities class actions, as well as litigation involving the Employee Retirement Income Security Act (ERISA). She has also managed cases involving financial accounting, valuation, and corporate governance issues. She has served as a testifying expert in litigation involving accounting analyses, securities case damages, ERISA matters, and research on securities lawsuits.

Dr. Simmons's research on pre- and post-Reform Act securities litigation settlements has been published in a number of reports and is frequently cited in the public press and legal journals. She has spoken at various conferences and appeared as a guest on CNBC addressing the topic of securities case settlements. She has also published in academic journals, including research focusing on the intersection of accounting and litigation. Dr. Simmons was previously an accounting faculty member at the Mason School of Business at the College of William & Mary. From 1986 to 1991, she was an accountant with Price Waterhouse.

The authors gratefully acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research in the writing and preparation of this annual update. The views expressed herein do not necessarily represent the views of Cornerstone Research.

The authors request that you reference Cornerstone Research in any reprint of the information or figures included in this report.

Please direct any questions and requests for additional information to the settlement database administrator at [settlementdatabase@cornerstone.com](mailto:settlementdatabase@cornerstone.com).

## Cornerstone Research

Cornerstone Research provides economic and financial consulting and expert testimony in all phases of complex disputes and regulatory investigations. The firm works with an extensive network of prominent academics and industry practitioners to identify the best-qualified expert for each assignment. Cornerstone Research has earned a reputation for consistently high quality and effectiveness by delivering rigorous, state-of-the-art analysis since 1989. The firm has over 900 staff in nine offices across the United States and Europe.

[www.cornerstone.com](http://www.cornerstone.com)



# EXHIBIT 1-C

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et al.*,

Case No. 1:21-cv-01967-SAG

Individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et al.*,

Defendants.

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF  
STOCKHOLDER CLASS ACTION, SETTLEMENT HEARING,  
AND MOTION FOR ATTORNEYS' FEES AND EXPENSES**

**The Federal District Court for The District of Maryland authorized this Notice.**  
**This is not a solicitation from a lawyer.**

**NOTICE OF PENDENCY OF CLASS ACTION:** Please be advised that your rights will be affected by the above- captioned stockholder class action (the "Action") pending in the United States District Court for the District of Maryland (the "Court") if you were a holder of Bowl America, Inc. ("Bowl America" or the "Company") common stock who was paid \$8.53 per share for each share you held at the time of the Merger with Bowlero Corp. ("Bowlero") on August 18, 2021 and are not excluded from the Class (the "Class" or "Settlement Class").<sup>1</sup>

**NOTICE OF SETTLEMENT:** Please also be advised that Plaintiffs Sheryl Cohen Fine and John Risner ("Plaintiffs"), individually and on behalf of the Class, and Defendants Cheryl A. Dragoo, Merle Fabian, Nancy E. Hull, Gloria M. Bragg and Allan L. Sher (deceased) (the "Defendants") and together with Plaintiffs (the "Parties," and each a "Party") have reached a proposed settlement for two million one hundred seventy-five thousand US dollars (\$2,175,000.00) in cash (the "Settlement Amount") as set forth in the Stipulation (the "Settlement"). The Settlement, if approved, will resolve all claims in the Action.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. This Notice explains how Class Members will be affected by the Settlement. The following table provides a brief summary of the rights you have as a Class Member and the relevant deadlines, which are described in more detail later in this Notice.**

---

<sup>1</sup> Any capitalized terms used in this Notice that are not otherwise defined in this Notice shall have the meanings given to them in the Stipulation and Agreement of Settlement between Plaintiffs and Defendants, dated August 27, 2024 (the "Stipulation"). A copy of the Stipulation is available at [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com).

<b>CLASS MEMBERS' LEGAL RIGHTS IN THE SETTLEMENT:</b>	
<p><b>RECEIVE A PAYMENT FROM THE SETTLEMENT.</b></p> <p><b><u>CLASS MEMBERS DO NOT NEED TO SUBMIT A CLAIM FORM.</u></b></p>	<p>If you are a member of the Class (defined in Paragraph 41 below), you may be eligible to receive a distribution from the Settlement proceeds. Specifically, the Net Settlement Fund will be distributed on a pro rata basis to those Settlement Class Members who held Bowl America shares at the time such shares were converted into the right to receive the Merger Consideration (defined below) in connection with the Closing and are not excluded from the Class. <b>Class Members do not need to submit a claim form or take any other action in order to be entitled to receive a distribution from the Settlement.</b> Rather, distribution from the Settlement to Eligible Stockholders (defined below) will be paid directly. <i>See</i> Paragraphs 48-54 below for further discussion.</p>
<p><b>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN NOVEMBER 28, 2024.</b></p>	<p>If you are a member of the Class and would like to object to the proposed Settlement, the proposed Plan of Allocation, or Class Counsel's request for a Fee and Expense Award, you may write to the Court and explain the reasons for your objection. <i>See</i> Paragraphs 59-66 below for further discussion.</p>
<p><b>ATTEND A HEARING ON DECEMBER 12, 2024, AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN NOVEMBER 28, 2024.</b></p>	<p>Filing a written objection and notice of intention to appear that is received by <b>November 28, 2024</b>, allows you to speak in Court, at the discretion of the Court, about your objection. In the Court's discretion, the <b>December 12, 2024</b>, hearing may be conducted by telephone or videoconference. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection. <i>See</i> Paragraphs 60-62 below for further discussion.</p>
<p><b>REQUEST EXCLUSION FROM THE CLASS BY SUBMITTING A LETTER NO LATER THAN NOVEMBER 28, 2024.</b></p>	<p>You also have the right to seek exclusion from the Class by submitting a signed letter requesting exclusion from the Class as described below. If you are excluded from the Class, you will not receive any payment from the Net Settlement Fund. <i>See</i> Paragraphs 66-69.</p>

**WHAT THIS NOTICE CONTAINS**

What Is This Case About?	Page 4
How Do I Know If I Am Affected By The Settlement?	Page 7
What Are The Terms Of The Settlement?	Page 7
What Are The Parties' Reasons For The Settlement?	Page 8
How Much Will My Payment From The Settlement Be? How Will I Receive My Payment?	Page 8
Proposed Plan of Allocation	Page 9
What Will Happen If The Settlement Is Approved? What Claims Will The Settlement Release?	Page 10
When and Where Will The Settlement Hearing Be Held? Do I Have To Come To The Hearing? May I Speak At The Hearing If I Do Not Like The Settlement?	Page 10
Objecting to The Settlement	Page 11
Excluding Yourself From the Settlement Class	Page 13
If I Do Not Exclude Myself, Can I Sue Defendants And The Other Released Defendant Parties For The Same Reasons Later?	Page 13
Can I See The Court File? Whom Should I Contact If I Have Questions?	Page 13

1. The purpose of this Notice is to notify Class Members of the existence of the Action and the terms of the proposed Settlement. The Notice is also being sent to inform Class Members of a hearing that the Court has scheduled to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation for the Settlement proceeds, and the application by Class Counsel for a Fee and Expense Award in connection with the Settlement (the “Settlement Hearing”). See Paragraphs 56-58 below for details about the Settlement Hearing, including the location, date, and time of the hearing.

2. The Court directed that this Notice be mailed or made available to you because you may be a member of the Class. The Court has directed us to provide this Notice because, as a Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how the Action and the proposed Settlement generally affects your legal rights. Please Note: The Court may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Class.

3. The issuance of this Notice is not an expression by the Court of any findings of fact or any opinion concerning the merits of any claim in the Action, and the Court has not yet decided whether to approve the Settlement. If the Court approves the Settlement, then payments to Eligible Stockholders will be made after any appeals are resolved.

**PLEASE NOTE:** Receipt of this Notice does not mean that you are a Class Member or an Eligible Stockholder or that you will be entitled to receive a payment from the Settlement.

#### WHAT IS THIS CASE ABOUT?

THE FOLLOWING RECITATIONS DO NOT CONSTITUTE FINDINGS OF THE COURT. THE COURT HAS MADE NO FINDINGS WITH RESPECT TO THE FOLLOWING MATTERS, AND THESE RECITATIONS SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

4. In this Action, Plaintiffs allege that Defendants breached fiduciary duties owed to Bowl America stockholders in connection with the Merger and/or aided and abetted such alleged breaches of duty, as described below. Defendants deny all allegations of wrongdoing and liability.

5. On May 27, 2021, Bowl America and Bowlero entered into an Agreement and Plan of Merger (such merger agreement with any amendments thereto, the “Merger Agreement”), pursuant to which, among other things, Bowlero would acquire all of the outstanding shares of Bowl America common stock for \$44 million not including a special dividend of \$0.60 per share payable to Bowl America stockholders at the closing (the “Merger”).

6. On August 11, 2021, with Defendants holding a majority of the voting stock of Bowl America, stockholders voted to approve the Merger. On August 18, 2021, the Merger closed with Bowlero paying \$8.53 for each share of Bowl America common stock outstanding.

7. Prior to commencing the Action, Lead Plaintiffs, through Co-Lead Counsel, conducted a thorough investigation relating to the claims, defenses, and underlying events and transactions that are the subject of the Action. This process included reviewing and analyzing: (i) documents filed publicly by the Company with the U.S. Securities and Exchange Commission (“SEC”); (ii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company and the Defendants; (iii) research reports issued by financial analysts concerning the Company; (iv) other publicly available information and data concerning the Company; and (v) the applicable law governing the claims and potential defenses.

8. On August 4, 2021, Anita G. Zucker, Trustee of the Anita G. Zucker Trust Dated

April 4, 2007, as Subsequently Amended or Restated, and Anita G. Zucker, Trustee of the Article 6 Marital Trust, Under the First Amended and Restated Jerry Zucker Revocable Trust dated April 2, 2007 (the “Trusts”) commenced an action on their own behalf and on behalf of all other similarly situated Bowl America stockholders, against Defendants, Ruth Macklin, Bowl America, Bowlero, and Duff & Phelps Securities LLC (“Duff & Phelps”)<sup>2</sup>, asserting claims under Section 14(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and Rule 14a-9 promulgated thereunder, and under Maryland law for breach of fiduciary duty and aiding and abetting breach of fiduciary duty in connection with the Merger.<sup>3</sup>

9. By Order dated October 6, 2021 (ECF No. 8), the Court appointed the Trusts as Lead Plaintiffs and Cohen Milstein Sellers & Toll PLLC and Kohrman Jackson & Krantz LLP as Co-Lead Counsel.

10. On November 29, 2021, Lead Plaintiffs filed a Second Amended Class Action Complaint (“Second Amended Complaint”) (ECF No. 25). The Second Amended Complaint asserted similar causes of action for securities law violations, breach of fiduciary duty, and aiding and abetting against Duff & Phelps and Bowlero.

11. On January 28, 2022, all defendants (which at that time included Ruth Macklin, Bowl America, Bowlero and Duff & Phelps) moved to dismiss all claims under Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

12. Following completion of briefing on the motion to dismiss, on May 27, 2022, the Court issued a Memorandum Opinion and Order (EFC Nos. 32 and 33) dismissing without prejudice Counts I, II, V, and VI of the Second Amended Complaint, and dismissing Bowl America, Bowlero and Duff & Phelps as defendants in the Action. The Court sustained Lead Plaintiffs' breach of fiduciary duty claims asserted in Counts III and IV, holding that the Second Amended Complaint “plausibly states a claim that the Director Defendants breached their fiduciary duties of care and good faith in approving the Company Termination Fee.” The alleged unreasonable Termination Fee exceeded 11% of the price paid by Bowlero.

13. On June 21, 2022, Plaintiffs filed the Third Amended Complaint (ECF No. 36), to add an additional allegation concerning this Court's supplemental jurisdiction over the remaining state law breach of fiduciary duty claims asserted in Counts III and IV.

14. On July 21, 2022, Defendants moved again to dismiss the Third Amended Complaint, or in the alternative for a more definite statement (ECF No. 38).

15. On August 17, 2022, Plaintiffs filed a motion for Scheduling Order and Discovery (ECF Nos. 40, 41, and 42).

16. On August 22, 2022, Plaintiffs filed their opposition to Defendants’ Motion to Dismiss the Third Amended Complaint (ECF No. 43).

17. After briefing was completed, on October 11, 2022, the Court issued a Memorandum Opinion and Order (ECF Nos. 51, 52 and 53) which granted, in part, and denied, in part, the second motion to dismiss. The Court also denied Plaintiffs’ Motion for Scheduling Order and Discovery and terminated Duff & Phelps, Bowl America and Bowlero as Defendants in the case. (ECF Nos. 52 and 53).

18. Also, on October 11, 2022, the Court issued a Scheduling Order which required the Parties to submit a joint status report on March 9, 2023. (ECF No. 51).

19. On October 26, 2022, Defendants filed their answer to the Third Amended

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<sup>2</sup> Ruth Macklin, Bowl America, Bowlero and Duff & Phelps were subsequently dismissed from the Action (together the “Dismissed Defendants”).

<sup>3</sup> On August 5, 2021, the Trusts filed an amended complaint to correct a typographical error.

Complaint (ECF No. 55), denying the remaining allegations and asserting certain affirmative defenses.

20. On November 14, 2022, the Court entered an Amended Scheduling Order requiring a Status Report to be filed on July 26, 2023. (ECF No. 56).

21. On December 7, 2022, the Court approved the Stipulation and Order Regarding Confidentiality of Discovery Material. (ECF No. 59).

22. On February 1, 2023, the Court approved the Stipulation and Proposed Order Regarding Plaintiffs Motion for Class Certification. (ECF No. 61).

23. By Order dated February 6, 2023, the Court approved the joinder of Fine and Risner as additional named plaintiffs in the Action. (ECF No. 63).

24. On February 17, 2023, Lead Plaintiffs and proposed class representatives Fine and Risner, filed their motion for class certification seeking to represent a class of minority stockholders of Bowl America.<sup>4</sup> (ECF Nos. 64 and 65).

25. On February 21, 2023, Defendants filed an Amended Answer to the Third Amended Complaint. (ECF No. 66).

26. On March 15, 2023, the Court entered an Order Granting Stipulation of Dismissal of Defendant Ruth Macklin without prejudice. (ECF No. 76).

27. After full briefing, the Court held a class certification hearing on June 2, 2023. (ECF No. 84). On June 15, 2023, the Court issued a Memorandum Opinion and Order certifying the proposed class. (ECF Nos. 85 and 86). The Court denied Lead Plaintiffs' motion to be appointed as class representatives but appointed Plaintiffs Fine and Risner to serve as class representatives and appointed Cohen Milstein Sellers & Toll PLLC and Kohrman Jackson & Krantz LLP as Class Counsel.

28. On August 11, 2023, the Court entered an Order Regarding an Amended Case Schedule. (ECF No. 89).

29. Between November 2022 and December 2023, the Parties engaged in fact and expert discovery: (i) Plaintiffs propounded 17 requests for the production of documents to Defendants, served 37 requests for admission directed to Defendants, and served subpoenas on several non-parties; (ii) Plaintiffs obtained and reviewed approximately 23,373 pages of documents from their discovery requests; (iii) Plaintiffs filed a motion to compel discovery against Defendants with respect to certain documents which were withheld or redacted on the basis of privilege; (iv) Plaintiffs conducted 6 depositions of Defendants and non-parties and 2 expert depositions; (v) Plaintiffs each responded to 19 document requests and 14 interrogatories propounded by Defendants and produced approximately 1,647 pages of documents in response to Defendants' discovery requests; (vi) Plaintiffs Fine and Risner provided deposition testimony; (vii) the Parties engaged in numerous written and telephonic meet and confer sessions regarding discovery, class certification, and case scheduling matters; and (viii) the Parties engaged in full expert discovery including preparation of reports and depositions.

30. On October 12, 2023, the Court entered an Order dismissing the Trusts from the Action without prejudice. (ECF No. 92).

31. On September 15, 2023, Plaintiffs served (not filed, per the Court's local rules) Defendants with a motion to compel the production of certain documents withheld on the basis of the attorney client and work- product privileges ("Motion to Compel). On October 13, 2023, Plaintiffs

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<sup>4</sup> Lead Plaintiffs, the Trusts, continued to lead the litigation until June 15, 2023, when the Court certified the original class and appointed plaintiffs Fine and Risner as Class Representatives.

filed their Motion to Compel. On October 27, 2023, Defendants served their opposition to Plaintiffs' Motion to Compel. On November 8, 2023, Plaintiffs served their reply brief in support of the Motion to Compel. On November 13, 2023, pursuant to Local Rule 104.7, Plaintiffs filed the Motion to Compel briefing with the Court regarding the assertion of attorney client and work product privileges.

32. In a Memorandum Opinion dated December 7, 2023, Magistrate Judge A. David Copperthite granted in part and denied in part Plaintiffs' Motion to Compel. (ECF No. 121)

33. On February 1, 2024, Plaintiffs filed a Motion for Partial Summary Judgment on Liability with respect to Defendants' breach of fiduciary duty in approving the alleged unreasonable Termination Fee.

34. On March 4, 2024, Defendants filed their Cross-Motion for Summary Judgment on the affirmative defenses of exculpation and the business judgment rule, and also filed their Opposition to Plaintiffs' Motion for Partial Summary Judgment. (ECF Nos 130, 131, and 132).

35. On April 3, 2024, Plaintiffs filed their combined Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment and their Reply in Further Support of their Motion for Partial Summary Judgment. (ECF Nos. 134, 135, 136, and 137).

36. On April 18, 2024, Defendants filed their Reply in Further Support of their Motion for Summary Judgment. (ECF Nos. 139 and 140).

37. By Order dated April 26, 2024, (ECF No. 141), the Court referred the parties to this Action to Magistrate Judge Adam B. Abelson for a settlement conference. Pursuant to that Order, the parties engaged in an in-person mediation session with Magistrate Judge Abelson on June 7, 2024. The session ended without any agreement being reached. The Parties continued discussions with Magistrate Judge Abelson following the mediation to further explore the possibility of a settlement.

38. After further discussions with Magistrate Judge Abelson, on June 26, 2024, he made a mediator's proposal to settle the action for two million one hundred seventy-five dollars (\$2,175,000.00). On July 2, 2024, Magistrate Judge Abelson communicated that both sides accepted the proposed settlement.

39. On August 27, 2024, the Parties entered into the Stipulation, which reflects the final and binding agreement among the Parties and supersedes the agreement in principle to settle the Action.

40. On September 3, 2024, the Court entered the Preliminary Approval Order directing that this Notice of the Settlement be provided to potential Class Members, and scheduling the Settlement Hearing to, among other things, consider whether to grant final approval of the Settlement.

#### **HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?**

41. If you are a member of the Settlement Class, you are subject to the Settlement. The class preliminary certified by the Court solely for purposes of the Settlement consists of:

All former holders of Bowl America common stock who were paid \$8.53 per share for each share they held at the time of the Merger with Bowlero on August 18, 2021, and who are not excluded from the Settlement Class.

#### **WHAT ARE THE TERMS OF THE SETTLEMENT?**

42. In consideration of the settlement of Plaintiffs' Released Claims (defined in Paragraph 55 below) against Defendants' Released Parties (defined in Paragraph 55 below), Defendants, Bowlero and/or Bowl America shall cause the Insurance Carriers to pay the Settlement Amount into an interest-bearing escrow account for the benefit of the Class in accordance with the

Stipulation. *See* Paragraphs 47-52 below for details about the distribution of the Settlement proceeds to Eligible Stockholders.

43. Defendants' Released Parties (except for the Insurance Carriers or their successors-in-interest) shall bear no personal responsibility for any payment in connection with the Stipulation or the Settlement.

**WHAT ARE THE PARTIES' REASONS FOR THE SETTLEMENT?**

44. Plaintiffs believe that the claims asserted in the Action have merit, but also believe that the Settlement set forth in the Stipulation provides substantial and immediate benefits for the Class. In addition to the substantial monetary benefit, Plaintiffs and Class Counsel have considered: (i) the attendant risks of continued litigation and the uncertainty of the outcome of the Action; (ii) the probability of success on the merits; (iii) the inherent problems of proof associated with, and possible defenses to, the claims asserted in the Action; (iv) the desirability of permitting the Settlement to be consummated according to its terms; (v) the expense and length of continued proceedings necessary to prosecute the Action through trial and appeals; and (vi) the conclusion of Plaintiffs and Class Counsel that the terms and conditions of the Settlement and the Stipulation are fair, reasonable, and adequate, and that it is in the best interests of the Class to settle the claims asserted in the Action on the terms set forth in the Stipulation.

45. Based on Class Counsel's thorough review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, Class Counsel believe that the Settlement set forth in the Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon the Class. Based upon Class Counsel's evaluation, as well as their own evaluations, Plaintiffs have determined that the Settlement is in the best interests of the Class and have agreed to the terms and conditions set forth in the Stipulation.

46. Defendants deny any and all allegations of wrongdoing, fault, liability, or damages with respect to Plaintiffs' Released Claims, including, but not limited to, any allegations that Defendants have committed any violations of law or breach of any duty owed to Bowl America stockholders, that the stockholder vote in favor of the Merger was not fully informed, that the disclosures concerning the Merger were inadequate, that the Merger was not entirely fair to, or in the best interests of, Bowl America stockholders, that Defendants have acted improperly in any way, that Defendants have any liability or owe any damages of any kind to Plaintiffs and/or the Class, and/or that any Defendant was unjustly enriched in the Merger. Defendants maintain that their conduct was at all times proper and in compliance with applicable law, and the Defendants further maintain that their conduct was at all times in the best interests of Bowl America and its stockholders. Defendants also deny that Bowl America's stockholders were harmed by any conduct of Defendants that was alleged, or that could have been alleged, in the Action. Each of the Defendants asserts that, at all relevant times, such Defendant acted in good faith.

**HOW MUCH WILL MY PAYMENT FROM THE SETTLEMENT BE?  
HOW WILL I RECEIVE MY PAYMENT?**

47. Nevertheless, Defendants have determined to enter into the Settlement on the terms and conditions set forth in the Stipulation solely to put Plaintiffs' Released Claims to rest, finally and forever, without in any way acknowledging any wrongdoing, fault, liability, or damages. For the avoidance of doubt, nothing in the Stipulation or the Settlement shall be construed as an admission by Defendants of any wrongdoing, fault, liability,

48. If the Settlement is approved by the Court and the Effective Date occurs, the Net Settlement Fund will be distributed on a *pro rata* basis to those Settlement Class Members who held Bowl America shares at the time such shares were converted into the right to receive the Merger

Consideration in connection with the Closing. **Please Note: If you are eligible to receive a payment from the Net Settlement Fund, you do not have to submit a claim form or take any other action in order to receive your payment.**

49. As stated above, the Settlement Amount will be deposited into an interest-bearing escrow account for the benefit of the Class. Based on the estimated number of shares held by Settlement Class Members eligible for a distribution from the Settlement (2,403,537) the Settlement Amount represents approximately \$0.90 per share for each Settlement Class Member before deducting any attorneys' fees or expenses that may be awarded by the Court. If the Settlement is approved by the Court and the Effective Date of the Settlement occurs, the Net Settlement Fund (that is, the Settlement Amount plus any interest accrued thereon less (i) any Taxes or Tax Expenses, (ii) any Administration Costs or Notice Costs, (iii) any Fee and Expense Award awarded by the Court, and (iv) any other costs or fees approved by the Court) will be distributed in accordance with the proposed Plan of Allocation stated below or such other plan of allocation as the Court may approve. After these deductions Class Counsel estimates that the net amount to be distributed to Eligible Stockholders will be approximately \$0.55 per share.

50. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal, or review, whether by certiorari or otherwise, has expired. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

51. The Court may approve the Plan of Allocation as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the Settlement website, [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com).

52. There are some individuals and entities who are excluded from the Settlement Class. In addition, Excluded Persons includes anyone who timely seeks exclusion from the Settlement Class in accordance with the procedures described in Paragraphs below.

### PROPOSED PLAN OF ALLOCATION

53. The Net Settlement Fund will be distributed on a *pro rata* basis to Eligible Stockholders.

54. Subject to Court approval in the Class Distribution Order, Class Counsel will direct the Settlement Administrator to allocate the Net Settlement Fund among Eligible Stockholders on a *pro rata*, per-share basis and distribute the Net Settlement Amount to Eligible Stockholders as follows:

(i) For Eligible Beneficial Holders whose Merger Consideration was distributed through Cede, as nominee for the Depository Trust Company ("DTC"), the Settlement Administrator shall send their portion of the Net Settlement Fund to DTC for distribution. The Settlement Administrator shall instruct DTC Participants to distribute the Eligible Beneficial Holders' portion of the Net Settlement Fund to Eligible Beneficial Holders in the same manner in which the DTC Participants distributed proceeds in connection with the Merger. The Settlement Administrator shall provide DTC Participants with a list of Excluded Persons and direct the DTC Participants not to distribute any payment to any Excluded Person. DTC's sole obligation in connection with the Settlement shall be to distribute the Eligible Beneficial Holders' portion of the Net Settlement Fund to DTC Participants in accordance with this Paragraph and DTC rules and procedures, and DTC shall not be responsible for any errors in the calculation of any distribution or for any failure by the Settlement Administrator, Defendants, or Class Counsel to identify the Excluded Persons.

(ii) For Eligible Record Holders, the Settlement Administrator shall send their portion of the Net Settlement Fund to the address listed on the stockholder register or other relevant books

and records of Bowl America or its transfer agent.

(iii) If there is any balance remaining in the Escrow Account after six (6) months from the date of initial distribution (whether by reason of tax refunds; uncashed checks; amounts returned by Excluded Persons, to the extent they receive settlement payments; or for any other reason), Class Counsel may petition the Court for reimbursement of their time at applicable hourly rates and expenses incurred in the administration of the Settlement Fund. After the Court's consideration and authorization of any such reimbursement, Class Counsel shall, if feasible, reallocate such balance among Eligible Stockholders who deposited the checks sent (or had the funds paid directly by DTC) in the initial distribution in an equitable and economic fashion. Thereafter, any balance which still remains in the Settlement Fund shall be distributed at the direction of the Court.

**WHAT WILL HAPPEN IF THE SETTLEMENT IS APPROVED?  
WHAT CLAIMS WILL THE SETTLEMENT RELEASE?**

55. If the Settlement is approved, the Court will enter an Order and Final Judgment (the "Order and Final Judgment"). Pursuant to the Order and Final Judgment, the claims asserted against Defendants in the Action will be dismissed with prejudice and the following releases will occur:

(i) **Release of Claims by Plaintiffs and the Class:** Upon the Effective Date, Plaintiffs and each and every Class Member, on behalf of themselves and any and all of their respective successors-in-interest, successors, predecessors-in-interest, predecessors, representatives, trustees, executors, administrators, estates, heirs, assigns, and transferees, immediate and remote, and any Person acting for or on behalf of, or claiming under, any of them, and each of them, together with their predecessors-in-interest, predecessors, successors-in-interest, successors, and assigns, each of the foregoing in their capacities as such only, shall have fully, finally, and forever released, settled, and discharged Defendant Released Parties from and with respect to every one of Plaintiffs' Released Claims, and shall thereupon be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of Plaintiffs' Released Claims against any of Defendant Released Parties, except for claims relating to the enforcement of the Settlement or any claims against on behalf of any person who submits a request for exclusion that is accepted by the Court.

(ii) **Release of Claims by Defendant Released Parties:** Upon the Effective Date, Defendant Released Parties and any and all of their respective successors-in-interest, successors, predecessors-in-interest, predecessors, representatives, trustees, executors, administrators, estates, heirs, assigns, and transferees, immediate and remote, and any Person acting for or on behalf of, or claiming under, any of them, and each of them, together with their predecessors-in-interest, predecessors, successors-in-interest, successors, and assigns, each of the foregoing in their capacities as such only, shall have fully, finally, and forever released, settled, and discharged Plaintiffs' Released Parties from and with respect to every one of Defendants' Released Claims, and shall thereupon be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of Defendants' Released Claims against any of Plaintiffs' Released Parties, except for claims relating to the enforcement of the Settlement.

**WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD?  
DO I HAVE TO COME TO THE HEARING?  
MAY I SPEAK AT THE HEARING IF I DO NOT LIKE THE SETTLEMENT?**

56. **Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the Settlement Hearing. Class Members can recover from the Settlement without attending the Settlement Hearing or submitting a claim form.**

57. Please Note: The date and time of the Settlement Hearing may change without further

written notice to Class Members. In addition, the Court may decide to conduct the Settlement Hearing remotely by telephone or videoconference, or otherwise allow Class Members to appear at the hearing remotely by phone or video, without further notice to Class Members. **In order to determine whether the date and time of the Settlement Hearing have changed, or whether Class Members must or may participate remotely by phone or video, it is important that you monitor the Court's docket and the Settlement website [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com) before making any plans to attend the Settlement Hearing. Any updates regarding the Settlement Hearing, including any changes to the date or time of the hearing, or updates regarding in-person or remote appearances at the hearing, will be posted to the Settlement website, [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com). Also, if the Court requires or allows Class Members to participate in the Settlement Hearing remotely by telephone or videoconference, the information needed to access the conference will be posted to the Settlement website, [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com).**

58. The Settlement Hearing will be held on **December 12, 2024 at 9:00 a.m.** before The Honorable Stephanie A. Gallagher, either in person at the Court, or remotely by telephone or videoconference (in the discretion of the Court), to, among other things: (i) determine whether to finally certify the Class for settlement purposes only, pursuant to Federal Rules 23(a), and 23(b)(3); (ii) determine whether Plaintiffs and Class Counsel have adequately represented the Class, and whether Plaintiffs should be finally appointed as Class representatives for the Settlement Class and Co-Lead Counsel should be finally appointed as Class Counsel; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to the Class and in the best interests of the Class; (iv) determine whether the Action should be dismissed with prejudice and the Releases provided under the Stipulation should be granted; (v) determine whether the Order and Final Judgment approving the Settlement should be entered; (vi) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (vii) determine whether to approve the Fee and Expense Application for attorneys' fees not to exceed twenty-eight percent (28%) of the Settlement Amount, including the reimbursement of \$250,000 to Lead Plaintiffs for the advancement of legal fees to Class Counsel, plus reimbursement of litigation expenses and any costs and expenses paid to Plaintiffs or Co-Lead Counsel to be paid out of the Settlement Fund; (viii) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and/or Class Counsel's application for a Fee and Expense Award; and (ix) consider any requests for exclusion or any other matters that may properly be brought before the Court in connection with the Settlement.

### OBJECTING TO THE SETTLEMENT

59. Any Class Member may file a written objection to the Settlement, the proposed Plan of Allocation, and/or Class Counsel's application for the Fee and Expense Award (an "Objector"); provided, however, that no Objector shall be heard or entitled to object unless **on or before November 28, 2024**, such person (1) files their written objection, together with copies of all other papers and briefs supporting the objection specified in Paragraph 61 below, with the Clerk of the Court, United States District Court, District of Maryland, Northern Division, 101 West Lombard Street, Baltimore, MD 21201; (2) serves such papers (electronically, by hand, by first class U.S. mail, or by express service) on Co-Lead Counsel and Defendants' Counsel at the addresses set forth below; and (3) emails a copy of the written objection to the below email addresses for Co-Lead Counsel and Defendants' Counsel.

60. Objecting is telling the Court that you do not like something about the proposed Settlement, Plan of Allocation, or Co-Lead Counsel's Fee and Expense Application. You can still recover money from the Settlement. You can object *only* if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself from the Settlement Class, you have no basis to object because the Settlement and

the Action no longer affects you.

61. Any objections must: (i) identify the case name and civil action number, “*Fine, et. al., v. Bowl America, Inc., et. al.,* .Case No. 21-CV-01967 (SAG)”; (ii) state the name, address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of the Objector’s counsel; (iii) be signed by the Objector; (iv) contain a specific, written statement of the objection(s) and the specific reason(s) for the objection(s), including any legal and evidentiary support the Objector wishes to bring to the Court’s attention, and if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the Objector may call to testify and any exhibits the Objector intends to introduce into evidence at the hearing; and (v) include documentation sufficient to prove that the Objector is a member of the Class. Documentation establishing that an Objector is a member of the Class must consist of copies of monthly brokerage account statements or an authorized statement from the Objector’s broker containing the transactional and holding information found in an account statement. Co-Lead Counsel may request that the Objector submit additional information or documentation sufficient to prove that the objector is a Class Member.

<b>CO-LEAD COUNSEL</b>	
Cohen Milstein Sellers & Toll PLLC Daniel S. Sommers, Esq 1100 New York Avenue NW, Fifth Floor Washington, DC 20005 Tel: (202) 408-4600 Fax: (202) 408-4699 dsommers@cohenmilstein.com	Kohrman Jackson & Krantz LLP Brett S. Krantz, Esq. One Cleveland Center, 29th Floor 1375 East Ninth Street Cleveland, OH 44114 Tel: (216) 696-8700 Fax: (216) 621-6536 bk@kjk.com
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62. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

63. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Co-Lead Counsel and Defendants’ Counsel at the mailing and email addresses set forth in Paragraph 61 above so that the notice is **received on or before November 28, 2024.**

64. The Settlement Hearing may be adjourned by the Court without further written notice to Class Members. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel or the Settlement Administrator.

65. **Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection (including the right**

to appeal) and shall be forever foreclosed from making any objection to the Settlement, the proposed Plan of Allocation, Class Counsel's application for the Fee and Expense Award, or any other matter related to the Settlement or the Action, and will otherwise be bound by the Order and Final Judgment to be entered and the releases to be given. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

### EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

66. If you want to keep any right you may have to sue or continue to sue Defendants and the other Released Defendant Parties on your own concerning the Released Plaintiffs' Claims, then you must take steps to remove yourself from the Settlement Class. This is called excluding yourself or "opting out." **Please note: If you decide to exclude yourself from the Settlement Class, there is a risk that any lawsuit you may file to pursue claims alleged in the Action may be dismissed, including because the suit is not filed within the applicable time periods required for filing suit.**

67. To exclude yourself from the Settlement Class, you must mail a signed letter stating that you request to be "excluded from the Settlement Class in *Fine, et al., v. Bowl America, Inc., et al.*, 1:21-cv-01967- SAG (D. Md.)." You cannot exclude yourself by telephone or email. Each request for exclusion must also: (i) state the name, address, telephone number, and email address (if any) of the Person seeking exclusion; and (iii) be signed by the Person requesting exclusion. Requests **must** be submitted with documentary proof of Bowl America common stock held by the requester at the time of the Merger. A request for exclusion must be mailed so that it is **received no later than November 28, 2024**, at:

*Bowl America, Inc. Settlement*  
c/o Epiq  
PO Box 3805  
Portland, OR 97208-3805

68. This information is needed to determine whether you are a member of the Settlement Class. Your exclusion request must comply with these requirements in order to be valid.

69. If you ask to be excluded, you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Settlement Class Member and the Settlement will not affect you. If you submit a valid exclusion request, you will not be legally bound by the Settlement or anything that happens in the Action, and you may be able to sue (or continue to sue) Defendants and the other Released Defendant Parties in the future.

### IF I DO NOT EXCLUDE MYSELF, CAN I SUE DEFENDANTS AND THE OTHER RELEASED DEFENDANT PARTIES FOR THE SAME REASONS LATER?

70. No. Unless you properly exclude yourself, you will give up any rights to sue Defendants and the other Released Defendant Parties for any and all Released Plaintiffs' Claims. If you have a pending lawsuit against any of the Released Defendant Parties, **speak to your lawyer in that case immediately**. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is **November 28, 2024**.

### CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

71. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in the Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at

the office of the Clerk of the Court, United States District Court, District of Maryland, Northern Division, 101 West Lombard Street, Baltimore, MD 21201. Additionally, copies of the Stipulation, the Complaint, and pertinent orders entered by the Court will be posted on the Settlement website, [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com). If you have questions regarding the Settlement, you may contact the Settlement Administrator (Epiq) at Bowl America, Inc. Settlement, c/o Epiq, PO Box 3805, Portland, OR 97208-3805, [info@BowlAmericaSecuritiesLitigation.com](mailto:info@BowlAmericaSecuritiesLitigation.com); or Co-Lead Counsel listed in Paragraph 61:

72. If you are a broker or other nominee that held Bowl America common stock at any time during the Class Period for the beneficial interest of persons or entities other than yourself, you are requested, within seven (7) calendar days of receipt of this Notice, to either: (i) request from the Settlement Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners, and within seven (7) calendar days of receipt of those Postcard Notices forward them to all such beneficial owners; or (ii) provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to the Settlement Administrator at: In re Bowl America, Inc. Settlement, c/o Epiq, PO Box 3805, Portland, OR 97208-3805. If you choose the second option, the Settlement Administrator will send a copy of the Postcard Notice to the beneficial owners.

73. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought, not to exceed \$0.05 plus postage at the current pre-sort rate used by the Claims Administrator per mailed Postcard Notice. Copies of this Notice and the Postcard Notice may also be obtained from the Settlement website [www.BowlAmericaSecuritiesLitigation.com](http://www.BowlAmericaSecuritiesLitigation.com), by calling the Settlement Administrator toll free at 1-888-874-4173, or by emailing the Settlement Administrator at [info@BowlAmericaSecuritiesLitigation.com](mailto:info@BowlAmericaSecuritiesLitigation.com).

**DO NOT CALL OR WRITE THE COURT OR THE  
CLERK'S OFFICE REGARDING THIS NOTICE.**

Dated: September 16, 2024

**BY ORDER OF:  
THE HONORABLE STEPHANIE A. GALLAGHER  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

# EXHIBIT 1-D

**From:** [Valerie Litzinger](mailto:Valerie.Litzinger)  
**To:** [Daniel S. Sommers](mailto:Daniel.S.Sommers); [bk@kjk.com](mailto:bk@kjk.com); [Richard A. Speirs](mailto:Richard.A.Speirs); [ben.schuman@us.dlapiper.com](mailto:ben.schuman@us.dlapiper.com); [meagan.pace@dlapiper.com](mailto:meagan.pace@dlapiper.com); [jginsburg@foley.com](mailto:jginsburg@foley.com); [jtucker@foley.com](mailto:jtucker@foley.com)  
**Subject:** FW: Case number 1:21-cv-01967-SAG...Bowl America Inc.  
**Date:** Tuesday, September 24, 2024 4:05:25 PM

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Dear Counsel,

Ms. Hahn called chambers this afternoon wishing to state her objection to the proposed settlement. I attempted to explain that she needed to respond in accordance with the instructions provided in the notice she received, and that calling chambers was not an option. She claimed that the notice did not have any information about how to object. She then sent this email that I am forwarding to you so that someone can contact her about how to proceed.

Thank you.

Valerie Litzinger  
Judicial Assistant  
Judge Stephanie A. Gallagher  
U.S. District Court for the District of Maryland  
101 W. Lombard Street Room 7C  
Baltimore, MD 21201  
410-962-7780

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**From:** kristinusf@aol.com <kristinusf@aol.com>  
**Sent:** Tuesday, September 24, 2024 3:24 PM  
**To:** MDD\_SAGChambers <MDD\_SAGChambers@mdd.uscourts.gov>  
**Subject:** Case number 1:21-cv-01967-SAG...Bowl America Inc.

**CAUTION - EXTERNAL:**

My name is Kristin Beery Hahn and I am objecting to this settlement for improper jurisdiction and venue a violation of the ADA act and Hague and Geneva convention violations.

Sincerely,  
Kristin Beery Hahn

**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et al.*

Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

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**DECLARATION OF DANIEL S. SOMMERS ON BEHALF OF  
COHEN MILSTEIN SELLERS & TOLL PLLC IN SUPPORT OF APPLICATION FOR  
AN AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES**

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I, Daniel S. Sommers, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am a partner of the law firm of Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”). I submit this declaration in support of my firm’s application for an award of attorneys’ fees and expenses in connection with services rendered in the above-entitled action (the “Action”) from inception through October 31, 2024 (the “Time Period”).

2. My firm is Co-Lead Counsel in the Action and was involved throughout the course of the litigation as described in the accompanying Joint Declaration of Richard A. Speirs and Brett S. Krantz in Support of (i) Class Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (ii) Co-Lead Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses, filed herewith.

3. The information in this declaration regarding my firm’s time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. These records (and backup documentation where necessary) were reviewed by me and others at my firm, under my direction, to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. As a result of this review, I believe that the time reflected in the firm’s lodestar calculation and the unreimbursed expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the unreimbursed expenses are all of a type that would normally be paid by a fee-paying client in the private legal marketplace.

4. The number of hours spent on the litigation for which my firm has not received any payment is 2700.75 (excluding the amount referenced in Paragraph 5). The lodestar amount for that attorney/professional support staff time based on the individual’s current hourly rates is \$2,540,656.25. A summary of the lodestar is provided in Exhibit A. The firm’s rates are set based on periodic analysis of rates used by firms performing comparable work. For personnel who are

no longer employed by the firm, the “current rate” used for the lodestar calculation is the rate for that person in his, her or their final year of employment with the firm. Time expended in preparing this application for fees and payment of expenses has not been included.

5. This firm has previously received an advance of \$150,000 for fees and expenses from the original Lead Plaintiffs who are members of the Class in this Action.<sup>1</sup> In accordance with the retainer agreement with the Trusts, if the Court awards Cohen Milstein that amount or more in fees and expenses in this matter, \$150,000 will be reimbursed to the Trusts from any amount awarded to Cohen Milstein.

6. As detailed in Exhibit B, my firm has incurred \$236,570.92 in unreimbursed expenses in connection with the prosecution of the Action, including costs for the Settlement Administration and Notice. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

7. The following is additional information regarding certain of these expenses:

- (a) Overnight Delivery Services and Administrative Costs: \$12,091.95. These include court fees, federal express costs, copying costs, deposition expenses.
- (b) Online Legal & Factual Research: \$2,327.34. These are PACER and Westlaw charges.
- (c) Travel Expenses: \$17,464.35. These include costs of travel, including airfare, accommodation and food for work performed directly related to this matter including depositions and appearances before the Court.
- (d) E-Discovery Expenses: \$3,834.26. This includes fees from use of Disco for Document Discovery.
- (e) Expert Expenses: \$130,874.00: This includes costs incurred from the retention and use of experts in this Action.

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<sup>1</sup> The original Lead Plaintiffs in this Action were Anita G. Zucker, Trustee of the Anita G. Zucker Trust Dated April 4, 2007, as Subsequently Amended or Restated, and Anita G. Zucker, Trustee of the Article 6 Marital Trust, Under the First Amended and Restated Jerry Zucker Revocable Trust dated April 2, 2007 (the “Trusts”).

(f) Settlement Administration and Notice: \$69,979.00. This includes costs incurred for Notice and Settlement Administration

8. With respect to the standing of my firm, attached hereto as Exhibit C is a firm resume.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 21st day of November, 2024.

/s/ Daniel S. Sommers  
Daniel S. Sommers

*Bowl America, Inc. Securities Settlement***EXHIBIT A****LODESTAR REPORT**

FIRM: Cohen Milstein Sellers &amp; Toll PLLC.

REPORTING PERIOD: INCEPTION THROUGH October 31, 2024

<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>CURRENT RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
Daniel S. Sommers	P	\$1240	353	\$437,720
S. Doug Bunch	P	\$945	2	\$1,890
Steven J. Toll	P	\$1320	1.25	\$1,650
Amy Miller	OC	\$995	843.25	\$839,033.75
Richard Speirs	OC	\$1215	805.25	\$978,378.75
Lyzette Wallace	DC	\$620	42	\$26,040
Jan Messerschmidt	A	\$755	15	\$11,325
Norhan Bassiouny	A	\$550	18.25	\$10,037.50
Ann Sarnak	F	\$485	15.25	\$7,396.25
Melita Wallace	F	\$450	10.5	\$4,725
Eric Trachtenberg	PL	\$350	26	\$9,100
Jacob Hague	PL	\$350	18	\$6,300
Jihoon Lee	PL	\$395	66	\$26,070
Joshua Kluger	PL	\$335	5.5	\$1,842.50
Monica Sebastian	PL	\$325	7	\$2,275
Rhyma Asim	PL	\$380	19.5	\$7,410
Samuel Bloom	PL	\$380	378.5	\$143,830
Segundo Rienhardt	PL	\$380	4.75	\$1,805
Sean Nguyen	PL	\$380	10.25	\$3,895
Tanner G. Horner	PL	\$335	59.5	\$19,932.50
<b>TOTALS</b>			<b>2700.75</b>	<b>\$2,540,656.25</b>

Partner (P)  
Of Counsel (OC)  
Discovery Counsel (DC)  
Associate (A)  
Fellow (F)  
Paralegal (PL)

*Bowl America, Inc. Securities Settlement***EXHIBIT B****EXPENSE REPORT**

FIRM: Cohen Milstein Sellers &amp; Toll PLLC

REPORTING PERIOD: INCEPTION THROUGH October 31, 2024

<b>CATEGORY</b>		<b>TOTAL AMOUNT</b>
Travel Expenses		\$17,464.35
Other Administrative Costs		\$12091.95
Online Legal & Factual Research		\$2327.34
Expert Fees		\$130874.00
E-Discovery Fees		\$3,834.26
Settlement Administration and Notice		\$69,979.00
<b>TOTAL</b>		<b>\$236,570.92</b>

*Bowl America, Inc. Securities Settlement*

**EXHIBIT C**

**CMST Firm Resume**

# COHENMILSTEIN

## COHEN MILSTEIN SELLERS & TOLL PLLC

For decades, Cohen Milstein Sellers & Toll PLLC has represented individuals, small businesses, institutional investors, and employees in many of the major class action cases litigated in the United States for violations of the antitrust, securities, consumer protection, civil rights/discrimination, ERISA, employment, and human rights laws. Cohen Milstein is also at the forefront of numerous innovative legal actions that are expanding the quality and availability of legal recourse for aggrieved individuals and businesses both domestic and international. Over its history, Cohen Milstein has obtained many landmark judgments and settlements for individuals and businesses in the United States and abroad. The firm's most significant successes include:

- Wells Fargo & Co. Securities Litigation No. 1:20-cv-04494-GHW (S.D.N.Y.): We are Co-Lead Counsel representing Co-Lead Plaintiffs Public Employees' Retirement System of Mississippi and State of Rhode Island Office of the General Treasurer in this securities fraud class action. Plaintiffs allege that, in the wake of a widespread consumer banking scandal from 2016 to 2018, the company and certain current and former executives misrepresented to investors and Congress that it had improved its governance and oversight structure in compliance with three federal regulatory consent orders to ensure that the consumer abuses that had plagued the bank would not recur. On May 16, 2023, the Court granted preliminary approval of a historic \$1 billion cash settlement.
- Doe, Aceh, Indonesia v. ExxonMobil Corporation No. 01-1357 (D.D.C.): On May 15, 2023, eleven Indonesian villagers represented by Cohen Milstein settled a high-profile human rights lawsuit with ExxonMobil Corporation a week before a jury trial was scheduled to begin and shortly after the court denied ExxonMobil's final motion for summary judgment, in which it pointedly stated that most of Exxon's arguments were "entirely meritless." The confidential settlement brought an end to two decades of litigation, which was originally filed in 2001. The case set numerous legal precedents, during which it saw two trips to the D.C. Circuit Court of Appeals (decided January 2007 and July 2011) and one trip to the Supreme Court (certiorari was denied in 2008). Each time, novel issues of foreign policy impact, extraterritorial jurisdiction, and choice of law were briefed and considered by the Court of Appeals.
- Jock et al. v. Sterling Jewelers Inc. No. 11 160 0065508 (AAA; S.D.N.Y.): On November 15, 2022, the Arbitrator granted final approval of a \$175 million settlement in this rare, closely watched certified class arbitration, filed under Title VII of the Civil Rights Act of 1964 (Title VII) and the Equal Pay Act ("EPA"). The lawsuit, which involved approximately 70,000 claimants, was litigated before the AAA, the United States District Court for the Southern District of New York, and the United States Court of Appeals for the Second Circuit and involved novel legal issues and rulings related to class certification, class arbitration, and the threshold role of an arbitrator. On October 5, 2020, the Supreme Court declined to hear the petition for certiorari, allowing the case to move forward to trial as a certified class arbitration before the AAA.
- In re Ranbaxy Generic Drug Application Antitrust Litigation No. 1:19-md-02878-NMG (MDL No. 2878) (D. Mass.): On September 19, 2022, the Court granted final approval of a \$485 million global settlement to resolve claims against Ranbaxy in this antitrust, federal RICO, and state consumer protection MDL for allegedly manipulating the U.S. Food and Drug Administration's generic drug approval process to block competitors from coming to market and forcing purchasers to pay supracompetitive prices for its valganciclovir hydrochloride and valsartan products. Of the \$485 million global settlement, \$340 million will go to the certified class of Direct Purchasers. Cohen Milstein represented the certified Direct Purchaser Class.
- FirstEnergy Shareholder Derivative Litigation (S.D. Ohio, N.D. Ohio): On August 23, 2022, the Court granted final approval of a \$180 million global settlement of all shareholder derivative cases, including Employees

Retirement System of the City of St. Louis and Electrical Workers Pension Fund, Local 103, IBEW v. Charles E. Jones, FirstEnergy Corp., et al., (S.D. Ohio) that of Miller v. Anderson (N.D. Ohio) and In re FirstEnergy Corp., Stockholder Derivative Litigation, (Crt. of Common Pleas, Summit County). Plaintiffs represent that the settlement is “among the largest derivative recoveries ever achieved” in the United States and “three times greater than any prior derivative recovery in the history of the Sixth Circuit.” Moreover, under the terms of the settlement, FirstEnergy will commit to a series of internal governance reforms, including the departure of six Directors, active Board oversight of FirstEnergy’s political spending and lobbying activities, specific disclosures in the annual proxy statement issued to shareholders.

- Dignity Health Church Plan Litigation No. 3:13-cv-01450 (N.D. Cal.): Cohen Milstein is Co-Counsel to a class of defined benefit participants, which alleges that Dignity Health is improperly claiming that its pension plans are exempt from ERISA’s protections because they are “church plans,” and as a result has underfunded its plans by over \$1.2 billion. In June 2017, the Supreme Court reversed previous rulings on consolidated church plan cases and ordered Plaintiffs, in this case, to file an amended complaint. On July 15, 2022, the Court granted final approval to the \$100 million settlement.
- In re Pinterest Derivative Litigation No. 3:20-cv-08331-WHA (N.D. Cal.): On June 9, 2022, the Court granted final approval of a \$50 million settlement in this consolidated shareholder derivative lawsuit. The settlement is the first of its kind to embrace diversity goals around a company’s product. It also requires Pinterest to commit \$50 million to a holistic set of workplace and Board-level reforms designed to protect employees from discriminatory treatment and to promote diversity, equity, and inclusion (DEI) throughout its workplace and product.
- L Brands, Inc. Derivative Litigation No. 2:20-cv-03068-MHW-EPD (S.D. Ohio): Cohen Milstein, in partnership with the State of Oregon, the Oregon Public Employees Retirement Fund, and other shareholders, helped resolve allegations that officers and directors of L Brands, Inc., previous owners of Victoria’s Secret, breached their fiduciary duties by maintaining ties with alleged sex offender and pedophile Jeffrey Epstein and fostering a culture of discrimination and misogyny at the company. Following a Delaware General Corporate Law Section 220 books and records demand and an extensive, proprietary investigation, L Brands and the now-standalone company, Victoria’s Secret, agreed to stop enforcing non-disclosure agreements that prohibit the discussion of a sexual harassment claim’s underlying facts; stop using forced arbitration agreements; implement sweeping reforms to their codes of conduct, policies and procedures related to sexual misconduct and retaliation; and to invest \$45 million each, for a total of \$90 million, in diversity, equity and inclusion initiatives and DEI Advisory Councils. On May 16, 2022, the Court granted final approval of this watershed settlement.
- In re Broiler Chicken Antitrust Litigation No. 1:16-cv-08637 TMD (N.D. Ill.): On December 20, 2021, the Court granted final approval to settlements worth \$181 million with six chicken processors, Tyson Foods, Fieldale Farms, Peco Foods, George’s Inc., Pilgrim’s Price Corp. and Mar-Jac, to resolve consumer claims that they conspired to inflate broiler chicken prices since 2009 and that Agri Stats, Inc., a third-party vendor, facilitated their unlawful scheme. Litigation against the dozen remaining defendants continues. Cohen Milstein was Co-Lead Settlement Class Counsel.
- In re Flint Water Cases No. 16-cv-10444 (E.D. Mich.): On November 10, 2021, the Court granted final approval of a landmark \$626.25 million settlement between Flint residents and businesses and multiple governmental defendants, including the State of Michigan, Michigan Department of Environmental Quality (DEQ), and individual defendants, including former Governor Rick Snyder, in this environmental toxic tort class action, affecting over 90,000 Flint residents and businesses. Litigation continues against other defendants, including two private engineering firms, Veolia North America and Lockwood, Andrews & Newnam (LAN), both charged with professional negligence, and separate litigation against the U.S.

Environmental Protection Agency will also continue. Cohen Milstein's is Interim Co-Lead Class Counsel in this litigation.

- Sutter Health Antitrust Litigation No. CSG 14-538451 (Sup. Ct., San Fran. Cnty., Cal.): On August 27, 2021, the Court granted final approval of a \$575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds against Sutter Health. California's Attorney General joined the suit in March 2018.
- National Opioids Litigation: On July 21, 2021, the state Attorneys General of Indiana, New Jersey, and Vermont announced historic settlement agreements, totaling \$704.8 million as a part of a \$26 billion national agreement with the nation's three major pharmaceutical distributors, Cardinal Health, McKesson, and AmerisourceBergen, and opioids manufacturer Johnson & Johnson for their roles in promulgating the opioid epidemic in each of their states. (New Jersey's settlement with J&J/Janssen – \$137.8 million; Indiana's settlement with the distributors and J&J/Janssen – \$507 million; Vermont's settlement with the distributors and J&J/Janssen – \$60 million) In addition, the courts ordered numerous injunctive relief requirements of the Defendants. Cohen Milstein represented the state Attorneys General of Indiana, New Jersey\*, and Vermont in investigations and litigation against these entities. \*J&J/Janssen only. Final approval of the resolution in the litigation against Purdue Pharma and the Sackler family is pending in bankruptcy court.
- State Attorneys General PBM Investigations & Litigation: We serve as special counsel to more than a dozen state Attorneys General in their respective investigations of the pharmacy benefit managers (PBMs) that provide pharmacy benefits and services to their state's Medicaid program and state employee health plans. The PBMs under investigation include Centene's Envolve Pharmacy Solutions, OptumRx, Express Scripts, and CVS Caremark. In Ohio alone, the investigations have led to litigation against Centene, OptumRx and Express Scripts, for their alleged role in breaching provider agreements with the state. Since June 2021, we have helped achieve over \$950 million in settlements with Centene for our state Attorney General clients, including: California, Ohio, Mississippi, Illinois, Arkansas, and New Mexico. We are working with other state Attorneys General to finalize their settlements with Centene that will return hundreds-of-millions of dollars back to these states
- Jien, et al. v. Perdue Farms, Inc., et al., No. 1:19-cv002521-ELH (D. Md.): Since July 20, 2021, the Court has preliminarily approved the first eight settlements against more than a dozen of the nation's largest poultry producers, totaling \$195.25 million, in this novel wage-fixing conspiracy class action. Plaintiffs allege that, since 2000, Tyson Foods Inc., Perdue Farms Inc. and other poultry processors conspired to depress the compensation of poultry processing workers in violation of the federal antitrust laws. The case is at the vanguard of the movement in antitrust law to protect workers. The Department of Justice filed a case against certain poultry processors based on the class action complaint which was the result of an independent private factual investigation. Cohen Milstein serves as Interim Co-Lead Counsel.
- Breen v. U.S. Department of Transportation and Federal Aviation Administration No. 1:05-cv-00654 (D.D.C.): In April 2021, the U.S. Department of Transportation and Federal Aviation Administration agreed to a record-breaking \$43.8 million settlement – the largest age discrimination settlement ever involving the federal government, ending a 16-year-old age discrimination lawsuit involving 670 former Flight Service Specialists, who were laid off in 2005 when the FAA conducted a reduction in force. More than 90% of these workers were over 40 years old and many lost their federal pension benefits.

- In re Alphabet Shareholder Derivative Litigation No. 19CV341522 (Sup. Ct. Cal., Santa Clara Cnty.): Cohen Milstein, as Co-Lead Counsel, represented Northern California Pipe Trades Pension Plan and Teamsters Local 272 Labor Management Pension Fund in this shareholder derivative action seeking to hold Alphabet's leadership accountable for a "culture of concealment," which involved covering up pervasive gender discrimination and sexual harassment and approving secretive, multi-million dollar payouts to high-level executives credibly accused of serious sexual misconduct against junior employees. In November 2020, the Court granted final approval of a historic settlement, which includes a \$310 million funding commitment and sweeping reforms to eliminate practices that silence victims and implement new measures to improve workplace equity and board oversight.
- Department of Homeland Security, et al. v. Regents of the University of California, et al. No. 18-587 (U.S. Supreme Court): In June 2020, the Supreme Court blocked the Trump Administration's plan to rescind the Deferred Action for Childhood Arrivals (DACA) program, preserving immigration protections for approximately 650,000 current DACA recipients aka "Dreamers." The Court's 5-4 ruling upheld the partial summary judgment in Cohen Milstein's NAACP case (D.D.C.) – one of three cases consolidated before the Supreme Court. The Opinion stated that the Court's affirmance of the NAACP order vacating the rescission made it unnecessary to examine the propriety of the nationwide preliminary injunctions that were issued in the consolidated cases. Cohen Milstein's case: NAACP, et al. v. Donald J. Trump, as President of the United States, et al., No. 1:17-cv-01907 (D.D.C.) was consolidated with and re-named: Trustees of Princeton University, et al. v. U.S. et al., No. 1:17-cv-02325 (D.D.C.).
- LLE One, LLC v. Facebook No.: 4:16-cv-06232-JSW (N.D. Cal.): In June 2020, the Court granted final approval of a \$40 million settlement in a consolidated, consumer class action against Facebook. The final approval also certified a class of U.S.-based Facebook account holders (advertisers) who paid for video ads on the platform from February 15, 2015, until September 23, 2016 and confirmed the appointment of Cohen Milstein as Co-Class Counsel. Plaintiffs alleged that Facebook misled them about viewer engagement of video ads by using inflated video-viewing metrics.
- Wynn Resorts, Ltd. Derivative Litigation No. A-18-770013-B (Eighth Jud. Dist. Ct., Clark Cnty., Nev.): Cohen Milstein represented New York State Common Retirement Fund and the New York City Pension Funds as Lead Counsel in a derivative shareholder lawsuit against certain officers and directors of Wynn Resorts, Ltd., arising out of their failure to hold Steve Wynn, the former CEO and Chairman of the Board, accountable for his longstanding pattern of sexual abuse and harassment of female employees. In March 2020, the Court granted final approval of a \$90 million settlement in the form of cash payments and landmark corporate governance reforms, placing it among the largest, most comprehensive derivative settlements in history.
- National Association of the Deaf v. Harvard & MIT (D. Mass.): In February 2020 and June 2020, Cohen Milstein and co-counsel successfully settled the second of two groundbreaking class actions on behalf and deaf and hearing-impaired individuals. The landmark settlements are historic because they require two of the most lauded academic research institutions in the world to include closed captioning on all content, including videos and podcasts, available to the public online, establishing a precedent for academia and business worldwide.
- In Re Equifax, Inc., Customer Data Security Breach Litigation No. 1:17-md-2800-TWT (N.D. Ga.): On December 19, 2019 the Court granted final approval a landmark \$1.5 billion settlement concluding this data breach class action affecting more than 147 million people in the U.S. The settlement consists of a record-breaking \$425 million in monetary and injunctive benefits and requires Equifax to spend \$1 billion to upgrade its security and technology. Cohen Milstein was on the Plaintiffs' Steering Committee.
- New Jersey Carpenters Health Fund v. Royal Bank of Scotland Group PLC et al. No. 1:08-cv-05310-DAB-HBP (S.D.N.Y.): On March 8, 2019, the Honorable Deborah A. Batts granted final approval to a \$165 million all-

cash settlement, bringing this lawsuit, the last of 11 MBS class actions Cohen Milstein successfully handled, to conclusion. Cohen Milstein was Lead Counsel in this certified MBS class action.

- In re Lidoderm Antitrust Litigation No. 3:14-md-02521 (N.D. Cal.): Plaintiffs allege that Endo and Teikoku, manufacturers of the Lidoderm patch, paid Watson Pharmaceuticals to delay its generic launch. The case settled on the eve of trial and on September 20, 2018, Plaintiffs obtained final approval of a \$104.75 million settlement – more than 40% of Plaintiffs’ best-case damages estimate. This case was ranked by Law360 as “The Biggest Competition Cases Of 2017 So Far” (July 7, 2017).
- In re Domestic Drywall Antitrust Litigation No. 2:13-md-02437 (E.D. Pa.): Cohen Milstein served as Co-Lead Counsel for a class of direct purchasers of drywall against drywall manufacturers for price-fixing. The Court approved settlements that total more than \$190 million. The Court commented that it had sided with Plaintiffs because of counsel’s “outstanding work,” and that Plaintiffs’ counsel had a “sophisticated and highly professional approach.” It complimented the attorneys as “highly skilled” and noted that their performance on class action issues was “imaginative.” It also stated, “Few cases with no government action, or investigation, result in class settlements as large as this one.”
- In re Anthem Data Breach Litigation No. 15-MD-02617-LHK (N.D. Cal.): On August 16, 2018, the Honorable Lucy H. Koh in the U.S. District Court for the Northern District of California granted final approval to a \$115 million settlement – the largest data breach settlement in U.S. history – ending claims that Anthem Inc., one of the nation’s largest for-profit managed health care companies, put 78.8 million customers’ personal information, including social security numbers and health date, at risk in a 2015 data breach. Cohen Milstein was Co-Lead Counsel.
- Relvas v. The Islamic Republic of Iran, et al. No. 1:14-cv-01752-RCL (D.D.C.): On February 28, 2018 U.S. District Court Judge Royce C. Lamberth, for the District of Columbia, ordered the Republic of Iran to pay \$920 million to 80 families of soldiers and other military service members who were killed or injured in the 1983 bombing of the U.S. Marine barracks in Beirut, Lebanon. The Beirut Marine Barracks bombing, which killed 241 American servicemembers and injured numerous others, was the deadliest state-sponsored terrorist attack against United States citizens before September 11, 2001.
- Moody’s Litigation: Represented the co-lead state Mississippi and represented New Jersey in the \$864 million consumer fraud settlement achieved in January 2017 by 22 states and the U.S. Department of Justice with Moody’s Corporation, Moody’s Investors Service, Inc., and Moody’s Analytics, Inc. Together with the S&P settlement, these cases against the nation’s two largest credit rating agencies produced key industry reforms that provide greater transparency for consumers and that divested the credit rating agencies of more than \$2.2 billion for their conduct contributing to the national housing crisis and the Great Recession.
- S&P Litigation: Represented co-lead state Mississippi in the \$1.375 billion-dollar consumer fraud settlement achieved in 2015 by 20 states and the U.S. Department of Justice with Standard & Poor’s. Together with the Moody’s settlement, these cases against the nation’s two largest credit rating agencies produced key industry reforms that provide greater transparency for consumers and that divested the credit rating agencies of more than \$2.2 billion for their conduct contributing to the national housing crisis and the Great Recession.
- In re BP Securities Litigation No. 4:10-MD-02185 (S.D. Tex.): Cohen Milstein represented the New York State Common Retirement Fund as Co-Lead Plaintiff in a securities class action filed in 2010, alleging that BP injured investors by intentionally downplaying the severity of the Deepwater Horizon oil spill and preventing investors from learning the magnitude of the disaster. After successfully arguing for class certification to the district court, Cohen Milstein presented Plaintiffs’ defense of that court’s decision to the U.S. Court of

Appeals for the Fifth Circuit, which affirmed the class. The case settled for \$175 million a few weeks before trial was set to begin.

- Providence Health Services Church Plan Litigation No. 2:14-cv-01720-JCC (W.D. Wash.): Cohen Milstein served as Co-Lead Counsel to a class of defined benefit participants of Providence's health & Service Case Balance Retirement Plan who alleged that fiduciaries underfunded the pension plan because they improperly operated it under the ERISA "church plan" exemption. In March 2017, the Court granted final approval of a \$315.9 million settlement, one of the largest settlements of its kind, and requires Providence to continue making minimum plan contributions that aim to fully fund the plan by 2029.
- Bon Secours Health System Church Litigation No. 1:16-cv-01079-RDB (D. Md.): Cohen Milstein served as Lead Counsel to a class of defined benefit participants of seven Bon Secours Health System Inc. pension plans which improperly operated under the "church plan" exemption of ERISA. In May 2017, the Court granted final approval of a settlement of over \$102 million, one of the largest settlements of its kind.
- In re Animation Workers Litigation No. 5:14-cv-04062 (N.D. Cal.): Cohen Milstein served as Co-Lead Counsel representing a class of animation and visual effects workers who alleged that Pixar, Lucasfilm, DreamWorks, Disney and other studios conspired to suppress their pay primarily through no poach agreements. The Court granted final approval of \$168.95 million in settlements. To our knowledge, this is the most successful no-poach class action, achieving an average recovery per class member of nearly \$17,000.
- Mincey v. Honda Motor Company, et al. No. 22787197 (Circ. Ct. Duval Cty, Fla.): On July 15, 2016, Cohen Milstein resolved a closely watched lawsuit against the Japanese company and airbag maker, Takata, involving the injury and eventual death of a woman whose car was involved in a minor accident in 2014. The confidential resolution was announced moments before a critical hearing in which a judge in Jacksonville, Fla., could have considered allowing punitive damages and for the company's chief executive, Shigehisa Takada, to submit a civil deposition.
- HEMT MBS Litigation No. 1:08-cv-05653 (S.D.N.Y.): On May 10, 2016, U.S. District Judge Paul A. Crotty finally approved a \$110 million settlement in the mortgage-backed securities class action brought by investors against Credit Suisse AG and its affiliates. This settlement ends claims brought by the New Jersey Carpenters Health Fund and other investors who claimed that the offering documents for the mortgage-backed securities at issue violated the Securities Act as they contained false and misleading misstatements concerning compliance with underwriting standards.
- In re Urethane Antitrust Litigation (Polyether Polyol Cases) MDL No: 1616 (D. Kan.): Cohen Milstein served as Co-Lead Counsel on behalf of a class of direct purchasers of chemicals used to make many everyday products, from mattress foam to carpet cushion, who were overcharged as a result of a nationwide price-fixing conspiracy. On February 25, 2016, Cohen Milstein reached an agreement with The Dow Chemical Company to settle the case against Dow for \$835 million. Combined with earlier settlements obtained from Bayer, Huntsman, and BASF, the Dow settlement pushed the total settlements in the case to \$974 million. The settlement was approved on July 29, 2016.
- United States of America et al., ex rel. Lauren Kieff, v. Wyeth No. 03-12366 (D. Mass.): Cohen Milstein was Co-Lead Counsel in this False Claims Act whistleblower case against pharmaceutical giant Wyeth (subsequently acquired by Pfizer), in which the whistleblowers alleged that Wyeth defrauded Medicaid, the joint federal/state healthcare program for the poor, when it reported falsely inflated prices for its acid suppression drug Protonix from 2001 through 2006 for Medicaid rebate purposes. Weeks before trial, in February 2016, in one of the largest qui tam settlements in U.S. history, Wyeth agreed to pay \$784.6 million to the U.S. government and the over 35 intervening states.

- RALI MBS Litigation No. 08-8781 (S.D.N.Y.): On July 31, 2015, Judge Katherine Failla gave final approval to a \$235 million settlement with underwriters Citigroup Global Markets Inc., Goldman Sachs & Co., and UBS Securities LLC. She also approved a plan for distribution to investors of those funds as well as the previously approved \$100 million settlement with RALI, its affiliates, and the individual defendants that was reached in 2013. This global settlement marks an end to a long and complicated class action over MBS offerings that RALI and certain of its affiliates issued and sold to the New Jersey Carpenters Health Fund and other investors from 2006 through 2007. The case took seven years of intense litigation to resolve.
- In re: Bear Stearns Mortgage Pass-Through Certificates Litigation No. 08-08093 (S.D.N.Y.): On May 27, 2015, U.S. District Judge Laura Taylor Swain finally approved a class action settlement with JPMorgan Chase & Co., which agreed to pay \$500 million and up to an additional \$5 million in litigation-related expenses to resolve claims arising from the sale of \$27.2 billion of mortgage-backed securities issued by Bear Stearns & Co. during 2006 and 2007 in 22 separate public offerings.
- Harborview MBS Litigation No. 08-5093 (S.D.N.Y.): In February 2014, Cohen Milstein reached a settlement with the Royal Bank of Scotland (RBS) in the Harborview MBS Litigation, resolving claims that RBS duped investors into buying securities backed by shoddy home loans. The \$275 million settlement is the fifth largest class action settlement in a federal MBS case. This case is one of eight significant MBS actions that Cohen Milstein has been named Lead or Co-Lead Counsel by courts and one of three that were nearly thrown out by the Court, only to be revived in 2012.
- In Re Electronic Books Antitrust Litigation No. 11-md-02293 (S.D.N.Y.): In August 2014, a New York federal judge approved a \$400 million antitrust settlement in the hotly contested ebooks price-fixing suit against Apple Inc. Combined with \$166 million in previous settlements with five defendant publishing companies, the final settlement totaled more than \$560 million. The settlement resolves damages claims brought by a class of ebook purchasers and attorneys general from 33 U.S. states and territories.
- Countrywide MBS Litigation No. 2:10-cv-00302 (C.D. Cal.): In April 2013, Plaintiffs in the landmark mortgage-backed securities (MBS) class action litigation against Countrywide Financial Corporation and others, led by Lead Plaintiff, the Iowa Public Employees' Retirement System (IPERS), agreed to a \$500 million settlement. It is the nation's largest MBS-federal securities class action settlement. The settlement was approved in December 2013 and brings to a close the consolidated class action lawsuit brought in 2010 by multiple retirement funds against Countrywide and other defendants for securities violations involving the packaging and sale of MBS. The settlement is also one of the largest (top 20) class action securities settlements of all time.
- In re Beacon Associates Litigation No. 09-cv-0777 (S.D.N.Y.): Class action settlement of \$219 million for trustees and participants in ERISA-covered employee benefit plans whose assets were lost through investments made on their behalf by Beacon Associates LLC I & II in the investment schemes of Bernard Madoff.
- In re Plasma-Derivative Protein Therapies Antitrust Litigation No. 09 C 7666 (N.D. Ill.): After four years of litigation, in October of 2013, CSL Limited, CSL Behring LLC, CSL Plasma, Inc. (collectively, "CSL"), and the Plasma Protein Therapeutics Association ("PPTA") agreed to pay \$64 million dollars to settle a lawsuit brought by the University of Utah Hospital and other health care providers alleging that CSL, the PPTA, and Baxter agreed between 2003-2009 to restrict the supply of immunoglobulin and albumin and thereby increase the prices of those therapies. Two months later, Baxter International Inc. and Baxter Healthcare Corp. (collectively "Baxter") agreed to pay an additional \$64 million to settle these claims – bringing the total recovery to the class to \$128 million.

- Keepseagle v. Vilsack Civil Action No. 1:99CV03119 (D.D.C.): A class of Native American farmers and ranchers allege that they have been systematically denied the same opportunities to obtain farm loans and loan servicing that have been routinely afforded white farmers by the USDA. A class was certified in 2001 by Judge Emmet Sullivan, District Judge for the U.S. District Court for the District of Columbia, and the D.C. Circuit declined USDA's request to review that decision. On October 19, 2010, the case reached a historic settlement, with the USDA agreeing to pay \$680 million in damages to thousands of Native American farmers and ranchers and forgive up to \$80 million worth of outstanding farm loan debt.
- In re Parmalat Securities Litigation No. 1:04-md-1653 (S.D.N.Y.): Cohen Milstein, as Co-Lead Counsel, successfully negotiated several settlements totaling approximately \$90 million, including two settlements with Parmalat's outside auditors. Judge Lewis A. Kaplan remarked that Plaintiffs' Counsel "did a wonderful job here for the class and were in all respects totally professional and totally prepared. I wish I had counsel this good in front of me in every case." Parmalat's bankruptcy filing was the biggest corporate bankruptcy in Europe, and in December 2003, the U.S. Securities and Exchange Commission filed a suit charging Parmalat with "one of the largest and most brazen corporate financial frauds in history." During the litigation, the company subsequently emerged from bankruptcy, as a result we added "New Parmalat" as a defendant because of the egregious fraud committed by the now-bankrupt old Parmalat. New Parmalat strenuously objected and Judge Kaplan of the Southern District of New York ruled in the class plaintiffs' favor, a ruling which was affirmed on appeal. This innovative approach of adding New Parmalat enabled the class to obtain an important additional source of compensation, as we subsequently settled with New Parmalat for shares worth approximately \$26 million.
- Dukes v. Wal-Mart Stores, Inc. No. C-01-2252 (N.D. Cal.): Cohen Milstein is Co-Lead Counsel in this sex discrimination case. In 2004, the U.S. District Court certified a nationwide class action lawsuit for all female employees of Wal-Mart who worked in U.S. stores anytime after December 26, 1998. This was the largest civil rights class action ever certified against a private employer, including approximately 1.5 million current and former female employees. That ruling was appealed, and while affirmed by the Ninth Circuit, was reversed by the Supreme Court in June 2011. Cohen Milstein argued the case for the plaintiffs-respondents in the Supreme Court. Since then, the *Dukes* action has been amended to address only the Wal-Mart regions that include stores in California, and other regional class cases have been or are soon to be filed. This litigation to resolve the merits of the claims – whether Wal-Mart discriminates against its female retail employees in pay and promotions – continues.
- Rubin v. MF Global, Ltd. No. 08-CV-02233 (S.D.N.Y.): Acting as Co-Lead Counsel in this class action, the Firm represented the Central States, Southeast and Southwest Areas Pension Fund which was one of the co-lead plaintiffs in the case. In September 2010, as a result of Plaintiffs' decision to appeal, the U.S. Second Circuit Court of Appeals vacated in part the lower court's dismissal of the case and remanded the case for further proceedings. In overturning the District Court decision, the Second Circuit issued a decision which differentiated between a forecast or a forward-looking statement accompanied by cautionary language -- which the Appellate Court said would be insulated from liability under the bespeaks caution doctrine -- from a factual statement, or non-forward-looking statement, for which liability may exist. Importantly, the Second Circuit accepted Plaintiffs' position that where a statement is mixed, the court can sever the forward-looking aspect of the statement from the non-forward-looking aspect. The Court further stated that statements or omissions as to existing operations (and present intentions as to future operations) are not protected by the bespeaks caution doctrine. Mediation followed this decision and resulted in a settlement comprised of \$90 million in cash.
- Hughes v. Huron Consulting Group No. 09-CV-04734 (N.D. Ill.): Cohen Milstein represented Lead Plaintiffs the Public School Teachers' Pension & Retirement Fund of Chicago and the Arkansas Public Employees

Retirement System (“APERS”) in this case against Huron Consulting Group, founded by former Arthur Anderson personnel following its collapse in the wake of the Enron scandal. In August 2010, the District Court for the Northern District of Illinois denied Defendants' motions to dismiss in their entirety and upheld Plaintiffs' allegations that Defendants intentionally improperly accounted for acquisition-related payments, which allowed Plaintiffs to move forward with discovery. The case was settled for \$40 million, comprised of \$27 million in cash and 474,547 shares in Huron common stock, with an aggregate value at the time of final approval in 2011 of approximately \$13 million.

- In re Lucent Technologies Securities Litigation No. 00-621 (D.N.J.): A settlement in this massive securities fraud class action was reached in late March 2003. The class portion of the settlement amounts to over \$500 million in cash, stock and warrants and ranks as the second largest securities class action settlement ever completed. Cohen Milstein represented one of the co-lead plaintiffs in this action, a private mutual fund.
- Nate Pease, et al. v. Jasper Wyman & Son, Inc., et al. No. 00-015 (Knox County Superior Court, Me.): In 2004, a state court jury from Maine found three blueberry processing companies liable for participating in a four-year price-fixing and non-solicitation conspiracy that artificially lowered the prices Defendants paid to approximately 800 growers for wild blueberries. The jury ordered Defendants Cherryfield Foods, Inc., Jasper Wyman & Son, Inc., and Allen's Blueberry Freezer, Inc. to pay \$18.68 million in damages, the amount which the growers would have been paid absent the defendants' conspiracy. After a mandatory trebling of this damage figure under Maine antitrust law, the total amount of the verdict for the plaintiffs is just over \$56 million. The firm served as Co-Lead Counsel.
- In re StarLink Corn Products, Liability Litigation MDL No. 1403 (N.D. Ill.): Cohen Milstein successfully represented U.S. corn farmers in a national class action against Aventis CropScience USA Holding and Garst Seed Company, the manufacturer and primary distributor of StarLink corn seeds. StarLink is a genetically modified corn variety that the United States government permitted for sale as animal feed and for industrial purposes, but never approved for human consumption. However, StarLink was found in corn products sold in grocery stores across the country and was traced to widespread contamination of the U.S. commodity corn supply. The firm, as Co-Lead Counsel, achieved a final settlement providing more than \$110 million for U.S. corn farmers, which was approved by a federal district court in April 2003. This settlement was the first successful resolution of tort claims brought by farmers against the manufacturers of genetically modified seeds.
- Snyder v. Nationwide Mutual Insurance Company No. 97/0633 (Sup. Ct. N.Y. Onondaga Cnty.): Cohen Milstein served as one of Plaintiffs' principal counsel in this case on behalf of persons who held life insurance policies issued by Nationwide through its captive agency force. The action alleged consumer fraud and misrepresentations. Plaintiffs obtained a settlement valued at more than \$85 million. The judge praised the efforts of Cohen Milstein and its co-counsel for having done “a very, very good job for all the people.” He complimented “not only the manner” in which the result was arrived at, but also the “time ... in which it was done.”
- Oncology & Radiation Associates, P.A. v. Bristol Myers Squibb Co., et al. No. 1:01CV02313 (D.D.C.): Cohen Milstein has been Co-Lead Counsel in this case since its inception in 2001. Plaintiffs alleged that Bristol-Myers Squibb unlawfully monopolized the United States market for paclitaxel, a cancer drug discovered and developed by the United States government, which Bristol sells under the brand name Taxol. Bristol's scheme included a conspiracy with American BioScience, Inc., a generic manufacturer, to block generic competition. Cohen Milstein's investigation and prosecution of this litigation on behalf of direct purchasers of Taxol led to a settlement of \$65,815,000 that was finally approved by U.S. District Judge Emmet G. Sullivan

on August 14, 2003 and preceded numerous Taxol-related litigations brought by the Federal Trade Commission and State Attorneys General offices.

- Kruman v. Christie’s International PLC, et al. No. 01-7309 (S.D.N.Y.): A \$40 million settlement on behalf of all persons who bought or sold items through Christie’s or Sotheby’s auction houses in non-internet actions was approved in this action. Cohen Milstein served as one of three Lead Counsel on behalf of foreign plaintiffs. The Court noted that approval of the settlement was particularly appropriate, given the significant obstacles that faced plaintiffs and plaintiffs’ counsel in the litigation. The settlement marked the first time that claims on behalf of foreign plaintiffs under U.S. antitrust laws have been resolved in a U.S. court, a milestone in U.S. antitrust jurisprudence.
- Roberts v. Texaco, Inc. 94-Civ. 2015 (S.D.N.Y.): Cohen Milstein represented a class of African-American employees in this landmark litigation that resulted in the then-largest race discrimination settlement in history (\$176 million in cash, salary increases and equitable relief). The Court hailed the work of Class Counsel for, *inter alia*, “framing an imaginative settlement, that may well have important ameliorative impact not only at Texaco but in the corporate context as a whole ...”.
- Trotter v. Perdue Farms, Inc. No. 99-893 (D. Del.): This suit on behalf of hourly workers at Perdue’s chicken processing facilities – which employ approximately 15,000 people – forced Perdue to pay employees for time spent “donning and doffing,” that is, obtaining, putting on, sanitizing and removing protective equipment that they must use both for their own safety and to comply with USDA regulations for the safety of the food supply. The suit alleged that Perdue’s practice of not counting donning and doffing time as hours worked violated the Fair Labor Standards Act and state law. In a separate settlement with the Department of Labor, Perdue agreed to change its pay practices. In addition, Perdue is required to issue retroactive credit under one of its retirement plans for “donning and doffing” work if the credit would improve employees’ or former employees’ eligibility for pension benefits. Cohen Milstein was Co-Lead Counsel.

## Awards & Recognitions

2023

- In 2023, Legal 500 ranked Cohen Milstein “**Leading Lawyers**” in plaintiff-side Antitrust, Product Liability, Mass Tort & Class Action, and Securities Litigation.
- In 2023, Legal 500 ranked Rich Koffman, Ted Leopold, Sharon Robertson, Kit Pierson, Julie Reiser, and Steve Toll “**Leading Lawyers**” in their respective practices.
- In 2023, Legal 500 ranked Michael Eisenkraft and Brent Johnson “**Next Generation Partners**” in Antitrust and Securities Litigation, respectively.
- In 2023, Sharon K. Robertson was “**Top Ranked**” by Chambers USA for Antitrust: Plaintiff – New York and “**Ranked**” in Antitrust: Plaintiff – Nationwide.
- In 2023, Kit A. Pierson was “**Ranked**” by Chambers USA for Antitrust: Plaintiff – Nationwide.
- In 2023, Michelle C. Yau and Kai Richter were “**Top Ranked**” by Chambers USA for ERISA Litigation: Plaintiff – Nationwide.
- In 2023, Daniel R. Sutter was named “**Associate to Watch**” by Chambers USA for ERISA Litigation: Plaintiff.
- In 2023, Chambers USA ranked Cohen Milstein a “**Leading Firm**” in Antitrust, ERISA Litigation, Product Liability & Mass Torts, and Securities Litigation.
- In 2023, Twenty-Three Cohen Milstein attorneys were named to the 2022 Lawdragon **500 Leading Plaintiff Financial Lawyers** List.
- In 2023, Christine E. Webber was “**Top Ranked**” Employment Law Litigator by Chambers USA for Washington, D.C.
- In 2023, The National Law Journal named Joe Sellers winner of the “**Lifetime Achievement Award,**” and Alison Deich & Daniel Sutter “**Rising Stars.**”
- In 2023, Law360 named Laura Posner, Steven Toll, Julie Reiser, S. Douglas Bunch and Molly Bowen Law360’s “**Legal Lions Of The Week**” for helping achieve a \$1 billion settlement in the Wells Fargo securities class action.
- In 2023, The National Law Journal named Carol Gilden “**Plaintiffs’ Attorneys Trailblazer.**”
- In 2023, Daniel McCuaig, Christine Webber, and Michelle Yau are appointed to Law360’s editorial advisory boards for Competition, ERISA, and Wage & Hour Law.
- In 2023, 12 Cohen Milstein Attorneys Recognized as **Super Lawyers & Rising Stars in Washington, D.C.**
- In 2023, the American Lawyer named Agnieszka Fryszman and Nicholas Jacques “**Litigator of the Week Runners-Up**” for their work in settling a human rights lawsuit against ExxonMobil.
- In 2023, the American Lawyer named Steve Toll and Takisha Richardson “**Litigator of the Week Runners-Up**” for their work in a sexual abuse lawsuit against Washington Hebrew.
- In 2023, the American Lawyer named Kai Richter, Michelle Yau, and Ryan Wheeler “**Litigator of the Week Runners-Up**” for their Envision ESOP win before the 10<sup>th</sup> Circuit.
- In 2023, Carol V. Gilden was named a 2023 **Illinois Super Lawyer.**
- In 2023, nine Cohen Milstein attorneys were named to the **2023 Lawdragon’s 500 Leading Lawyers** in America List, including Benjamin D. Brown, Agnieszka Fryszman, Leslie M. Kroeger, Theodore J. Leopold, Julie G. Reiser, Sharon Robertson.
- In 2023, Law360 named Cohen Milstein **2022 Practice Group of the Year** in Benefits, Competition, and Securities.
- In 2023, Joseph M. Sellers was named to **Lawdragon’s 2023 Hall of Fame.**

## 2022

- In 2022, Benchmark Litigation named Julie Goldsmith Reiser a **2023 Benchmark Litigation Star**.
- In 2022, the American Arbitration Institute named Cohen Milstein's **AAI's 2022 "Outstanding Antitrust Litigation Achievement in Private Law Practice."**
- In 2022, Benchmark Litigation named Michael B. Eisenkraft, Laura H. Posner and Sharon K. Robertson **2023 Benchmark Litigation Future Stars**.
- In 2022, Benchmark Litigation named Steven J. Toll a **2023 Benchmark Litigation Star**.
- In 2022, 17 Cohen Milstein attorneys named **2022 Super Lawyers**; seven attorneys named **Rising Stars**.
- In 2022, Corporate Counsel named Julie G. Reiser a winner of the **2022 Women, Influence & Power in Law Awards**.
- In 2022, Crain's Chicago Business named Carol Gilden a 2022 **"Notable Women in Law."**
- In 2022, Who's Who Legal Competition 2022 - Plaintiff - Legal Marketplace Analysis named Richard A. Koffman a **"Leading Individual – USA."**
- In 2022, Cohen Milstein recognized as leading firm for women in Law360's **"2022 Glass Ceiling Report: Women in Law."**
- In 2022, Seventeen Cohen Milstein attorneys recognized by **"The Best Lawyers in America."**
- In 2022, Benchmark Litigation named Julie G. Reiser to its 2022 **"Top 250 Women in Litigation"** list.
- In 2022, Benchmark Litigation named Sharon Robertson to its 2022 **"40 & Under"** list.
- In 2022, American Lawyer recognized Michael Eisenkraft in **"Litigator of the Week Runners-Up and Shout Outs."**
- In 2022, The National Law Journal named Cohen Milstein it's 2022 Elite Trial Lawyers of the Year – **"Practice of the Year"** for "Consumer Protection" and "Discrimination"
- In 2022, twenty-two Cohen Milstein attorneys named to the 2022 Lawdragon **"500 Leading Plaintiff Financial Lawyers"** list.
- In 2022, seven Cohen Milstein attorneys named to 2022 Lawdragon **"500 Leading Plaintiff Employment & Civil Rights Lawyers."**
- In 2022, Legal500 recognized Cohen Milstein's Antitrust attorneys as 2022 **"Hall of Fame," "Leading Lawyers"** and **"Next Generation Partners."**
- In 2022, Legal500 recognized Cohen Milstein Product Liability, Mass Tort & Class Action Attorneys as 2022 **"Leading Lawyers."**
- In 2022, Legal500 recognized Cohen Milstein Labor & Employment Attorneys as 2022 **"Leading Lawyers"** and **"Next Generation Partners."**
- In 2022, Legal500 recognized Cohen Milstein Securities Litigation Attorneys as 2022 **"Leading Lawyers"** and **"Next Generation Partners."**
- In 2022, Legal 500 named Cohen Milstein **"Leading Firm"** for Plaintiffs in Antitrust; Labor and Employment Disputes; Products Liability, Mass Torts & Class Action; and Securities Litigation.
- In 2022, *Chambers USA* named Michelle Yau a 2022 **"Top Ranked" lawyer in ERISA Litigation: Plaintiff– Nationwide**.
- In 2022, *Chambers USA* named Daniel R. Sutter a 2022 **"Associate to Watch" in ERISA Litigation: Plaintiff – Nationwide**.
- In 2022, *Chambers USA* ranked Cohen Milstein a **2022 "Top Ranked" firm** in four categories – Antitrust: Plaintiff, ERISA Litigation: Plaintiff, Product Liability & Mass Torts: Plaintiff, and Securities Litigation: Mainly Plaintiff
- In 2022, *Chambers USA* named Sharon K. Robertson a **2022 "Top Ranked" lawyer for Antitrust: Plaintiff– Nationwide and for Antitrust: Mainly Plaintiffs – New York**.
- In 2022, *Chambers USA* named Kit A. Pierson a **2022 "Ranked" lawyer in Antitrust: Plaintiff – Nationwide**.

- In 2022, *Law360* named Daniel H. Silverman and Molly J. Bowen **Law360 2022 “Rising Stars”** in Antitrust and Securities, respectively.
- In 2022, the *National Law Journal* named Cohen Milstein a **2022 “Elite Trial Lawyer Award”** finalist in eight practice areas, including Antitrust, Civil Rights, Consumer Protection, Discrimination, Employment Rights, Environmental Protection, Shareholder Rights, Class Action.
- In 2022, the *National Law Journal* named Jan E. Messerschmidt and Daniel H. Silverman **2022 “Rising Stars of the Plaintiffs Bar”** in the areas of Securities and Antitrust, respectively.
- In 2022, the *National Law Journal* named Christine E. Webber a **2022 “Elite Women of the Plaintiffs Bar”** award winner.
- In 2022, the *National Law Journal* named Cohen Milstein a finalist for its **2022 “Diversity Initiative Award.”**
- In 2022, the *American Lawyer* named Carol Gildea was a **2022 American Lawyer “Trailblazer – Midwest.”**
- In 2022, Lawdragon named eight Cohen Milstein attorneys to the **“Lawdragon 500 Leading Plaintiff Consumer Lawyers 2022”** list.
- In 2022, *Law360* appointed Cohen Milstein’s Christine E. Webber to **Law360’s 2022 Discrimination Editorial Advisory Board.**
- In 2022, *Law360* appointed Cohen Milstein’s Douglas J. McNamara to **Law360’s 2022 Cybersecurity & Privacy Editorial Board** and Michelle C. Yau to **Law360’s 2022 Benefits Editorial Advisory Board.**
- In 2022, *Global Competition Review* named six Cohen Milstein attorneys to **GCR “Who’s Who Legal: Competition 2022.”**
- In 2022, Lawdragon recognized 12 Cohen Milstein lawyers in the **“Lawdragon 500 Leading Lawyers in America”** list.
- In 2022, *Law360* recognized Cohen Milstein’s Employee Benefits/ERISA practice as one of five law firms in the nation for its **“Law360 2021 Practice Group of the Year – Benefits”** award for the firm’s ERISA-related litigation accomplishments in 2021.
- In 2022, *Law360* recognized Cohen Milstein as one of five law firms in the nation for its **“Law360 2021 Practice Group of the Year – Class Actions”** for the firm’s class action accomplishments in 2021.
- In 2022, *Law360* recognized Cohen Milstein’s Civil Rights & Employment practice for its **“Law360 2021 Practice Group of the Year – Employment”** for the firm’s employment litigation accomplishments in 2021.

## 2021

- In 2021, the 2022 Edition of U.S. News – Best Lawyers “Best Law Firms” recognized Cohen Milstein among the **“Top Firms Nationally.”**
- In 2021, *The American Lawyer* named Cohen Milstein a **“National Boutique / Specialty Litigation Department of the Year”** finalist.
- In 2021, Cohen Milstein’s Leslie M. Kroeger received the 2021 **“B.J. and Tom Masterson Award for Professionalism”** from the Florida Justice Association.
- In 2021, *Lawdragon* selected eight Cohen Milstein attorneys for its **“Leading Plaintiff Employment and Civil Rights Lawyers”** guide.
- In 2021, *Law360* named Cohen Milstein’s Michelle Yau **“Benefits – MVP”** for her representation of participants and beneficiaries of the Triad Manufacturing Inc. Employee Stock Ownership Plan in an ERISA suit claiming the company overcharged workers for company stock.
- In 2021, *Law360* named Cohen Milstein’s Joseph M. Sellers **“Employment – MVP”** for his role in obtaining a settlement on behalf of some 700 fight service specialists alleging age discrimination by the Federal Aviation Administration.
- In 2021, *Law360* named Cohen Milstein’s Theodore J. Leopold **“Environmental – MVP”** for his work in securing a settlement for victims of the Flint, MI water crisis.

- In 2021, *Law360* named Cohen Milstein’s Sharon K. Robertson “**Life Sciences – MVP**” for her “pay for delay” antitrust class actions in the Life Sciences industry.
- In 2021, *The Best Lawyers in America* named three Cohen Milstein attorneys to its 2021 “**Ones to Watch**” list.
- In 2021, *The Best Lawyers in America* named 13 Cohen Milstein attorneys to its 2021 “**Best Lawyers in America**” list.
- In 2021, *The Best Lawyers in America* named Christine E. Webber “**Lawyer of the Year**” in the Employment Law – Washington, DC category.
- In 2021, Lawdragon named 24 Cohen Milstein attorneys to its “**500 Leading Plaintiff Employment Lawyers**” list.
- In 2021, Cohen Milstein’s named *The National Law Journal*/Law.com’s 2021 Elite Trial Lawyers “**Environmental Protection Practice of the Year Award.**”
- In 2021, Cohen Milstein’s Laura H. Posner and Emmy L. Levens named *The National Law Journal*/Law.com’s 2021 Elite Trial Lawyers “**Elite Women of the Plaintiffs Bar Award.**”
- In 2021, Cohen Milstein’s Sharon K. Robertson named to Benchmark Litigation’s 2021 “**40 & Under Hot List.**”
- In 2021, three Cohen Milstein Attorneys named to Florida Trend’s 2021 “**Florida Legal Elite.**”
- In 2021, Cohen Milstein’s Emmy L. Levens named to Bloomberg Law’s inaugural “**They’ve Got Next: The 40 Under 40.**”
- In 2021, Cohen Milstein’s Richard A. Koffman recognized as GCR’s “**Who’s Who Legal: Thought Leaders – Competition 2022.**”
- In 2021, seven Cohen Milstein Antitrust attorneys named to GCR’s “**Who’s Who Legal: Competition 2021.**”
- In 2021, twelve Cohen Milstein Attorneys Recognized as 2021 “**Washington, DC Super Lawyers**”; six recognized as 2021 “**Washington, DC Rising Stars.**”
- In 2021, *Legal 500* named Cohen Milstein a “**Leading Firm**” in Antitrust Litigation: Plaintiff; Labor and Employment Disputes: Plaintiff; Products Liability, Mass Torts & Class Action: Plaintiff; and Securities Litigation: Plaintiff.
- In 2021, *Legal 500* named four Cohen Milstein attorneys “**Next Generation Partners.**”
- In 2021, *Legal 500* named eight Cohen Milstein partners “**Leading Lawyers.**”
- In 2021, Cohen Milstein’s Kit A. Pierson “**Ranked**” by Chambers USA for Antitrust: Plaintiff.
- In 2021, Cohen Milstein’s Sharon K. Robertson “**Top Ranked**” by Chambers USA for Antitrust: Plaintiff.
- In 2021, eight Cohen Milstein lawyers named among the “**Lawdragon 500 Leading Plaintiff Consumer Lawyers.**”
- In 2021, Cohen Milstein’s Kalpana Kotagal receives Reel Works “**Change Maker Award.**”
- In 2021, Cohen Milstein was recognized as a “**Leading Firm**” by Chambers USA in Three Categories– Antitrust: Plaintiff; Product Liability: Plaintiff; and Securities Litigation: Plaintiff.
- In 2021, Cohen Milstein named an “**Elite Trial Lawyer**” finalist in eight practice areas by *The National Law Journal*.
- In 2021, *Daily Business Review* recognized Theodore J. Leopold Recognized as a “**2021 Distinguished Leader.**”
- In 2021, *Law360* recognized Julie Goldsmith Reiser as a “**Titan of the Plaintiffs Bar.**”
- In 2021, *The National Law Journal* and *The Trial Lawyer* named Steven J. Toll among “America’s 50 Most Influential Trial Lawyers.”
- In 2021, Lawdragon named Agnieszka Fryszman Named to the “**Lawdragon Global Litigation 500.**”
- In 2021, Lawdragon recognized 12 Cohen Milstein lawyers among the “**500 Leading Lawyers in America.**”
- In 2021, Lawdragon inducted Steven J. Toll into the “**Lawdragon 500 Hall of Fame.**”

## 2020

- In 2020, *Crain's New York Business* recognized Laura H. Posner among New York's "**Notable Women in Law.**"
- In 2020, *Law360* recognized Cohen Milstein as a "**Class Action Group of the Year.**"
- In 2020, *Law360* recognized Cohen Milstein as a "**Environmental Group of the Year.**"
- In 2020, *Law360* recognized Cohen Milstein as a "**Life Sciences Group of the Year.**"
- In 2020, *Law360* recognized Cohen Milstein as a "**Securities Group of the Year.**"
- In 2020, Cumberland School of Law named Theodore J. Leopold its "**2020 Distinguished Alumnus of the Year.**"
- In 2020, *U.S. News & World Report* and *Best Lawyers* named Cohen Milstein among their **2021 "Best Law Firms"** nationally in ERISA Litigation, Employee Benefits Law, and Labor & Employment Litigation; for Washington, DC in Civil Rights Law, Employee Benefits (ERISA) Law, Employment Law – Individuals, Labor Law – Union, Litigation – ERISA, and Litigation – Labor & Employment; and for West Palm Beach, FL in Mass Tort Litigation / Class Actions – Plaintiffs Medical Malpractice Law – Plaintiffs, Personal Injury Litigation – Plaintiffs, and Product Liability Litigation – Plaintiffs for West Palm Beach, FL.
- In 2020, *Super Lawyers* recognized five Cohen Milstein attorneys as "**2020 New York – Metro Super Lawyers.**"
- In 2020, Benchmark Litigation recognized Cohen Milstein as a 2021 "**Top Plaintiffs Firm.**"
- In 2020, *Law360's* Glass Ceiling Report named Cohen Milstein among "**The Best Law Firms for Female Attorneys.**"
- In 2020, Lawdragon named seven Cohen Milstein attorneys to its "**500 Leading Plaintiff Employment Lawyers**" list.
- In 2020, the Human Trafficking Legal Center named Agnieszka M. Fryszman "**Human Trafficking Advocate of the Year.**"
- In 2020, *Crain's Chicago Business* named Carol V. Gilden one of its "**Notable Women in Law.**"
- In 2020, *Palm Beach Illustrated* named six Cohen Milstein attorneys to its "**Top Lawyers**" list.
- In 2020, Lawdragon named 15 Cohen Milstein attorneys to its "**500 Leading Plaintiff Financial Lawyers**" list.
- In 2020, *The Best Lawyers in America* named 15 Cohen Milstein attorneys to its 2021 "**Best Lawyers in America**" list.
- In 2020, American Lawyer Media and The National Trial Lawyers named Cohen Milstein "**Antitrust Law Firm of the Year.**"
- In 2020, *Florida Trend* named Poorad Razavi a "**Legal Elite**" in the Civil Trial section.
- In 2020, *Law360* named Emmy L. Levens a "**Rising Star – Class Actions.**"
- In 2020, *Law360* named Shaylyn Cochran a "**Rising Star – Employment.**"
- In 2020, *The Legal 500* named Cohen Milstein a "**Top-Tier**" firm in Labor and Employment: Labor and Employment Disputes (including Collective Actions): Plaintiff.
- In 2020, *The Legal 500* named Cohen Milstein a "**Leading Practice**" in Antitrust, Products Liability, and Securities Litigation.
- In 2020, *Daily Business Review* named Cohen Milstein's Leslie M. Kroeger a "**2020 DBR Distinguished Leader.**"
- In 2020, *Chambers USA* recognized Cohen Milstein as a leading firm in the "**Antitrust: Plaintiffs – Nationwide**" category.
- In 2020, Lawdragon recognized eight Cohen Milstein lawyers in the "**2020 Lawdragon 500 Leading Plaintiff Consumer Lawyers**" list.
- In 2020, Lawdragon recognized 12 Cohen Milstein lawyers in the "**2020 Lawdragon 500 Leading Lawyers in America**" list.
  - In 2020, American Lawyer Media and The National Trial Lawyers named Cohen Milstein "**Antitrust Law Firm of the Year.**"

- In 2020, *Law360* named Cohen Milstein “**Practice Group of the Year – Benefits**” for the firm’s work in 2019.
- In 2020, *Law360* named Cohen Milstein “**Practice Group of the Year – Consumer Protection**” for the firm’s work in 2019.

## 2019

- In 2019, *Law360* named Cohen Milstein’s Sharon K. Robertson “**Life Sciences – MVP**” for her cutting-edge “pay for delay” antitrust class actions in the Life Sciences industry.
- In 2019, Lawdragon named Cohen Milstein’s Agnieszka Fryszman and Steve Toll to “**Lawdragon Legends**,” a list recognizing 30 of the “nation’s elite lawyers” who have been named to the Lawdragon 500 for at least ten years.
- In 2019, ALM and *The National Trial Lawyers* named seven of Cohen Milstein’s practice areas to its “**Elite Trial Lawyer – Finalist**” list.
- In 2019, the *Chicago Business Journal* named Cohen Milstein’s Carol V. Gilden a 2019 “**Woman of Influence**.”
- In 2019, Lawdragon named 15 Cohen Milstein lawyers to its 2019 “**500 Leading Plaintiff Financial Lawyers**” list.
- In 2019, *The Best Lawyers in America* named 12 Cohen Milstein attorneys to its 2020 “**Best Lawyers in America**” list.
- In 2019, Public Justice Foundation named Cohen Milstein one of five finalists for the “**Trial Lawyer of the Year Award**.”
- In 2019, Cohen Milstein’s Environmental Toxic Tort practice was named a winner of *The National Law Journal’s* “**Elite Trial Lawyers**” Award, and Cohen Milstein’s Agnieszka Fryszman and Sharon Robertson were named winners of *The National Law Journal’s* “**Elite Women of the Plaintiffs Bar**” Award.
- In 2019, six of Cohen Milstein lawyers were named among the “**Lawdragon 500 Leading Plaintiff Consumer Lawyers**.”
- In 2019, Cohen Milstein’s Carol V. Gilden received Lawyer Monthly Magazine’s “**Women in Law Award**.”
- In 2019, four of Cohen Milstein partners were named to Benchmark Litigation’s “**40 & Under Hot List**.”
- In 2019, Cohen Milstein’s Christine E. Webber received the Washington Lawyers’ Committee for Civil Rights and Urban Affairs’ “**Roderic V.O. Boggs Award**.”
- In 2019, Cohen Milstein’s Poorad Razavi was named to Florida Trend’s “**Legal Elite**.”
- In 2019, Cohen Milstein’s Nicholas C. Johnson was appointed to serve on the **AAJ Board of Governors**.
- In 2019, *The National Law Journal* named Cohen Milstein an “**Elite Trial Lawyer**” finalist in five practice areas and named Agnieszka Fryszman and Sharon Robertson “**Elite Women of the Plaintiffs Bar**.”
- In 2019, *Law360’s* 2019 Glass Ceiling Report named Cohen Milstein among “**The Best Law Firms for Female Attorneys**.”
- In 2019, *The Legal 500* recognized Cohen Milstein’s Antitrust, Civil Rights & Employment, Products Liability, and Securities Litigation practices as “**Leading Practices**,” and named seven Cohen Milstein attorneys among their “**Leading Lawyers**,” “**Next Generation Lawyers**,” and “**Rising Stars**.”
- In 2019, Cohen Milstein was named to *The National Law Journal’s* “**Pro Bono Hot List**.”
- In 2019, 21 Cohen Milstein attorneys were recognized as “**Super Lawyers**,” and nine Cohen Milstein attorneys were recognized as “**Rising Stars**.”
- In 2019, six of Cohen Milstein’s Civil Rights & Employment Litigation lawyers were named among the “**Lawdragon 500 Leading Plaintiff Employment Lawyers 2019**.”
- In 2019, the *Daily Business Review* honored Cohen Milstein with three Professional Excellence Awards,

including Theodore J. Leopold, DBR's 2019 "Distinguished Leaders" award.

- In 2019, four Cohen Milstein lawyers received "The Burton Awards' Law360 Distinguished Legal Writing Award - Law Firm."
- In 2019, nine Cohen Milstein lawyers were named among the "Lawdragon 500 Leading Lawyers in America."

## 2018

- In 2018, *The National Law Journal* and *Trial Lawyer Magazine*, named Steven J. Toll and Betsy A. Miller among "America's 50 Most Influential Trial Lawyers."
- In 2018, *Law360* named Cohen Milstein "Practice Group of the Year" in two categories: Consumer Protection and Environmental.
- In 2018, *Law360* named three partners MVP in the respective practices, including: Theodore J. Leopold as *Law360's Environmental MVP*, Andrew N. Friedman as *Law360's Cybersecurity and Privacy MVP*
- In 2018, *The National Law Journal* named Cohen Milstein winner of "Elite Trial Lawyer of the Year" in four categories, including Consumer Protection, Counterterrorism, Immigration, and Financial Products, and finalist in five other categories, including Antitrust, Civil Rights, Disability Rights, Employment Rights, and Racial Discrimination.
- In 2018, *The National Law Journal* named Julie Reiser – "Elite Women of the Plaintiffs Bar."
- In 2018, the American Antitrust Institute honored Sharon K. Robertson with its "Outstanding Antitrust Litigation Achievement Award."
- In 2018, the NAACP honored Cohen Milstein with its "Foot Soldier in the Sand Award," in recognition of the firm's outstanding commitment to providing pro bono legal services.
- In 2018, *The Best Lawyers in America* recognized eleven Cohen Milstein attorneys as among the **Best Lawyers in America (2019)**, in their respective areas of law.
- In 2018, *The Best Lawyers in America* singled out and named Joseph M. Sellers "The Best Lawyers in America 2019, Labor Law Lawyer of the Year – Washington, D.C."
- In 2018, *The Best Lawyers in America* singled out and named Milstein's Leslie M. Kroeger "The Best Lawyers in America 2019, Mass Tort Litigation / Class Actions "Lawyer of the Year – West Palm Beach, FL."
- In 2018, *Palm Beach Illustrated* named seven Cohen Milstein attorneys to its "'Top Lawyers" List."
- In 2018, *Benchmark Litigation* named four Cohen Milstein attorneys to its "40 & Under Hot List."
- In 2018, *Florida Trend* named five Cohen Milstein attorneys to its list of "Florida's Legal Elite."
- In 2018, Lawdragon 500 named five Cohen Milstein attorneys to "Leading Plaintiff Employment Lawyers."
- In 2018, *Crain's* named Carol V. Gilden one of Chicago's "Notable Women Lawyers."
- In 2018, the *New York Law Journal* named Sharon K. Robertson to its list of "New York Rising Stars."
- In 2018, *The Legal 500: Guide to the US Legal Profession* listed Cohen Milstein's Antitrust, Employment Disputes, and Securities Litigation practices among its "Leading Practices."
- In 2018, the *Daily Business Review* named Leslie M. Kroeger a "Distinguished Leader."
- In 2018, *Law360* named Steven J. Toll a 2018 "Titan of the Plaintiffs Bar."
- In 2018, Lawdragon named seven Cohen Milstein attorneys to the 2018 "Lawdragon 500," an annual list of the **500 Leading Lawyers in America**.
- In 2018, Theodore J. Leopold was recognized as an "Energy and Environmental Trailblazer" by *The National Law Journal*.

## 2017

- In 2017, *Law360* named Cohen Milstein a "Practice Group of the Year: Privacy."

- In 2017, Steven J. Toll was named a **Law360 “MVP – Class Action.”**
- In 2017, the *Daily Business Review* named Theodore J. Leopold a **“Most Effective Lawyer of 2017: Class Action.”**
- In 2017, *The Best Lawyers in America* recognized seven Cohen Milstein partners as among the **“Best Lawyers in America”** for their respective practices of law.
- In 2017, *Law360* named Cohen Milstein partners, S. Douglas Bunch and Kalpana Kotagal as **“Rising Stars.”**
- In 2017, *The Legal 500* named Cohen Milstein a **Leading Firm** in “Antitrust: Civil Litigation / Class Actions” and “Dispute Resolution: Securities Litigation – Plaintiff.”
- In 2017, *The Legal 500* named Richard A. Koffman to its **“Legal 500 Hall of Fame.”**
- In 2017, *Legal 500* named Sharon K. Robertson and Brent W. Johnson as **“Legal 500 Next Generation Lawyer”** in the area of Antitrust: Civil Litigation/Class Actions.
- In 2017, *Super Lawyers* named Brent W. Johnson as a **“Rising Star”** and a **“Top Rated Antitrust Litigation Attorney in Washington, DC.”**
- In 2017, *Florida Trend* named Manuel J. Dominguez a **“Legal Elite.”**

## Attorney Profiles – Executive Committee

### Benjamin D. Brown

Benjamin D. Brown is the managing partner at Cohen Milstein and co-chair of the Antitrust practice. Mr. Brown is also the chairman of the firm’s Executive Committee.

Mr. Brown, who previously served in the Antitrust Division of the United States Department of Justice, brings to his role extensive experience leading complex litigation, particularly antitrust class actions.

Mr. Brown has been appointed by federal courts to serve as co-lead counsel for plaintiffs in numerous important matters, such as *In re Plasma-Derivative Protein Therapies Antitrust Litigation* (N.D. Ill.); *Carlin, et al. v. DairyAmerica, Inc.* (E.D. Cal.); and *Mixed Martial Arts (MMA) Antitrust Litigation* (D. Nev.). He has led cases through trial and argued appeals and stands ready to take cases through to the finish line.

Mr. Brown is also an adjunct professor at Georgetown Law School, where he teaches *Complex Litigation*, a course that explores the policy and procedures implicated by aggregated, high stakes, multi-party litigation, especially class actions.

Mr. Brown is also a leader in the area of takings cases, claims that are brought under the Fifth Amendment of the U.S. Constitution for the unconstitutional taking of property without compensation. He also represents individuals or groups in litigations and confidential arbitrations involving complex commercial disputes, particularly those involving regulated markets.

Currently, Mr. Brown is serving as lead or co-lead counsel on a number of large, complex antitrust cases. He charts the course of his cases from deciding on the claims to be brought, to the litigation strategy to be pursued, and through the approach to settlement or trial.

Notable matters include:

- *Mixed Martial Arts (MMA) Antitrust Litigation* (D. Nev.): Cohen Milstein is co-lead counsel in a class action on behalf of MMA fighters alleging that Zuffa LLC – commonly known as the Ultimate Fighting Championship or “UFC” – has unlawfully monopolized the markets for promoting live professional MMA bouts and for purchasing the services of professional MMA fighters. The district court denied the defendant’s motion to dismiss the case in September 2015 and discovery is ongoing. Mr. Brown is co-lead in this class action.
- *Moehrl v. National Association of Realtors, et al.* (N.D. Ill.): Cohen Milstein is co-lead counsel in a class action on behalf of home sellers in twenty major metropolitan areas throughout the United States against the National Association of Realtors (NAR) and the nation’s four largest real estate brokers and franchisors. Plaintiffs allege a conspiracy to require home sellers to pay the broker representing the buyer of their homes, and to pay at an inflated amount, in violation of federal antitrust law. The district court denied the defendants’ motions to dismiss in October 2020 and Plaintiffs filed their motion for class certification in February of 2022. Mr. Brown is co-lead in this class action.
- *In Re: Rail Freight Fuel Surcharge Antitrust Litigation II* (D.D.C.): Mr. Brown represents three of the world’s largest container shippers—Yang Ming, NYK, and “K” Line—in antitrust lawsuits filed in the U.S. District Court for the District of Columbia against the four largest United States railroads. Plaintiffs allege that,

beginning as early as July 1, 2003, Defendants conspired to price fix Plaintiffs' intermodal contracts in violation of Section 1 of the Sherman Act, including by agreeing to impose similar or identical rail freight fuel surcharges ("FSCs") in their multi-year contracts.

- *Pacific Steel Group v. Commercial Metals Company, et al.* (N.D. Ca.): Mr. Brown represents Pacific Steel Group, a steel rebar fabricator located in San Diego, California, seeking damages and injunctive relief against Commercial Metals Company or "CMC" for violations of antitrust and other laws. As alleged, Pacific Steel Group decided to build a steel mill to produce rebar in order to become a more efficient competitor through vertical integration. Because the mill would have created competition for CMC in the local rebar manufacturing market that CMC currently dominates, the complaint alleges CMC took various actions to delay or prevent Pacific Steel from building its mill. The district court denied CMC's motion to dismiss in April 2022.

Mr. Brown is also currently litigating a number of takings lawsuits, including the following notable matters:

- *Ideker Farms, et al. v. United States of America* (Fed. Cl.): Cohen Milstein represents Ideker Farms and more than 400 other plaintiffs located in six states along the Missouri River in a landmark mass action lawsuit in the U.S. Court of Federal Claims alleging that the federal government took land and flooding easements over lands owned by farmers without any compensation in violation of the takings clause of the Fifth Amendment. Mr. Brown has helped lead the litigation team, including during both a months-long liability trial in 2017, and a subsequent damages trial in 2020 for bellwether plaintiffs. During those trials, Mr. Brown directed and cross-examined numerous witnesses, including eleven different experts. In December 2020, the Court ruled largely in favor of bellwether plaintiffs. An appeal to the Federal Circuit was heard in 2022.
- *Milne v. United States of America* (Fed. Cl.): Cohen Milstein represents over 60 individual plaintiff farmers and a proposed class of additional farmers and landowners in a Fifth Amendment takings case that overlaps substantially with the Ideker case. Mr. Brown helps spearhead that litigation.

Mr. Brown joined Cohen Milstein in 2005, following four years as a trial attorney with the Antitrust Division of the United States Department of Justice. At the Department of Justice, Mr. Brown led and assisted in numerous investigations, litigations and trials involving antitrust activity and mergers. Mr. Brown also served as a Special Assistant United States Attorney in the Eastern District of Virginia, where he prosecuted criminal cases. Prior to serving in the U.S. Department of Justice, Mr. Brown was in private practice with one of Washington's most prestigious defense firms, where he counseled defendants in antitrust litigation matters. This experience has provided him with insights into defense strategies and has earned him the respect of defendants' counsel.

Mr. Brown has been recognized as one of the nation's "Leading 500 Lawyers in America" by Lawdragon. The Legal 500 has also recognized Mr. Brown as one of the nation's leading class action antitrust attorneys. Mr. Brown is annually recognized in Global Competition Review's Who's Who Legal: Thought Leaders – Competition, and he has been listed as one of Washington D.C.'s "Leading Star" Plaintiffs' Litigators by Benchmark Litigation, recognizing his writing, his depositions and his arguments in court. He is a frequent panelist at legal industry gatherings and is a recognized expert on antitrust litigation whose opinions on the newest developments and trends in antitrust litigation are often quoted in the media. Mr. Brown is a contributing author of the ABA's Antitrust Class Actions Handbook and served as a state editor for the ABA's Survey of State Class Action Law. He authored several chapters on private antitrust recovery actions for the Global Competition Review's Antitrust Review of the Americas, and co-authored with fellow partner Douglas Richards, "Predominance of Common Questions – Common Mistakes in Applying the Class Action Standard," Rutgers Law Journal (Vol. 41).

Mr. Brown is currently serving on the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago's School of Law.

Mr. Brown attended the University of Wisconsin – Madison, where he graduated Phi Beta Kappa, majoring in Philosophy, and earned his J.D., from Harvard Law School, graduating cum laude. He served as Law Clerk to the Hon. Chief Judge Juan R. Torruella, U.S. Court of Appeals for the First Circuit. The United States District Court for the District of Columbia has honored Mr. Brown for his outstanding commitment to pro bono litigation.

### **Michael B. Eisenkraft**

Michael B. Eisenkraft is a partner at Cohen Milstein where he serves in both the Antitrust and Securities practices. He also serves as the administrative partner of the firm's New York office, chairs the New Business Development Committee, and is a member of the Executive Committee.

Mr. Eisenkraft leads the firm's efforts in prosecuting innovative cases relating to the protection of global financial markets.

He currently represents putative classes of investors asserting antitrust or securities claims in the Stock Lending, Interest Rate Swaps, Treasuries, Bristol CVR, KOSPI 200, XIV ETN, and Overstock.com markets. He has also helped investors recover hundreds of millions of dollars in the firm's mortgage-backed securities cases and represents businesses in commercial contingency litigation including cases asserting claims for breach of contract and trade secret misappropriation.

Furthermore, Mr. Eisenkraft serves as co-chair of the Committee on Federal Courts for the New York County Lawyers' Association and on the Judicial Screening Committee for the Westchester County Democratic Party. In 2020, he was appointed by Law360 to serve on its Securities Editorial Advisory Board.

For his work, Mr. Eisenkraft has been widely honored by the legal industry, including by Lawdragon as one of the 500 Leading Plaintiff Financial Lawyers In the United States, by Benchmark Litigation as a "Litigation Future Star" (2023) and "40 & Under Hot List" (2018 and 2019), by Legal 500 as a "Next Generation Partner" (since 2020), by New York Super Lawyers (Rising Star 2013-2019, Super Lawyer 2022) In 2018, Law360 named Mr. Eisenkraft a "Rising Star -- Securities," professionals under 40 whose work belies their age. In the area of Securities. He is rated "AV Preeminent" by Martindale-Hubbell.

Mr. Eisenkraft's notable successes at Cohen Milstein include:

- NovaStar MBS Litigation (S.D.N.Y.): \$165 million settlement on behalf of investors in a Securities Act litigation involving billions of dollars of mortgage-backed securities underwritten by the Royal Bank of Scotland, Wachovia and Deutsche Bank.
- HEMT MBS Litigation (S.D.N.Y.): \$110 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by Credit Suisse after more than seven years of litigation, which included the first written decision certifying a Securities Act class of mortgage-backed securities in the country.
- RALI MBS Litigation (S.D.N.Y.): \$335 million in settlements on behalf of investors in mortgage-backed securities issued by Residential Capital and underwritten by various investment banks after seven years of litigation.
- Harborview MBS Litigation (S.D.N.Y.): \$275 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by the Royal Bank of Scotland and its subsidiaries after more than six years of litigation.
- Dynex Litigation (S.D.N.Y.): \$7.5 million settlement on eve of trial on behalf of investors in asset-backed securities. The decision certifying the class in the case was the first decision within the Second Circuit certifying a class of asset-backed bond purchasers under the 1934 Act.

- China MediaExpress Litigation (S.D.N.Y.): \$12 million settlement with auditor defendant in case involving alleged fraud at Chinese reverse merger company China MediaExpress. One of the largest settlements with an auditor defendant in a case involving a Chinese reverse merger company.
- LIBOR (Exchange Traded Class) (S.D.N.Y.): \$187 million in settlements with defendants, the largest class action settlement of manipulation claims in the history of the Commodity Exchange Act, 7 U.S.C. § 1 et seq.

Mr. Eisenkraft's current cases include:

- In Re: Interest Rate Swaps Antitrust Litigation (S.D.N.Y.): Court-appointed co-lead counsel in antitrust class action alleging that major investment banks conspired to prevent an all to all market for interest rate swaps from developing.
- In Re: Treasuries Securities Auction Antitrust Litigation (S.D.N.Y.): Court-appointed co-lead counsel in antitrust and Commodity Exchange Act class action alleging manipulation of the multi-trillion dollar market for U.S. Treasuries and related instruments.
- Stock Lending Antitrust Litigation (S.D.N.Y.): Leading antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- Chahal v. Credit Suisse Grp. AG, et al. (S.D.N.Y.): Court-appointed co-lead counsel in securities class action alleging fraud and market manipulation of XIV Exchange Traded Note market.
- In re: Overstock Securities Litigation: (D. Utah): Court-appointed sole Lead Counsel in class action alleging materially false and misleading statements and omissions and engineering a market manipulation scheme during the Class Period of Overstock.com securities.
- Northwest Biotherapeutics, Inc. v. Canaccord Genuity LLC, et al. (S.D.N.Y.): Securities litigation against preeminent market makers for repeated market manipulation tactics involving spoofing of company stock.

Mr. Eisenkraft served as a law clerk to the Honorable Judge Barrington D. Parker of the United States Court of Appeals for the Second Circuit. He is the author or co-author of numerous articles on legal issues in the securities and antitrust fields among other subjects.

Mr. Eisenkraft attended Brown University, where he received a B.A., magna cum laude and Phi Beta Kappa, and graduated cum laude from Harvard Law School.

### **Theodore J. Leopold**

Theodore J. Leopold is a partner at Cohen Milstein and co-chair of the Complex Tort Litigation and Consumer Protection practice. He is also a member of the firm's executive committee.

Mr. Leopold's practice is devoted solely to trial work, with a focus on complex product liability, environmental toxic torts, managed care abuse, consumer class actions, and catastrophic injury and wrongful death litigation. He has tried cases throughout the country and has recovered multi-million-dollar verdicts, including jury verdicts in the eight-figure and nine-figure amounts.

Mr. Leopold litigates high-stakes, complex lawsuits on behalf of consumer safety issues, particularly as it relates to product defects, automobile safety and managed care matters. In 2010, he obtained a \$131 million jury verdict against the Ford Motor Company, the ninth-largest verdict against an automobile company in U.S. history.

Mr. Leopold also has had the honor of being court-appointed Interim Co-Lead Class Counsel in two high-profile putative environmental toxic tort class actions, including In re Flint Water Cases, which resulted in a \$626 million partial settlement (granted final approval on November 10, 2021) and the Cape Fear River Contaminated Water

Class Action Litigation. Mr. Leopold also serves as lead counsel in the LensCrafters and General Motors Litigation class actions.

Currently, Mr. Leopold is litigating these notable matters:

- Cape Fear River Contaminated Water Litigation (E.D.N.C.): On January 4, 2018, Mr. Leopold was court-appointed Interim Co-Lead Class Counsel to consolidate and oversee a series of five putative environmental toxic tort class actions filed against E.I. DuPont de Nemours Company and The Chemours Company for knowingly discharging PFAS, such as GenX, and other “forever chemicals” into the Cape Fear River, one of North Carolina’s principal drinking water sources.
- Underwood v. Meta Platforms, Inc. (Facebook) (Sup. Ct. Cal., Alameda Cnty.): On January 26, 2022, Mr. Leopold filed a wrongful death lawsuit on behalf of Angela Underwood Jacobs, the sister of Dave Patrick Underwood, against Meta Platforms, Inc., formerly Facebook, Inc., alleging that by connecting users to extremist groups and promoting inflammatory, divisive, and untrue content, the company bears responsibility for the tragic murder of Mr. Underwood.
- General Motors Litigation (E.D. Mich.): On September 26, 2019, Mr. Leopold was court-appointed Lead Counsel and Chair of the Plaintiffs’ Steering Committee to consolidate and oversee consumer class actions filed on behalf of thousands of GM vehicle owners across 30 states against GM related to defective eight-speed automatic transmissions in vehicles manufactured between 2015 and 2019.
- Edwards v. Tesla (Sup. Ct. Cal., Alameda Cnty.): On June 25, 2020, Mr. Leopold filed a product liability lawsuit against Tesla, Inc. on behalf of Kristian and Jason Edwards. Ms. Edwards sustained catastrophic injuries as a result of the failure of the airbags to deploy in her Tesla Model 3 during an accident.
- Edenville and Sanford Dam Failure Litigation (Mich. Ct. of Claims; Cir. Ct., Cnty. Saginaw, Mich.): On June 24, 2020, Mr. Leopold filed two separate property damage lawsuits against Michigan State Government agencies, including the Michigan Department of Environment, Great Lakes & Energy and Michigan Department of Natural Resources for blatantly mismanaging and failing to properly maintain the Edenville and Sandford dams, which catastrophically failed on May 19, 2020. Cohen Milstein is representing more than 300 residents and businesses in Midland County and Saginaw County, Michigan and the surrounding areas, including, Arenac, Gladwin, and Iosco counties.
- Bernardo, et al. v. Pfizer, Inc., et al. (S.D. Fla.): On February 20, 2020, Mr. Leopold filed a false advertising, medical monitoring, and personal injury class action against Pfizer, Inc., Boehringer Ingelheim, Sanofi, and other pharmaceutical companies on behalf of multiple plaintiffs and putative class members across the United States who, as a result of taking Zantac (ranitidine), may have been afflicted with cancer or may now be subjected to an increased risk of developing cancer.
- Ariza v. Luxottica Retail North America (LensCrafters) (E.D.N.Y.): Mr. Leopold, as lead counsel, is representing a putative class of purchasers of LensCrafters’ Accufit Digital Measurement System (Accufit) services, who allege that LensCrafters used false, misleading advertising and deceptive sales practices about Accufit being “five times more accurate” in measuring pupillary distance than traditional methods, to induce customers to purchase LensCrafter’s higher-priced prescription lens products. On December 13, 2021, the United States Eastern District of New York granted class certification to purchasers of LensCrafters’ Accufit Digital Measurement System (Accufit) services.
- Doe v. Chiquita Brands International (S.D. Fla.): Mr. Leopold is representing families of banana workers and others killed or tortured by the Autodefensas Unidas de Colombia, a foreign terrorist organization designated by the United States, which was allegedly receiving financial support and firearms and ammunition from Chiquita, a U.S. corporation with operations throughout Colombia.

Examples of some of Mr. Leopold’s litigation successes are:

- In re Flint Water Cases (E.D. Mich.): Mr. Leopold was court-appointed Interim Co-Lead Class Counsel to oversee a group of toxic tort class actions filed on behalf of Flint, Michigan residents and businesses

harm by exposure to toxic levels of lead and other contaminants in the city's drinking water. On November 10, 2021, the United States District Court for the Eastern District of Michigan granted final approval of a landmark \$626.25 million settlement against the State of Michigan. On August 11, 2021, Judge Levy granted class certification on liability claims in the ongoing litigation against the other defendants.

- HCA Litigation (M.D. Fla.): Mr. Leopold was lead counsel in a class action lawsuit alleging that HCA hospitals billed inflated fees for emergency room radiology services provided to people involved in automobile accidents and who received care that was covered by their Florida Personal Injury Protection (PIP) insurance. In December 2018, Cohen Milstein secured final approval of a \$220 million injunctive relief settlement on behalf of the class.
- Quinteros, et al v. DynCorp, et al (D.D.C.): Mr. Leopold represented over 2,000 Ecuadorian farmers and their families who suffered physical and mental injuries and property damage as a result of aerial spraying of toxic herbicides on or near their land by DynCorp, a U.S. government contractor. The bellwether trial on behalf of the first six Ecuadorian clients came to a conclusion in April 2017, when the ten-person jury unanimously determined that DynCorp was responsible for the conduct of the pilots with whom it had subcontracted to conduct the chemical spraying after April 2003. In July 2017, Mr. Leopold successfully settled the case.
- Mincey v. Takata (Cir. Ct., Duval Cnty., Fla.): Mr. Leopold was the lead attorney in a lawsuit brought on behalf of Patricia Mincey, a Florida woman who was paralyzed when the driver's side airbag in her car deployed too aggressively during a vehicle collision. The injuries Ms. Mincey sustained in the accident ultimately led to her death. In groundbreaking litigation at the forefront of what would become a Department of Justice investigation and the largest defective product recall in automobile history, Ms. Mincey alleged that the airbag system in her car, manufactured by Takata Corporation, was defective and that Takata knowingly hid the defect from consumers. On July 15, 2016, immediately before a hearing was to be held on Plaintiff's motions to depose the CEO of Takata and to amend the complaint to plead a claim for punitive damages, Mr. Leopold successfully resolved the case.
- Lindsay X-LITE Guardrail Litigation (State Crts.: Tenn., S.C.): Mr. Leopold successfully represented more than five the families of decedents and victims of catastrophic injuries in a series of individual products liability, wrongful death and catastrophic injury lawsuits in Tennessee and South Carolina state courts against the Lindsay Corporation and several related entities for designing, manufacturing, selling, and installing defective X-Lite on state roadways.
- Caterpillar Product Liability Litigation (D.N.J.): Mr. Leopold was co-lead counsel in a class action lawsuit alleging Caterpillar sold diesel engines with defective exhaust emissions system that resulted in power losses and shutdowns. Mr. Leopold developed the case and led all aspects of the litigation, which he successfully resolved in September 2016 for \$60 million.
- Cole v. Ford (Cir. Ct., Jasper Cnty., Miss.): Mr. Leopold was co-trial attorney for the family of former New York Mets infielder Brian Cole who was killed when the Ford Explorer he was driving rolled over, ejecting him from the vehicle. The lawsuit charged that the seat belt in the Explorer was defective in that it failed to keep Mr. Cole in his seat. Following two hung juries, eleven of the 12 jury members, in the third trial, agreed on the verdict and found for the Cole family in the amount of \$131 million.
- Quinlan v. Toyota (S.D. Fla.): Mr. Leopold was lead counsel in a product liability case against Toyota Motor Company after Bret Quinlan was paralyzed when his Toyota Camry suddenly and without warning began accelerating and failed to respond to the brakes. Mr. Leopold successfully resolved the case prior to trial.
- Chipps v. Humana (Cir. Ct., Palm Beach Cnty., Fla.): Mr. Leopold tried one of the first managed care abuse cases in the country after Humana wrongfully denied physical and occupational therapy for a 6-year-old child with cerebral palsy. The jury returned the largest punitive damage award on behalf of an individual in Florida history, and this seminal case was featured in the movie *Damaged Care*.
- Carrier v. Trinity (Cit. Ct., Sullivan Cnty., Tenn): Mr. Leopold represented the Carrier family in this wrongful death matter. The death occurred as a result of the guardrail safety device failing. Instead of

protecting the driver, the guardrail intruded into the passenger compartment of the vehicle and impaled the driver, causing her death. Mr. Leopold successfully resolved the case in October 2016.

Mr. Leopold is a graduate of the University of Miami, where he received a B.A. He earned his J.D. from Cumberland School of Law, Samford University.

### **Sharon K. Robertson**

Sharon Robertson is a partner at Cohen Milstein and a member of the Antitrust practice. She is also a member of the firm's Executive Committee.

Ms. Robertson is a nationally recognized leader in complex, multi-district antitrust litigation, particularly in pharmaceutical antitrust class actions. Since 2020, Chambers USA has named Ms. Robertson a "Top Ranked" lawyer in "Antitrust: Plaintiff – New York and USA – Nationwide," while Lawdragon has included her on its "500 Leading Lawyers in America" list annually since 2019. In 2019, The National Law Journal named her as one of nine "Elite Women of the Plaintiffs Bar," an award that recognizes female lawyers who "have consistently excelled in high-stakes matters on behalf of plaintiffs over the course of their careers." In the same year, Law360 named Ms. Robertson a "Life Sciences-MVP" for her "hard-earned successes" and "record-breaking deals." In 2018, the American Antitrust Institute honored her with its prestigious "Outstanding Antitrust Litigation Achievement by a Young Lawyer" award for her role in securing one of the largest recoveries on behalf of end-payors in a federal generic suppression case in over a decade. Similarly, for five consecutive years, The Legal 500 has selected her as a "Next Generation Lawyer" (2017-2021), an honor bestowed upon only 10 lawyers under 40 years old across the country, who are positioned to become leaders in their respective fields. Likewise, The New York Law Journal recognized her as a Rising Star (2018) – one of only twenty individuals selected to receive this honor. In addition, Benchmark Litigation selected Ms. Robertson for inclusion on its "40 & Under Hot List" for four consecutive years (2018-2021) and Law360 named her as one of five "Rising Stars" (2018) in the field of competition law whose "professional accomplishments belie their age," as did Super Lawyers (2014-2016). Ms. Robertson has also been recognized by Law360 as one of a few female litigators to secure leadership roles in high-profile MDLs, such as In re Lidoderm Antitrust Litigation (March 16, 2017).

Ms. Robertson is spearheading Cohen Milstein's efforts in pay-for-delay pharmaceutical antitrust lawsuits, a cutting-edge and industry-defining area of law, which allege that the defendant brand manufacturer entered into non-competition agreements with generic manufacturers in order to delay entry of lower-priced generic products. Ms. Robertson also heads up the firm's generic price-fixing cases, which allege that certain generic drug manufacturers conspired to inflate the prices of generic drug products.

These cases come on the heels of a government investigation led by the U.S. Department of Justice alleging similar conduct, which, while ongoing, has already resulted in indictments and guilty pleas.

In addition to leading complex MDLs, Ms. Robertson is an accomplished trial lawyer. She served as a trial team member in two of the largest antitrust cases tried to verdict, including In re Urethanes Antitrust Litigation, where the jury returned a \$400 million verdict, which was trebled by the Court, as required by antitrust law, resulting in the largest price-fixing verdict in U.S. history, as well as In re Nexium Antitrust Litigation, the first pharmaceutical antitrust case to go to trial following the Supreme Court's landmark decision in FTC v. Actavis, 570 U.S. 756 (2013).

Ms. Robertson represents End-Payor Plaintiffs in the following pharmaceutical antitrust cases in which the firm serves as Co-Lead Counsel:

- In re Lipitor Antitrust Litigation (D.N.J.): Plaintiffs allege that Pfizer, the manufacturer of the cholesterol drug Lipitor, the best-selling drug in pharmaceutical history, conspired with Ranbaxy, the generic manufacturer, to delay its introduction of a generic Lipitor product. On August 21, 2017, the Third Circuit

handed a sweeping victory to Plaintiffs, reviving their antitrust claims. This case was ranked by Law360 as “The Biggest Competition Cases Of 2017 So Far” (July 7, 2017).

- In re Tracleer Antitrust Litigation (D. Md.): Plaintiffs allege that Defendant Actelion engaged in an anticompetitive scheme to withhold samples of its life-saving pulmonary arterial hypertension medication from would-be rivals, under the guise of the REMs program, which conduct ultimately delayed generic competition.
- In re Bystolic Antitrust Litigation (S.D.N.Y.): Plaintiffs allege that Forest Laboratories Inc., now a part of AbbVie, engaged in an illegal scheme with pharmaceutical generic manufacturers not to make generic versions of Bystolic®, a hypertension prescription medication containing the active pharmaceutical ingredient nebivolol hydrochloride.
- In re Seroquel Antitrust Litigation (D. Del.): Plaintiffs allege that Defendant AstraZeneca Pharmaceuticals LP struck deals with generic drug manufacturers Handa Pharmaceuticals LLC, Par Pharmaceutical Inc. and Accord Pharmaceuticals Inc., inducing the generics to delay launching generic versions of Seroquel XR, AstraZeneca's prescription drug treatment for schizophrenia, bipolar disorder and depression, for five years in exchange for AstraZeneca committing to delay the launch of its own authorized generic.

In addition, Ms. Robertson co-chairs the executive committee in In re Humira Antitrust Litigation (N.D. Ill.) and serves as a member of the executive committee in similar cases in which Cohen Milstein plays a significant role, including: In re Niaspan Antitrust Litigation (E.D. Pa.), In re Suboxone Antitrust Litigation (E.D. Pa.) and In re ACTOS Antitrust Litigation (S.D.N.Y.).

Ms. Robertson represents direct purchaser plaintiffs in a number of cases as well, including In re Zetia Antitrust Litigation (E.D. Va.), In re Generic Pharmaceuticals Pricing Antitrust Litigation (E.D. Pa.), In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litigation (D. Del.), and In re Intuniv Antitrust Litigation (D. Mass.).

Ms. Robertson has successfully litigated the following notable matters:

- Urethanes (Polyether Polyols) Antitrust Litigation (D. Kan.): We served as Co-Lead Counsel in an antitrust class action alleging a nationwide conspiracy to fix the prices of polyether polyols. Ms. Robertson played a leading role in helping obtain settlements with several defendants for \$139 million and was a member of the trial team that obtained a \$400 million jury verdict (trebled to more than \$1 billion), which was affirmed on appeal by the Tenth Circuit. The case against Dow ultimately settled for \$835 million while Dow's petition for certiorari was pending before the Supreme Court, bringing the total recovery to \$974 million – nearly 250% of the damages found by the jury.
- In re Lidoderm Antitrust Litigation (N.D. Cal.): We served as Co-Lead Counsel for the End-Payor Class in a suit alleging that Endo and Teikoku, manufacturers of the Lidoderm patch, paid Watson Pharmaceuticals to delay its generic launch. The case settled on the eve of trial and on September 20, 2018, Plaintiffs obtained final approval of a \$104.75 million settlement – more than 40% of Plaintiffs' best-case damages estimate. This case was ranked by Law360 as “The Biggest Competition Cases Of 2017 So Far” (July 7, 2017).
- In re Loestrin Antitrust Litigation (D.R.I.): We served as Co-Lead Counsel for the End-Payor Plaintiffs in a case alleging that Warner Chilcott PLC entered into agreements to delay the introduction of a generic version of the contraceptive drug Loestrin and thereafter engaged in a “product hop” to further impede generic entry. The case settled on the last business day before trial for \$63.5 million – representing one of the largest settlements in a federal generic suppression case in over a decade. On September 1, 2020, the settlements received final approval.
- In re Ranbaxy Fraud Antitrust Litigation (D. Mass.): We represent the Direct Purchaser Class in this antitrust, federal RICO, and state consumer protection MDL, alleging Ranbaxy manipulated the U.S. Food and Drug Administration's generic drug approval process to block competitors from coming to market and forcing purchasers to pay supracompetitive prices for its valganciclovir hydrochloride and valsartan products. On the eve of trial, Ranbaxy settled with the Direct Purchaser Class for \$340 million.

- In re Aggrenox Antitrust Litigation (D. Conn.): We served as an executive committee member on behalf of the End-Payor Plaintiffs and alleged that Defendants Boehringer Ingelheim and Teva Pharmaceutical engaged in anticompetitive conduct that delayed the availability of a less-expensive generic versions of Aggrenox. The case settled for \$54 million.
- In re Solodyn Antitrust Litigation (D. Mass.): We served as a member of the executive committee and Ms. Robertson played a significant role in coordinating discovery on behalf of the End-Payor Plaintiffs. The case, which settled mid-trial, resulted in a \$43 million recovery for the Class.
- In re Blood Reagents Antitrust Litigation (E.D. Pa.): Plaintiffs alleged that the two leading producers of blood reagents, Ortho–Clinical Diagnostics, Inc. and Immucor, Inc., conspired to raise prices on traditional blood reagents. In September 2012, Immucor reached a settlement with Plaintiffs. On July 19, 2017, the Court denied in part Ortho’s Motion for Summary Judgement. Ms. Robertson was slated to serve as one of four lead trial counsel in the case, which was set for trial in June of 2018 but ultimately settled for a total recovery of \$41.5 million.
- In re Wellbutrin SR Antitrust Litigation (E.D. Pa.): We represented the Direct Purchaser Plaintiffs in this case alleging that Defendant GSK filed and then continued “sham” patent infringement lawsuits against two manufacturers of generic drugs, Eon and Impax, to delay competition to GSK’s blockbuster antidepressant, Wellbutrin SR. The case settled before trial for \$49 million.
- Albany and Detroit Nurses Litigation (N.D.N.Y.; E.D. Mich.): We represented registered nurses employed by hospitals in Albany and Detroit in class actions alleging a wage-fixing conspiracy. Ms. Robertson obtained settlements with five Albany Defendants totaling over \$14 million. In the Detroit case, Ms. Robertson helped obtain \$98 million in settlements with eight Defendants.
- Indonesian Villagers Litigation (D.D.C.): Ms. Robertson represented Indonesian villagers in a lawsuit against Exxon Mobil over torture and extrajudicial killings allegedly committed by the Defendant’s security forces (a unit of the Indonesian military).

Ms. Robertson is a member of the Professional Development and Mentoring Committee, which she co-chaired for almost a decade, and serves on the firm’s Diversity Committee. She is also an active member of the Executive Committee for the Antitrust Section of the New York State Bar Association.

While attending law school, Ms. Robertson was an intern in the Litigation Bureau of the Office of the New York State Attorney General and the United States Court of Appeals for the Second Circuit. Additionally, while in law school, Ms. Robertson was selected as an Alexander Fellow and spent a semester serving as a full-time Judicial Intern to the Hon. Shira A. Scheindlin, U.S. District Court for the Southern District of New York.

Ms. Robertson graduated from State University of New York at Binghamton, magna cum laude with a B.A. in Philosophy, Politics and Law. She earned her J.D. from the Benjamin N. Cardozo School of Law, where she served as Notes Editor of the Cardozo Public Law, Policy and Ethics Journal.

Prior to attending law school, Ms. Robertson worked on the campaign committee of Councilman John Liu, the first Asian American to be elected to New York City’s City Council.

### **Joseph M. Sellers**

Joseph M. Sellers is co-chair of the firm’s Civil Rights & Employment practice, a practice he founded, and a member of the firm’s Executive Committee. In a career spanning nearly four decades, Mr. Sellers has represented victims of discrimination and other illegal employment practices individually and through class actions. He brings to his practice a deep commitment and broad background in fighting discrimination in all its forms. That experience includes decades of representing clients in litigation to enforce their civil rights, participating in drafting and efforts to pass landmark civil rights legislation, testifying before Congress on various civil rights issues, training government lawyers on the trial of civil rights cases, teaching civil rights law at various law schools and lecturing extensively on civil rights and employment matters.

Mr. Sellers, who joined the firm in 1997, has been practicing civil rights law for more than 40 years, during which time he has represented individuals and classes of people who have been victims of civil rights violations or denied other rights in the workplace. He has tried to judgment before courts and juries several civil rights class actions and a number of individual cases and has argued more than 30 appeals in the federal and state appellate courts, including the United States Supreme Court. He has served as class counsel, and typically lead counsel, in more than 75 civil rights and employment class actions.

His clients have included persons denied the rights and opportunities of employment because of race, national origin, religion, age, disability and sex, including sexual orientation and identity. He has represented victims of race discrimination in the denial of equal access to credit, in the rates charged for insurance and in the equal access to health clubs, retail stores, restaurants and other public places. He has challenged housing discrimination on the basis of race and the denial of housing and public accommodations to people with disabilities.

Some of the noteworthy matters he has handled include: *Walmart v. Dukes* (U.S. S.Ct.), delivered argument on behalf of class of women who alleged sex discrimination in pay and promotions in case establishing new rules governing class certification; *Randolph v. Greentree Financial* (U.S. S.Ct.), delivered argument on behalf of consumer challenging enforcement of arbitration agreement in case establishing rules governing the enforceability of arbitration agreements; *Beck. v. Boeing Company* (W.D. Wash.), co-lead counsel on behalf of class of more than 28,000 women employees alleging sex discrimination in pay and overtime decisions; *Conway, et al. v. Deutsch* (E.D. Va.), co-lead counsel on behalf of class of female covert case officers at the CIA alleging sex discrimination in promotions and job assignments; *Johnson, et al. v. Freeh* (D.D.C.), co-lead counsel on behalf of class of African-American FBI special agents alleging racial discrimination in promotion and job assignments; *Keepseagle v. Veneman* (D.D.C.), lead counsel on behalf of class of Native American farmers and ranchers alleging denial of equal access to credit by USDA; *Neal v. Director, D.C. Dept. of Corrections* (D.D.C.), co-lead counsel in which he tried first sexual harassment class action to a jury, on behalf of a class of women correctional employees and women and men subject to retaliation; *Doe v. D.C. Fire Department* (D.D.C.), in which he established after trial that an applicant with HIV could properly serve as a firefighter; *Floyd-Mayers v. American Cab Co.* (D.D.C.), in which he represented persons who alleged they were denied taxi service because of their race and the race of the residents at the location to which they asked to be driven; and *Trotter, et al. v. Perdue Farms* (D. Del.), lead counsel on behalf of chicken processing workers alleging violations of federal wage and hour and employee benefits law.

Prior to joining Cohen Milstein, Mr. Sellers served for over 15 years as the Director of the Employment Discrimination Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, an organization providing pro bono representation in a broad range of civil rights and related poverty issues. He was a member of the transition teams of Obama/Biden in 2008 and Clinton/Gore in 1992 and 1993 and served as a Co-Chair of the Special Committee on Race and Ethnicity of the D.C. Circuit Task Force on Gender, Race and Ethnic Bias to which he was appointed by the judges of the D.C. Circuit Court of Appeals and the U.S. District Court for the District of Columbia. In 2018, Mr. Sellers was appointed by the Chief Justice of the United States to the Advisory Committee on Civil Rules of the Judicial Conference of the United States. Established by the Supreme Court in 1935, Advisory Committees on the Rules of Appellate, Bankruptcy, Civil, Criminal Procedure, and the Rules of Evidence carry on a continuous study of the rules and recommend changes to the Judicial Conference through a Standing Committee on Rules of Practice and Procedure.

Throughout his career, Mr. Sellers has also been active in legislative matters. He helped to draft and worked for the passage of the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990 and the Lily Ledbetter Fair Pay Restoration Act of 2009. He has testified more than 20 times before Committees of the United States Senate and House of Representatives on various civil rights and employment matters.

A teacher and mentor, Mr. Sellers has trained lawyers at the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice on the trial of civil rights cases and was an Adjunct Professor at the Washington

College of Law at American University, where he taught Employment Discrimination law, and at the Georgetown University Law Center, where he taught Professional Responsibility. In addition, he has lectured extensively throughout the country on various civil rights and employment topics. Mr. Sellers is also a professionally trained mediator and has served as the President of the Washington Council of Lawyers.

Mr. Sellers has been recognized as one of the top lawyers in Washington and as one of the top plaintiffs' employment lawyers in the U.S. In 2010, The National Law Journal named Mr. Sellers one of "The Decade's Most Influential Lawyers"; in 2011, The Legal Times named him a "Legal Visionary"; and in 2017, American Lawyer recognized him as "A Giant of the Plaintiffs Bar." Other prestigious recognitions include the Washington Lawyers' Committee for Civil Rights and Urban Affairs awarded Mr. Sellers the Wiley Branton Award for leadership in civil rights (2012); Lawdragon named him a "Lawdragon Legend" (2016) for being ranked one of the top 500 lawyers in the U.S. for 10 consecutive years; the NAACP honored him with the "Foot Soldier in the Sand Award" (2018) for his "willingness to go above and beyond the call of duty"; Legal500 has named him a "Leading Lawyer" in plaintiff-side employment law since 2020; and Law360 named him a "2021 MVP – Employment Law," recognizing him as one of the top five most influential employment lawyers in the U.S.

Mr. Sellers received his B.A. in American History and Literature from Brown University and earned his J.D. from Case Western Reserve School of Law, where he served as Research Editor of the Case Western Reserve Law Review.

## Attorney Profiles – Partners

### Gary L. Azorsky

Gary L. Azorsky is a partner at Cohen Milstein and chair of the firm’s Whistleblower/False Claims Act practice. Mr. Azorsky joined Cohen Milstein in 2012, establishing the practice. He pursues whistleblower cases under the federal and state false claims act statutes in the health care, pharmaceutical, banking and defense contractor industries and other industries that conduct business with the government. Mr. Azorsky specializes in the complex, highly detailed process for filing and pursuing these cases. In his practice, he has helped right wrongs and recovered nearly \$2.5 billion in defrauded funds for federal and state governments, including hundreds of millions of dollars for whistleblower clients.

Mr. Azorsky served as co-lead counsel in the qui tam action against the pharmaceutical company Wyeth pending in the District of Massachusetts, in which more states joined to intervene along with the government of the United States than had ever before intervened in a qui tam action. (United States of America et al., ex rel. Lauren Kieff, v. Wyeth, No.1:03-CV-12366-DPW [D.Mass.]) The \$784.6 million settlement was the seventh-largest False Claims Act recovery on record and the second-largest recovery in history involving a single class of drugs. In the prosecution of this case, he worked alongside Department of Justice attorneys and states Attorneys General throughout the 12-year pendency of the case.

Mr. Azorsky has also been actively involved in precedent-setting cases, such as the series of Ven-A-Care cases, which were among the first large FCA multi-state cases and laid the groundwork for much of the false claims act litigation that goes on today. He has also represented whistleblowers in False Claims Act cases involving defense contractors, off-label marketing and misbranding by pharmaceutical companies and fraud in connection with the banking industry, for-profit colleges and student loan programs. In addition, Mr. Azorsky represents whistleblowers in tax fraud claims against large and small corporations through the IRS Whistleblower Office, as well as whistleblowers alleging violations of the Foreign Corrupt Practices Act and violations of the federal securities laws filed with the SEC Whistleblower Office.

Mr. Azorsky served as co-counsel for the whistleblower on the following representative matters:

- United States of America ex rel. Ven-A-Care of the Florida Keys Inc. v. Dey Laboratories, et al., Civil Action No. 05-11084 (D. Mass) (\$280 Million settlement in December 2010)
- United States of America ex rel. Ven-A-Care of the Florida Keys Inc. v. Boehringer Ingelheim Corp, et al., Civil Action No. 07-10248 (D. Mass.) (\$280 Million settlement in December, 2010)
- Florida ex rel. Ven-A-Care of the Florida Keys Inc. v. Boehringer Ingelheim Corp, et al., Civil Action No. 98-3-32A (Leon Cty., Fla.) (\$6.5 Million settlement with Dey Laboratories, Inc. in March 2010)
- Florida ex rel. Ven-A-Care of the Florida Keys Inc. v. Boehringer Ingelheim Corp, et al., Civil Action No.98-3-32A (Leon Cty., Fla.) (\$9.57 Million settlement with Schering-Plough in December 2009)
- Florida ex rel. Ven-A-Care of the Florida Keys Inc. v. Boehringer Ingelheim Corp, et al., Civil Action No.98-3-32A (Leon Cty., Fla.) (\$8.5 Million settlement with Boehringer Ingelheim in December 2009)
- Texas ex rel. Ven-A-Care of the Florida Keys Inc. v. Roxane Laboratories, Inc., Boehringer Ingelheim Pharmaceuticals, Inc., Ben Venue Laboratories, Inc. and Boehringer Ingelheim Corporation, Civil Action No. GV3-03079 (Travis Cty., Tex.) (\$10 Million settlement with Boehringer Ingelheim in November 2005)
- Texas ex rel. Ven-A-Care of the Florida Keys Inc. v. Warrick Pharmaceuticals Corporation, Schering Plough Corporation, Schering Corporation, Civil Action No. GV002327 (Travis Cty., Tex.) (\$27 Million settlement with Schering-Plough in May 2004)
- Texas ex rel. Ven-A-Care of the Florida Keys Inc. v. Dey, Inc., Dey, L.P., Civil Action No. GV002327 (Travis Cty.,

Tex.) (\$18.5 Million settlement with Dey Laboratories, Inc. in June 2003)

Mr. Azorsky is recognized for his expertise. He has served as an expert witness in a legal malpractice case concerning qui tam practice. He has provided expert guidance on the False Claims Act in congressional hearings, as well as before the Vermont Senate Judiciary Committee in support of the passage of a False Claims Act for the state. In addition, he regularly speaks before professional audiences regarding the federal and state False Claims Acts.

Mr. Azorsky is a member of Taxpayers Against Fraud, a nonprofit, public interest organization dedicated to combating fraud against the Federal Government through the promotion and use of the Federal False Claims Act and its qui tam provisions. Prior to joining Cohen Milstein, in addition to his Whistleblower/False Claims Act practice, he was actively involved in groundbreaking civil rights, commercial and intellectual property litigation, including Internet and software industry-related litigation.

Mr. Azorsky is a graduate of the University of Pennsylvania, with a B.A. in English, and received his law degree from Cornell Law School.

### **Christopher Bateman**

Christopher Bateman is a partner in Cohen Milstein's Antitrust practice. In this role, he represents a broad range of individuals and organizations in civil litigation, particularly class actions and antitrust litigation.

Mr. Bateman's focus includes emerging antitrust issues within financial markets, and antitrust and securities issues relating to cryptocurrencies. Since 2021, Mr. Bateman has been recognized as a New York Metro Rising Star by Super Lawyers. An active member of the legal community, in 2022 Mr. Bateman was named a Vice Chair of the ABA Antitrust Section's U.S. Comments & Policy Committee.

Mr. Bateman is working on the following high-profile matters:

- In re Interest Rate Swaps Antitrust Litigation (S.D.N.Y.): Cohen Milstein serves as Co-Lead Counsel and represents the Public School Teachers' Pension and Retirement Fund of Chicago and other proposed buy-side investor class members in this ground breaking putative antitrust class action against numerous Wall Street investment banks. Plaintiffs allege that the defendants conspired to prevent class members from trading IRS on modern electronic trading platforms and from trading with each other, all to protect the banks' trading profits from inflated bid/ask spreads.
- Iowa Public Employees' Retirement System, et al. v. Bank of America Corp. et al. (S.D.N.Y.): Cohen Milstein is representing Iowa Public Employees Retirement System and other investors who allege that six of the world's largest investment banks, including Bank of America, Credit Suisse, Goldman Sachs, JP Morgan, Morgan Stanley, and UBS, conspired together to prevent the modernization of the \$1.7 trillion stock lending market in order to maintain control over a critical component of a strong economy.
- In Re: Da Vinci Surgical Robot Antitrust Litigation (N.D. Cal.): Cohen Milstein serves as Interim Co-Lead Counsel in this consolidated antitrust class action against Intuitive Surgical, Inc. Plaintiffs allege that Intuitive engages in an anticompetitive scheme under which it ties the purchase or lease of its must-have, market-dominating da Vinci surgical robot to the additional purchases of (i) robot maintenance and repair services and (ii) unnecessarily large numbers of the surgical instruments, known as EndoWrists, used to perform surgery with the robot—a violation of Sections 1 and 2 of the Sherman Act.

Before joining Cohen Milstein, Mr. Bateman was a law clerk for the Honorable Naomi Reice Buchwald, U.S. District Court for the Southern District of New York. Before that, he was a litigation attorney at a distinguished global law firm, where he worked with clients in the financial services and energy sectors.

Mr. Bateman received his B.A., cum laude, High Honors, from Dartmouth College, where he was a Rufus Choate Scholar. He received his J.D., cum laude, from Harvard Law School, where he received Dean's Scholar awards in Civil Procedure and in Federal Courts and the Federal System. While in law school, Mr. Bateman was an Article Selection Editor for the Harvard Civil Rights-Civil Liberties Law Review. He is the co-author of "Toward Greener FERC Regulation of the Power Industry," 38 Harvard Environmental Law Review 275 (2014).

Before attending law school, Mr. Bateman was an editorial associate at Vanity Fair for several years, where he wrote about politics, civil rights, culture, and environmental issues.

### **Brian E. Bowcut**

Brian E. Bowcut is a partner at Cohen Milstein and a member of the Public Client practice. He represents state attorneys general and other public-sector clients as outside counsel in investigations and lawsuits involving fraudulent and deceptive trade practices. Mr. Bowcut, who joined the firm in 2015, brings with him deep experience representing the federal government in complex litigation and in enforcement investigations. In his role as a senior lawyer in the Public Client practice, he brings this experience to bear in false claims and consumer fraud enforcement at the state and local levels.

Mr. Bowcut's recent representations include:

- **Grubhub and DoorDash Litigation:** Representing the City of Chicago in its enforcement actions against Grubhub and DoorDash for violations of the City's consumer protection laws. These cases allege widespread deceptive and unfair business practices impacting local restaurants, consumers, and drivers. [Click here to view the lawsuit filed against DoorDash](#); [click here to view the lawsuit filed against Grubhub](#).
- **Opioid Litigation:** Representing the states of Indiana, New Jersey and Vermont in investigations and litigation against entities responsible for the deceptive marketing and sale of opioids. Publicly filed enforcement actions in these matters included Indiana's actions against Purdue, the Sackler family, and pharmaceutical distributors Cardinal Health, McKesson, and AmerisourceBergen; New Jersey's actions against Purdue, the Sackler family, and Janssen; and Vermont's actions against Purdue, the Sackler family, and distributors Cardinal and McKesson. A \$26 billion nationwide settlement of litigation against the distributors and Janssen was finalized in 2022. A nationwide settlement in principle with Purdue and the Sackler family, valued at more than \$6 billion, remains pending in bankruptcy proceedings.
- **Nursing Homes:** Representing the State of New Mexico in litigation related to Medicaid fraud and deceptive marketing by skilled nursing facilities that promised, but failed to provide, basic care to their elderly residents. Mr. Bowcut briefed and successfully argued the defendants' motion to dismiss the case.
- **Energy Drinks:** Representing a state government in litigation against Living Essentials, Inc., the creator of 5-Hour ENERGY, for misrepresenting the benefits of its so-called "liquid energy shot." Mr. Bowcut is preparing this case for trial.

Mr. Bowcut formerly was a Trial Attorney and Senior Trial Counsel in the Civil Division of the U.S. Department of Justice for nine years. Most recently, as a member of the Fraud Section, he investigated and litigated fraud across an array of government programs, from Medicare fraud by nursing facilities, hospices and medical device makers to schemes involving federal mortgage, foreign aid, and TARP funds. Before that, as a member of the Environmental Torts Section, he defended the United States as lead counsel in large-scale tort litigation. Prior to joining DOJ, Mr. Bowcut practiced at a preeminent national law firm, where he specialized in pharmaceutical product liability, and commercial litigation. He has argued cases in numerous federal district courts, the U.S. Court of Appeals for the Fourth Circuit, and the District of Columbia Court of Appeals.

Mr. Bowcut attended Utah State University, graduating summa cum laude with a B.A. in Journalism and Political Science. He earned his J.D. from Duke University School of Law, graduating cum laude and Order of the Coif, and also earned an M.A. in Public Policy from Duke. During law school, Mr. Bowcut was an Articles Editor for the Duke

Law Journal. After law school, he clerked for the Honorable Stanley S. Brotman of the United States District Court for the District of New Jersey.

### **Molly J. Bowen**

Molly J. Bowen is a partner in Cohen Milstein's Securities Litigation & Investor Protection practice, where she represents public pension funds and other institutional investors in securities class actions and shareholder derivative lawsuits.

Ms. Bowen is recognized by the legal industry for her clear judgment and unique blend of appellate and trial experience, making her an exceptional litigator. Indeed, she has played a leading role in some of the nation's most significant shareholder derivative litigation to date, including FirstEnergy Shareholder Derivative Litigation, involving the largest political bribery scheme in Ohio history, and in *In re Alphabet Shareholder Derivative Litigation* and *In re Pinterest Derivative Litigation*, both of which resulted in groundbreaking settlements to hold corporate boards of directors accountable for systemic workplace discrimination, harassment, and toxic work cultures.

For her work, Ms. Bowen has been recognized by Law360, which named her a 2022 "Rising Star - Securities" and by The National Law Journal, which named her a 2021 "Rising Star of the Plaintiffs Bar."

Ms. Bowen's experience in securities litigation is complemented by extensive consumer fraud experience, having worked with Cohen Milstein's Public Client practice, representing the interests of state attorneys general. Ms. Bowen also brings to bear perspective from the defense bar, having worked as a litigator at a prominent national defense firm.

Some of her current matters include:

- *In re Wells Fargo & Company Securities Litigation* (S.D.N.Y.): Cohen Milstein is Co-Lead Counsel, representing Public Employees' Retirement System of Mississippi and the State of Rhode Island, Office of the General Treasurer, in this putative securities class action. Plaintiffs allege that, in the wake of a widespread consumer banking scandal, Wells Fargo misrepresented its compliance with numerous federal consent orders and the timing of removal of an unprecedented asset cap. On May 16, 2023, the Court granted preliminary approval of a historic \$1 billion settlement.

Some of her recent successes include:

- *FirstEnergy Shareholder Derivative Litigation* (S.D. Ohio; N.D. Ohio): Cohen Milstein represented the Massachusetts Laborers Pension Fund in two shareholder derivative actions against certain officers and directors and nominal defendant FirstEnergy related to the Company's involvement in Ohio's largest public bribery schemes. On August 23, 2022, the Court granted final approval of a \$180 million global settlement. Law360 ranked this as one of the top 10 securities litigation settlements in 2022.
- *In re Alphabet Shareholder Derivative Litigation* (Sup. Ct. Cal., Santa Clara Cnty.): Cohen Milstein, as Co-Lead Counsel, represented Northern California Pipe Trades Pension Plan and Teamsters Local 272 Labor Management Pension Fund in a shareholder derivative lawsuit against Alphabet, Inc.'s Board of Directors. Shareholders alleged that the Board allowed powerful executives to sexually harass and discriminate against women without consequence. In November 2020, the Court granted final approval of a historic settlement, including a \$310 million commitment to fund diversity, equity, and inclusion initiatives and robust reforms including limiting non-disclosure agreements and ending mandatory arbitration in sexual harassment, gender discrimination, and retaliation-related disputes.
- *In re Pinterest Derivative Litigation* (N.D. Cal.): Cohen Milstein, as Interim Lead Counsel, represented the Employees Retirement System of Rhode Island and other Pinterest shareholders in a shareholder derivative

lawsuit against certain Board members and executives. Shareholders alleged that Defendants personally engaged in and facilitated a systematic practice of illegal discrimination of employees on the basis of race and sex. On June 9, 2022, the Court granted final approval of a settlement including a \$50 million funding commitment and holistic workplace and Board-level reforms.

- Credit Suisse Group AG Securities Litigation (S.D.N.Y.): Cohen Milstein, as Co-Lead Counsel, represented the International Brotherhood of Teamsters Local No. 710 Pension Plan in a securities class action against Credit Suisse Group AG, involving misrepresentations of its trading and risk limits, and subsequent accumulation of billions of dollars in extremely risky, highly illiquid investments. In December 2020, the Court granted final approval of a \$15.5 million settlement.

Ms. Bowen also maintains an active pro bono practice involving notable matters, such as:

- Vivian Englund v. World Pawn Exchange, LLC (Cir. Ct., Coos Cnty., Or.): Cohen Milstein represented Kirsten Englund's estate in a wrongful death case against the gun dealer and pawn shop that sold guns used in her murder. The case established precedent on firearms dealers' liability for online straw sales and resulted in an important settlement. For their work on the case, Cohen Milstein was named to The National Law Journal's "2019 Pro Bono Hot List" and won Public Justice Foundation's "2019 Trial Lawyer of the Year – Finalist" award.

Ms. Bowen regularly publishes on developments in securities law and was named a winner of the Burton Awards in 2019 for "INSIGHT: Holding Firearms Dealers Accountable for Online Straw Sales," Bloomberg Law (December 19, 2018).

Prior to pursuing private practice, Ms. Bowen was a law clerk to the Honorable Karen Nelson Moore of the United States Court of Appeals for the Sixth Circuit.

Ms. Bowen graduated magna cum laude from Macalester College with a B.A. in Geography in 2007. She earned her J.D., summa cum laude, graduating first in her class, from Washington University in St. Louis School of Law in 2013, where she served as the Articles Editor for the Washington University Law Review.

### **Robert A. Braun**

Robert A. Braun, a partner at Cohen Milstein and a member of the Antitrust practice, focuses on cutting-edge, industry-changing antitrust and class action litigation on behalf of individuals and small businesses harmed by price-fixing and other illegal corporate behavior.

Mr. Braun recently helped obtain more than \$50 million in settlements in *In re Resistors Antitrust Litigation* (N.D. Cal.), and has also played significant roles in suits involving anticompetitive behavior in the real estate services industry, LIBOR manipulation (\$180 million in preliminary settlements), price-fixing by manufacturers of metal pipes and fittings (\$47 million in settlements across two cases), and "pay-for-delay" and other practices by pharmaceutical companies to limit access to less expensive generic drugs.

Mr. Braun is also experienced in international claims litigation, including representing victims of state-sponsored terrorism in suits amounting to nearly \$1 billion in judgments.

Currently, Mr. Braun is litigating the following notable matters:

- *Moehrl v. National Association of Realtors* (N.D. Ill.): Cohen Milstein represents a proposed class of home sellers in litigation against the four largest national real estate services conglomerates, and their trade association. The class alleges that the defendants violated federal antitrust law by conspiring to require

sellers to pay the broker representing their homes' buyer (and to do so at an inflated level). Mr. Braun assists in managing all aspects of the case.

- In re: Iran Beirut Bombing Litigation (D.D.C.): Cohen Milstein represents victims and family members of victims in the 1983 Beirut Marine Barracks bombing—the deadliest act of terrorism against Americans prior to September 11, 2001. Mr. Braun manages this litigation, which has resulted in judgments amounting to more than \$942 million against the government of Iran.

Mr. Braun also maintains an active pro bono practice. He is currently a member of the legal teams in *Citizens for Responsibility & Ethics in Washington v. Trump* (S.D.N.Y.) and *District of Columbia v. Trump* (D. Md.), which seek to enjoin President Trump's unconstitutional receipt of emoluments on behalf of restaurant and hotel plaintiffs and the Attorneys General of Maryland and the District of Columbia.

Prior to joining Cohen Milstein, Mr. Braun served as a law clerk for Hon. Carolyn Dineen King (5th Cir.), and Hon. Lee H. Rosenthal (S.D. Tex.). He was also an Arthur Liman Fellow at Southeast Louisiana Legal Services, where he worked on public interest housing litigation.

Mr. Braun earned his J.D. at Yale Law School and attended Princeton University, graduating summa cum laude. During law school, Mr. Braun was an editor of the *Yale Journal of International Law* and a member of the mock trial team.

### **S. Douglas Bunch**

S. Douglas Bunch is a partner at Cohen Milstein, a member of the Securities Litigation & Investor Protection practice, and co-chair of the firm's Pro Bono Committee.

Mr. Bunch has also had the unique honor of being appointed by President Joseph R. Biden as Public Delegate of the United States to the United Nations, a position he currently holds.

As a securities litigator, Mr. Bunch represents individual and institutional investors in securities and shareholder class actions. His work and path-breaking legal arguments in precedent-setting cases, such as *In re Harman International Industries, Inc. Securities Litigation*, have earned him numerous accolades, including being named to Benchmark Litigation's 2019 "40 & Under Hot List" and as one of Law360's "Rising Stars – Securities" (2017), honoring lawyers under the age of 40 whose professional accomplishments transcend their age.

Mr. Bunch played a leading role in the following securities class actions:

- *In re Harman International Industries, Inc. Securities Litigation* (D.D.C.): Cohen Milstein obtained a precedent-setting ruling by the U.S. Court of Appeals for the D.C. Circuit, reversing the dismissal of the case by the lower court, protecting investors by limiting the scope of protection afforded by the so-called "safe-harbor" for forward-looking statements in the Private Securities Litigation Reform Act of 1995.
- *In re GreenSky Securities Litigation* (S.D.N.Y.): Cohen Milstein was Co-Lead Counsel in this securities class action involving fintech company GreenSky's failure to disclose in its Initial Public Offering documents significant facts about the Company's decision to pivot away from its most profitable line of business. This failure led to its stock plummeting and causing significant investor harm. In October 2021, the Court granted final approval of a \$27.5 million settlement.
- *Plumbers & Pipefitters National Pension Fund v. Davis* (S.D.N.Y.): Cohen Milstein was Lead Counsel in this high-profile, putative securities class action involving Performance Sports Group's failure to disclose that its purported financial success was not based on sustainable, "organic" growth as represented, but was driven by the Company's manipulative and coercive sales practices, which included pulling orders forward to earlier quarters and pressuring customers to increase their orders without regard for market demand. The SEC and

Canadian authorities subsequently initiated investigations, and PSG filed for bankruptcy. On November 22, 2022, the Court granted final approval of a \$13 million settlement, which is in addition to the \$1.15 million settlement Plaintiff obtained in Performance Sports Group's 2016 bankruptcy proceedings through the prior approval of the U.S. Bankruptcy Court for the District of Delaware and the Ontario Superior Court in Canada.

- In re ITT Educational Services, Inc. Securities Litigation (S.D.N.Y.): Cohen Milstein achieved a \$16.96 million settlement against ITT and two of its officers. The case was hotly contested and involved unraveling complex accounting treatments governing ITT's transactions with third-party lenders, whereby the third parties agreed to assume liability for student loan defaults up to a particular threshold. The case settled during discovery after the parties had reviewed and analyzed over two million pages of documents, after depositions had been taken, and while class certification briefing was ongoing.
- Rubin v. MF Global, Ltd. (S.D.N.Y.): Cohen Milstein achieved a significant \$90 million settlement in this precedent-setting case, in which the U.S. Court of Appeals for the Second Circuit sided with the Plaintiffs and held that companies cannot make false or misleading statements in their offering documents, and then hide behind associated risk disclosures in an attempt to escape liability. The National Law Journal named Cohen Milstein to its Plaintiffs' Hot List for its achievement.
- MBS Litigation (S.D.N.Y): Cohen Milstein is a legal pioneer in mortgage-backed securities (MBS) litigation, having negotiated some of the largest and most significant MBS settlements in history and achieved more than \$2.5 billion in investor recoveries. Mr. Bunch played a key role in these cases, particularly those against Residential Accredited Loans, Inc. (RALI) (\$335 million settlement), Harborview Mortgage Loan Trusts (\$275 million settlement), and Bear Stearns & Co. Inc. (\$500 million settlement).

Mr. Bunch is currently involved in the following notable cases:

- Cape Fear River Contaminated Water Litigation (E.D.N.C.): Cohen Milstein is Interim Co-Lead Class Counsel in this environmental toxic tort class action filed against E.I. du Pont de Nemours & Company and The Chemours Company. Plaintiffs allege that for more than four decades, DuPont and Chemours polluted the Cape Fear River near Wilmington, North Carolina, with a chemical called GenX; contaminated the water supply in five North Carolina counties; and misrepresented the Company's conduct to state and federal regulators, all while knowing that GenX was carcinogenic. Plaintiffs allege extensive property damage and personal injury as a result of Defendants' actions.
- In re EQT Corporation Securities Litigation (W.D. Pa.): Cohen Milstein is Co-Lead Counsel in this securities class action, in which Plaintiffs allege that EQT misrepresented the "substantial synergies" that were expected to arise from a planned merger with rival natural gas producer Rice Energy due to "the contiguous and complementary nature of Rice's asset base with EQT's."

For his legal achievements, Mr. Bunch has received numerous industry recognitions, including being named to Benchmark Litigation's 2019 "40 & Under Hot List," and Law360's "Rising Stars – Securities" (2017), recognizing outstanding lawyers under the age of 40. Mr. Bunch has also been annually recognized by Super Lawyers for Securities Litigation (2014-2020).

Mr. Bunch is Co-Founder and Chairman of Global Playground, Inc., a nonprofit that builds schools and other educational infrastructure in the developing world, and serves or has served on the boards of the Northeast Conference on the Teaching of Foreign Languages, Ascanius: The Youth Classics Institute, and Virginia21. Mr. Bunch has twice been appointed, in 2016 and again in 2020, by Governors of Virginia to the Board of Visitors of the College of William & Mary.

A member of Phi Beta Kappa, Mr. Bunch graduated with a B.A., summa cum laude, from the College of William & Mary, earned an Ed. M. from Harvard University, and received his J.D. from William & Mary Law School, where he was a recipient of the Benjamin Rush Medal in 2006. In 2011, he was awarded William & Mary's inaugural W. Taylor Reveley III award, recognizing alumni who have demonstrated a sustained commitment to public service.

## Robert W. Cobbs

Robert W. Cobbs is a partner at Cohen Milstein and a member of the Antitrust practice.

Currently, Mr. Cobbs is litigating the following notable matters:

- Interest Rate Swaps Antitrust Litigation (S.D.N.Y.): Cohen Milstein serves as co-lead counsel in a groundbreaking antitrust class action representing the Public School Teachers' Pension and Retirement Fund of Chicago and a proposed buy-side investor class against numerous Wall Street investment banks. The class alleges that the defendants conspired to prevent class members from trading IRS on modern electronic trading platforms and from trading with each other, all to protect the banks' trading profits from inflated bid/ask spreads.
- Stock Lending Antitrust Litigation (S.D.N.Y.): Cohen Milstein serves as co-counsel in a groundbreaking antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- ExxonMobil - Aceh, Indonesia (D.D.C.): Cohen Milstein is representing eleven Indonesian citizens in a cross-border human rights lawsuit involving allegations of physical abuse, sexual assault, other forms of torture, and murder committed by Indonesian soldiers who were hired by ExxonMobil Corporation.

Mr. Cobbs' recent successes include:

- Google Wi-Fi Litigation (N.D. Cal.): Cohen Milstein was co-lead counsel in a nationwide class action alleging that Google violated the Wiretap Act when its Street View vehicles secretly collected payload data from unencrypted Wi-Fi networks. Plaintiffs defeated a motion to dismiss raising novel Wiretap Act issues, and the ruling was affirmed on interlocutory appeal to the Ninth Circuit. The court approved a \$13 million settlement in March 2020.
- Anadarko Basin Oil and Gas Lease Antitrust Litigation (W.D. Okla.): Cohen Milstein was co-lead counsel for plaintiffs in a class action alleging that Chesapeake Energy, SandRidge Energy and a former executive of both companies conspired to rig bids for leases of land held by private landowners in parts of Oklahoma and Kansas. This litigation followed the U.S. Department of Justice's early 2016 indictment of a co-founder and former CEO of Chesapeake Energy for allegedly participating in this bid-rigging conspiracy. Plaintiffs alleged that Defendants illegally conspired to stabilize and depress the price of royalty and bonus payments paid to landowners in the Anadarko Basin oil and gas province — a massive geological formation holding natural gas and oil deposits that includes large parts of Oklahoma and Kansas. Pursuant to this conspiracy, Plaintiffs alleged that Defendants communicated about and agreed on prices, allocated particular geographic areas between themselves, and rigged bids for leases of land, lowering acquisition prices across the region and thereby harming the proposed class of landowners. In April 2019, the court granted final approval of a \$6.95 million settlement.

Prior to joining Cohen Milstein, Mr. Cobbs clerked for the Hon. Pierre N. Leval, United States Court of Appeals for the Second Circuit; and for the Hon. J. Rodney Gilstrap, United States District Court for the Eastern District of Texas.

Mr. Cobbs graduated from Amherst College with a B.A. in English and Russian, magna cum laude with distinction, and received his J.D. from Yale Law School. During law school, he served as a Notes Editor of the Yale Law Journal and as a Submissions Editor of the Yale Journal on Regulation.

**Brian Corman**

Brian Corman is a partner in Cohen Milstein's Civil Rights & Employment practice.

Mr. Corman helps spearhead the firm's fair housing litigation efforts, representing fair housing organizations, tenant unions, and those who have been unlawfully denied housing or otherwise discriminated against, often in cases addressing novel state and federal claims. A hands-on litigator, Mr. Corman leads these cases from initial investigation, to briefing and presenting oral arguments before the court, to overseeing settlement negotiations. Mr. Corman's practice also focuses on employment class actions, as well as complicated wage and hour cases under the federal Fair Labor Standards Act (FLSA) and state wage statutes.

Mr. Corman's current high-profile cases include:

- *Thompson, et al. v. Trump, et al.* (D.D.C.): The NAACP and Cohen Milstein represent 11 Members of Congress in a suit alleging that Donald J. Trump, Rudolph Giuliani, the Proud Boys and the Oath Keepers conspired to prevent members of Congress from carrying out their duty to certify the results of the 2020 election on January 6, 2021.
- *Amazon Flex Driver Arbitrations (AAA)*: Cohen Milstein represents thousands of current and former Amazon Flex delivery drivers in California who allege that Amazon intentionally misclassified them as independent contractors to avoid paying them overtime and to deny them other benefits of California labor law.
- *Long Island Housing Services, Inc., et al. v. NPS Holiday Square LLC, et al.* (E.D.N.Y.): Cohen Milstein is representing Long Island Housing Services (LIHS), Suffolk Independent Living Organization (SILO) and Suffolk County residents in a Fair Housing Act race and disability discrimination class action against a prominent Long Island-area property management company.
- *Castillo v. Western Range Association* (D. Nev.): Cohen Milstein represents H-2A shepherds in a class action against Western Range Association in a wage and hour dispute.

Recent notable litigation successes include:

- *Park 7 Tenant Union - Right to Organize Litigation* (D.C. Sup. Ct.): Cohen Milstein, along with the Washington Lawyers' Committee for Civil Rights and Urban Affairs, represented the Park 7 Tenant Union and individual tenants of Park 7 Apartments, an affordable housing apartment building in Washington D.C., against the property's owner and property manager. Plaintiffs alleged that Defendants violated their "right to organize," which is protected under D.C.'s Right of Tenants to Organize Act. In October 2021, the parties signed a first-of-its-kind Consent Agreement that established the procedures by which the Park 7 Tenant Union can operate free from interference and retaliation.
- *Lopez, et al. v. Ham Farms, LLC, et al.* (E.D.N.C.): Cohen Milstein represented hundreds of migrant seasonal and H-2A farm labor workers in a wage and hour dispute under the FLSA, the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and the North Carolina Wage & Hour Act. On May 14, 2021, the Court granted final approval of a class action settlement with a total value of \$1 million. At the final approval hearing on May 14, Judge James C. Dever III commended Plaintiffs' counsel for the "excellent [settlement] papers," which were written by Mr. Corman.
- *Sutton v. McCoy* (N.D. Ga.): Cohen Milstein and the ACLU represented a plaintiff in a race-based Fair Housing Act discrimination lawsuit, where the plaintiff claimed she was unjustly evicted for inviting an African-American family to her home. In February 2020, Cohen Milstein and the ACLU settled the case, requiring that the landlords admit to their discriminatory actions and making racist statements in violation of the Fair Housing Act, apologize for the harm they caused, and agree to pay the plaintiff \$150,000.
- *Gentiva Health Services* (N.D. Ga.): Cohen Milstein represented hundreds of health care workers in a nationwide class action against Gentiva, one the country's largest home health care service providers. Plaintiffs sought unpaid overtime wages under FLSA. In June 2017, the court granted final approval of a confidential settlement.

- Long Island Housing Services, Inc., et al. v. Village of Mastic Beach (E.D.N.Y.): Cohen Milstein represented LIHS and African American tenants in a Fair Housing Act race discrimination case. The case settled in August 2017 for \$387,500.

Prior to joining Cohen Milstein in 2015, Mr. Corman was a Litigation Associate at a top-tier defense firm, where he focused on Foreign Corrupt Practices Act internal investigations for Fortune 500 clients, as well as pro bono cases in federal district court and before the Supreme Court.

Following law school, Mr. Corman clerked for the Honorable Harry Pregerson of the Ninth Circuit Court of Appeals. He then participated in a D.C. Bar Association Pro Bono Fellowship at the Lawyers' Committee for Civil Rights Under Law, working on education, voting rights and fair housing cases.

Mr. Corman earned his law degree from the University of California, Berkeley School of Law, where he was an editor of the California Law Review, a member of the Jessup International Law Moot Court Team, co-chaired the Berkeley Law Expulsion Clinic, and externed for the Honorable William Alsup of the U.S. District Court for the Northern District of California. Mr. Corman received his B.A., summa cum laude, Phi Beta Kappa, in Political Science from Columbia University School of General Studies.

Mr. Corman was a professional ballet dancer for eight years, performing with the Houston Ballet and Washington Ballet, among other companies.

#### **Alison Deich**

Alison Deich is a partner in Cohen Milstein's Antitrust practice. In this role, she represents a broad range of plaintiffs in antitrust, environmental, and civil rights litigation.

Ms. Deich is highly regarded for her ability to quickly engage with economic and scientific experts. In 2023, The National Law Journal named her a "Rising Star," and since 2020, Super Lawyers has consistently recognized Ms. Deich as a "Rising Star" in the Washington, D.C. Metro Area.

Ms. Deich is working on the following high-profile antitrust matters:

- Jien v. Perdue Farms, Inc. (D. Md.): Cohen Milstein serves as co-lead counsel, representing a proposed class of poultry plant workers, in a suit alleging that the nation's largest chicken and turkey producers conspired to suppress their wages. Since July 20, 2021, the Court has preliminarily approved settlements with six defendants for \$195.25 million. Litigation against the remaining defendants continues.
- In re Broiler Chicken Antitrust Litigation (N.D. Ill.): Cohen Milstein represents a class of broiler chicken consumers in a suit alleging that the nation's largest chicken producers, including Perdue Farms and Tyson Foods, conspired to raise the price of chicken. On December 20, 2021, the Court granted final approval of settlements with six of the defendants for a total of \$181 million. Litigation against the remaining defendants continues.

Ms. Deich is also involved in other high-profile matters on behalf of the firm, including:

- Thompson v. Trump (D.D.C.): The NAACP and Cohen Milstein represent members of Congress in a suit alleging that Donald J. Trump, the Proud Boys and the Oath Keepers conspired to prevent members of Congress from carrying out their duty to certify the results of the 2020 election on January 6, 2021.
- Cape Fear River Contaminated Water Litigation (E.D.N.C.): Cohen Milstein serves as Interim Co-Lead Class Counsel, overseeing a putative class action against E.I. DuPont de Nemours Company and The Chemours

Company for discharging toxic chemicals into the Cape Fear River—a source of drinking water for five counties in North Carolina.

- In re Flint Water Crisis Class Action Litigation (E.D. Mich.): Cohen Milstein is Interim Co-Lead Class Counsel for a group of related class action lawsuits filed in federal court on behalf of Flint, Michigan residents and businesses harmed by exposure to toxic levels of lead and other hazards from the city's drinking water. On November 10, 2021, the Court granted final approval of a landmark \$626.25 million settlement against the State of Michigan and other defendants. Litigation continues against two private water engineering firms.

Prior to joining Cohen Milstein, Ms. Deich clerked for the Honorable Cornelia Pillard of the United States Court of Appeals for the D.C. Circuit. She also clerked for the Honorable Katherine Polk Failla of the U.S. District Court for the Southern District of New York, as well as the Honorable Goodwin Liu of the California Supreme Court.

Ms. Deich received her B.A. from the University of Virginia, where she graduated with highest distinction, Phi Beta Kappa, and received several honors, including the Lewis M. Hammond Award. Ms. Deich received her J.D. from Harvard Law School, where she graduated magna cum laude and won the Ames moot court competition.

### **Manuel J. Dominguez**

Manuel J. (“John”) Dominguez is a partner at Cohen Milstein and a member of the Antitrust practice. He focuses on complex, multi-district antitrust litigation, representing individuals and businesses harmed by anticompetitive business practices. Mr. Dominguez also plays a significant role in identifying and investigating potential antitrust violations for the practice.

Mr. Dominguez has been litigating complex antitrust, securities, and consumer cases for more than 20 years, and has served as lead counsel and handled numerous high-profile, high-stakes cases during that time. His efforts have enabled aggrieved businesses and consumers to recover hundreds of millions of dollars.

A hands-on litigator, Mr. Dominguez currently represents plaintiffs in litigation alleging price-fixing and monopolistic practices in the medical products, finance and other industries. These cases include:

- Automotive Parts Antitrust Litigation: Cohen Milstein represents direct purchasers of Bearings, Mini-Bearings, IG coils, Power Window Motors, Valve Timing Control Devices and other automotive parts in a series of antitrust class action lawsuits accusing manufacturers and suppliers of price-fixing and bid-rigging conspiracies. These cases, being litigated in the Eastern District of Michigan in Detroit, stem from the largest antitrust investigation in the history of the U.S. Department of Justice, with over \$1 billion in fines and multiple criminal indictments. Bearings is the first matter currently being considered for certification by the court. Mr. Dominguez has significant responsibilities in these cases, including leading discovery efforts against defendants, briefing and assisting experts. Settlements in several of these cases have recovered more than \$500 million for direct purchaser plaintiffs.
- Liquid Aluminum Sulfate Antitrust Litigation: In this action it was alleged that the manufacturers of Aluminum Sulfate, a product used by municipalities for water treatment, conspired to allocate customers, rig bids and fix prices. Mr. Dominguez was appointed by the court to serve on the Plaintiffs’ Steering Committee. As part of his responsibilities, he has been responsible for selecting class representatives and working on the consolidated amended complaint. Thus far, this case has resulted in the preliminary approval of settlements for direct purchaser plaintiffs of more than \$10.7 million in cash and up to \$13.5 million from the sale of defendant’s assets resulting from the company’s dissolution or acquisition.

In addition to antitrust class action litigation, Mr. Dominguez continues to be involved in significant non-class and non-antitrust class actions, including winning a significant motion to dismiss in a non-class action antitrust action brought on behalf of doctors and practice groups against a major insurance company and hospital in Florida in Omni

Healthcare, Inc. v. Health First, Inc. The case presented and argued issues of first impression for the middle district of Florida. Mr. Dominguez was also involved in cutting-edge data privacy breach litigation against AOL for allegedly unlawfully collecting internet search data of millions of users and making their private information available for public downloading. In addition, Mr. Dominguez litigated a highly significant securities matter that settled for hundreds of millions of dollars involving Symbol Technologies Inc., a barcode technology maker that intentionally overstated its revenues through premature revenue recognition, improper consignments arrangements and channel stuffing.

Mr. Dominguez began his career as an Assistant Attorney General in the Attorney General of the State of Florida's Department of Economic Crimes. In that role, he represented the State of Florida in prosecuting corporations and business entities for alleged violations of Florida's RICO, antitrust and Unfair and Deceptive Trade Practices Act statutes. Following his service as an Assistant Attorney General, Mr. Dominguez entered private practice, litigating and trying numerous cases involving unfair trade practices and other alleged violations of state and federal consumer protection statutes. In 2000, he joined a premier class action firm focused on antitrust and securities litigation; there, he rose to be one the heads of the firm's antitrust practice group.

Mr. Dominguez also has been at the forefront of exploring ways to develop and apply e-discovery to the law—authoring white papers and presenting on e-discovery amendments to the Federal Rules of Civil Procedure. He also participated in The Sedona Conference® Working Group 1, the legal industry's vanguard e-discovery standards organization.

Mr. Dominguez formerly served as the Chair of the Antitrust, Franchise & Trade Regulation Committee of the Florida Bar's Business Law Section. He previously served as the Vice Chair of that committee and was a member of the Executive Council of Florida Bar's Business Law Section. He is also co-author of an article that appeared in the Florida Bar Journal, "The Plausibility Standard as a Double Edge Sword: The application of Twombly and Iqbal to Affirmative Defenses" (Vol. 84, No. 6).

Mr. Dominguez is recognized by the Global Competition Review Who's Who Legal: Competition (since 2021), Lawdragon 500 Leading Plaintiff Financial Lawyers List (2021), "Super Lawyers" as a top-rated lawyer In Florida (since 2021), "Legal Elite" by Florida Trend (2017-2018), and he has been named a Palm Beach Illustrated "Top Lawyers" (2018).

Mr. Dominguez received a B.A. from Florida International University, and earned his J.D. from the Florida State University College of Law, graduating with honors. In law school, he was a member of the Transnational Journal of Law and Policy.

### **Agnieszka Fryszman**

Agnieszka Fryszman, chair of the Human Rights practice at Cohen Milstein, has been recognized as leading one of the best private international human rights practices in the world.

She represents individuals who have been victims of torture, human trafficking, forced and slave labor and other violations of international law. A recognized expert and leader in the field of human rights law, Ms. Fryszman regularly litigates cases against corporate giants and foreign powers.

Notable areas where Ms. Fryszman's work has made an impact:

- Holocaust-era atrocities: Ms. Fryszman was a member of the legal team that successfully represented survivors of Nazi-era forced and slave labor against the German and Austrian companies that allegedly profited from their labor. These cases were resolved by international negotiations that resulted in multi-

billion-dollar settlements.

- Human Trafficking and Forced Labor: Ms. Fryszman filed one of the first claims under the federal human trafficking statute (the TVPRA) and has continued to focus on representing survivors of human trafficking and forced labor. She has been recognized as Advocate of the Year by the Human Trafficking Legal Center and awarded the National Law Journal Pro Bono Award for her efforts. She has represented workers trapped in supply chain forced labor as well as men and women trafficked by military contractors, in the fishing industry, and to work cleaning houses in Northern Virginia.
- Military contractors: Ms. Fryszman earned the National Law Journal Pro Bono Award for efforts on behalf of Nepali laborers killed at U.S. military bases in Iraq. She represented the families of twelve Nepali men and five additional surviving Nepali men who were lured to Jordan with the false promise of well-paying hotel jobs, but instead their passports were confiscated, they were imprisoned and then taken against their will a U.S. military base in Iraq, where they were put to work for U.S. military subcontractors during the Iraq war. Twelve of the men were killed by insurgents. The claims were ultimately resolved, including under innovative proceedings pursuant to the Defense Base Act. Cohen Milstein's work received international attention and is the focus of the book, *The Girl from Kathmandu | Twelve Dead Men and a Woman's Quest for Justice*, by Cam Simpson (HarperCollins, 2018).
- Deep Sea Fishing Industry: Ms. Fryszman filed and settled the first successfully resolved case of fishing boat slavery in the world. She represented two Indonesian men who escaped from a fishing boat when it docked in California. The settlement included provisions intended to protect future seamen, including a code of conduct for ship captains and a hand-out for seamen informing them of their rights and who to call for help.
- Comfort Women: Ms. Fryszman's work on behalf of former "comfort women," women and girls trafficked into sexual slavery by the government of Japan during World War II, was recognized with the "Fierce Sister" award from the National Asian Pacific American Women's Forum.
- Victims of 9/11: Ms. Fryszman represented, pro bono, victims of the September 11 attack on the Pentagon and obtained one of the highest awards for an injured survivor from the Victim's Compensation Fund.
- Guantanamo Bay Detention: Ms. Fryszman represented, pro bono, two individuals detained by the United States at Guantanamo Bay who were ultimately cleared without charge.

Some of Ms. Fryszman's current high-profile cases include:

- ExxonMobil -Villagers of Aceh Litigation (D.D.C.): Ms. Fryszman represents eleven villagers from Aceh, Indonesia, who allege that they or their relatives were victims of torture, extrajudicial killing, and other abuses committed by security guards working for Exxon Mobil. The case is being heard in a United States court but involves claims under Indonesian law. The case has been hotly litigated for 20 years, including two trips to the D.C. Circuit Court of Appeals (both successfully argued by Ms. Fryszman). Ms. Fryszman pioneered the use of remote deposition technology to take over 20 depositions of eyewitnesses located in rural Aceh. The parties are currently awaiting a trial date.
- Chiquita (S.D. Fla): Ms. Fryszman represents hundreds of Columbian citizens who allege that they or their family members were victims of torture or extrajudicial killing committed by the AUC, a paramilitary death squad paid by Chiquita. The victims included labor organizers, elected officials, and activists on Chiquita's banana plantations. The AUC was designated by the United States government as a "Foreign Terrorist Organization." That designation made supporting the AUC a federal crime. After an inquiry by the U.S. Justice Department, Chiquita pled guilty and admitted to making over 100 payments to the AUC but has thus far refused to compensate the families whose loved ones were murdered.
- Kurd v. The Republic of Turkey (D.D.C.): Ms. Fryszman represents represent fifteen people, including a seven-year-old girl with her father, a mother pushing a four-year-old in a stroller, students, and local small business owners, who had gathered at Sheridan Circle in Washington, D.C., to peacefully protest the Erdogan regime's treatment of its Kurdish community. They were brutally attacked by President Erdogan's security detail, who pushed past a line of law enforcement officers to kick, stomp and bludgeon the demonstrators. The attack was captured on video, resulted in criminal indictments, and was condemned by

the United States Congress. The Republic of Turkey claimed it was immune from suit, but the district court disagreed. Ms. Fryszman successfully argued the case at the Court of Appeals, obtaining a unanimous opinion upholding the district court.

- *Ratha v. Phatthana Seafood* (C.D. Cal.): Ms. Fryszman represents Cambodian villagers who allege that they were trafficked into Thailand and subjected to forced labor at seafood processing factories that were owned by and did business with U.S. business entities.
- *Paul Rusesabagina Kidnapping* (D.D.C.): Ms. Fryszman represented U.S. Presidential Medal of Freedom winner Paul Rusesabagina and his family against the Republic of Rwanda, the President of Rwanda and other members of the government for allegedly kidnapping Paul and taking him back to Rwanda, where he was imprisoned, tortured and subjected to a sham trial. Mr. Rusesabagina is perhaps best known for saving thousands of lives during the Rwandan genocide in 1994, a story that inspired the Academy-Award-nominated film, *Hotel Rwanda*. On March 16, 2023, the court held that three Rwandan officials must face Plaintiffs' claims. A week later, after negotiations with the White House, Rwanda commuted Rusesabagina's sentence. After two-and-a-half years in captivity, he returned home to the United States.

Ms. Fryszman has received some of the legal profession's highest honors including The Human Trafficking Legal Center's Human Trafficking Advocate of the Year Award (2020), and being named a "Lawdragon Legend" in 2019, an award highlighting 30 of the "nation's elite lawyers." She is regularly included in the Lawdragon 500 and Lawdragon also named Ms. Fryszman to its inaugural "Global Litigation 500." The National Law Journal has named Ms. Fryszman to the list of "Elite Women of the Plaintiffs Bar" and Benchmark Plaintiff has named her a Leading Star Plaintiffs' Litigator and one of the Top 150 Women in Litigation. For her pro bono work, in addition to the National Law Journal Pro Bono Award, she has been awarded the Beacon of Justice Award by the National Legal Aid and Defender and the Frederick Douglass Human Rights Award from the Southern Center for Human Rights. She was also a finalist for the Public Justice Foundation's Trial Lawyer of the Year Award for her work on *Wiwa v. Royal Dutch Shell*. Ms. Fryszman joined the legal team in that case to prepare it for trial, resulting in a multi-million-dollar settlement on the morning of jury selection.

Prior to joining Cohen Milstein, Ms. Fryszman served as counsel to the United States House of Representatives Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, and as counsel to Representative Henry Waxman, Ranking Member on the House Government Reform and Oversight Committee. Earlier in her career, she was legislative director to U.S. Representative, now Senator, Jack Reed.

Ms. Fryszman graduated from Brown University with an A.B. in International Relations, and earned her law degree from Georgetown University Law Center, graduating magna cum laude, Order of the Coif. In law school, she was a Public Interest Law Scholar.

### **Carol V. Gilden**

Carol V. Gilden is a nationally recognized securities litigator and a partner in Cohen Milstein's Securities Litigation & Investor Protection practice. She also serves as the resident partner of the firm's Chicago office.

Ms. Gilden represents public pension funds, Taft-Hartley pension and health and welfare funds, and other institutional investors in securities class actions, individual actions and transaction and derivative litigation. She also litigates other types of complex litigation and class actions nationwide in state and federal courts. Ms. Gilden's practice includes cases involving stock, bonds, preferred stock, ADR's and other complex financial Instruments, including interest rate swaps, Treasury bonds and exchange-traded notes.

Ms. Gilden has spearheaded and litigated some of the most novel securities disputes in the financial markets, resulting in aggregate recoveries of over several billion dollars for investors. Her guiding principle – those who commit fraud on the financial markets should be held accountable.

In numerous high-profile securities cases, Ms. Gilden has led the litigation as Lead or Co-Lead Counsel. These cases include MF Global, where the U.S. Court of Appeals for the Second Circuit held that companies that make false or misleading statements cannot hide behind risk disclosures to escape liability, and in which Ms. Gilden, as Co-Lead Counsel, was named in the National Law Journal's selection of Cohen Milstein to its "Plaintiffs' Hot List." Ms. Gilden was also Lead Counsel in the IntraLinks Securities Litigation, which, as one of the first securities class actions certified after the Supreme Court's Halliburton II decision, provided a roadmap for obtaining class certification in other securities cases.

Most recently, Ms. Gilden served as Lead Counsel in *Seafarers Pension Plan v. Bradway, et al.*, a federal derivative case against The Boeing Company's directors and officers arising out of the 737 MAX crashes and alleging federal proxy statement violations in connection with director elections. After the case was dismissed on forum non conveniens grounds, Ms. Gilden successfully argued before the U.S. Court of Appeals for the Seventh Circuit, obtaining a 2-to-1, precedent-setting decision reversing the district court's dismissal of the case based on enforcement of Boeing's forum selection bylaw. The derivative action ultimately settled, along with a companion class action filed by the Seafarers in Delaware Chancery Court after the district court's dismissal and challenging the bylaw under Delaware law, for corporate governance reforms valued in excess of \$100 million and a \$6.25 million payment by the Directors' insurers to the Company.

Among other cases, Ms. Gilden is currently serving on the Co-Lead Counsel team in two groundbreaking antitrust lawsuits involving two of the world's largest financial markets and as Lead Counsel in a securities class action against Bayer AG, stemming from its acquisition of Monsanto, with its flagship product, the herbicide Roundup. Additionally, she is Lead Counsel in a securities class action against Pluralsight and its senior officers, alleging that they misrepresented and omitted material information concerning the size of the Company's sale force, which impacted its billing's growth, a key metric to investors.

Ms. Gilden began her career in the Enforcement Division of the Securities and Exchange Commission, where she spent five years investigating and litigating securities fraud cases.

Before joining Cohen Milstein in 2007, Ms. Gilden served as the head of the securities class action practice at a prominent mid-sized Chicago law firm and the vice-chair of its class action department.

#### Representative Matters:

- Interest Rate Swaps Market Manipulation Litigation (S.D.N.Y.): Ms. Gilden represents the Public School Teachers' Pension and Retirement Fund of Chicago and other institutions in a groundbreaking putative class action, charging 12 Wall Street banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world's biggest financial markets. Cohen Milstein is Co-Lead Counsel in this case,
- Treasuries Market Manipulation Litigation (S.D.N.Y.): Ms. Gilden represents the Cleveland Bakers and Teamsters Pension and Health and Welfare Funds and other institutions in this putative antitrust class action, alleging that two dozen financial institutions with an inside role at the auction for U.S. Treasuries conspired to manipulate yields and prices to their benefit. Cohen Milstein is Co-Lead Counsel.
- Bayer AG Securities Litigation (N.D. Cal.): Ms. Gilden represents the Sheet Metal Workers National Pension Fund and the International Brotherhood of Teamsters Local No. 710 Pension Plan in this putative securities class action, alleging that Bayer misrepresented the extent of its due diligence on the risks posed by the Roundup litigation in connection with its \$63 billion acquisition of Monsanto. Bayer investors incurred significant losses after bellwether jury trials in the toxic tort cases in the Roundup litigation repeatedly found in favor of the plaintiffs against Monsanto, leading to jury awards totaling hundreds of millions of dollars. Ultimately, a global settlement of the Roundup litigation was announced for upwards of \$10.9 billion, which

the Court handling the cases rejected as to future claims. Cohen Milstein is Lead Counsel.

- Pluralsight, Inc. Securities Litigation (D. Utah): Ms. Gilden represents the Indiana Public Retirement System and the Public School Teachers' Pension and Retirement Fund of Chicago in this securities class action against Pluralsight, Inc, a provider of cloud-based and video training courses. The case alleges that Pluralsight and its senior officers misrepresented and omitted material information from investors concerning the Company's sales force, which impacted its billings growth, before a \$37 million stock cash-out by Pluralsight insiders through the use of Rule 10b5-1 trading plans, open market transactions and in an \$450 million secondary public offering orchestrated by those insiders. Ms. Gilden successfully argued and convinced U.S. Court of Appeals for the Tenth Circuit to reverse the lower court's dismissal of the case. In doing so, the Tenth Circuit held that the plaintiffs' allegations "strongly support the inference" of scienter and that the executives' use of Rule 10b5-1 trading plans for their sales "cannot rebut the inference that personal financial gain was a motive for defendants' material misrepresentations." Cohen Milstein is Lead Counsel.
- Set Capital LLC et al. v. Credit Suisse Group A.G. et al. (S.D.N.Y.): Ms. Gilden represents Set Capital LLC and other investors in this securities class action lawsuit against Credit Suisse Group and its officers stemming from the collapse of exchange-traded notes called VelocityShares Daily Inverse VIX Short Term Exchange Traded Notes, or XIV, that tracked the inverse of the VIX. The case alleges that Credit Suisse sold hundreds of millions of dollars of XIV notes to investors, while actively betting against their performance and falsely telling investors that it (and Credit Suisse's affiliates) did not believe their hedging in VIX futures would adversely impact XIV's value. Cohen Milstein serves as Co-Lead Counsel.
- Intuitive Surgical Inc. Derivative Litigation (Sup. Ct. Cal.): Ms. Gilden represented the Public School Teachers' Pension and Retirement Fund of Chicago in this derivative action against Intuitive's directors and officers, alleging they covered up safety defects in the da Vinci robotic surgery system. She achieved a settlement one day before trial for cash and options worth \$20.2 million at final approval, to be paid by the Individual Defendants back to Intuitive. The settlement also required Intuitive Surgical to adopt extensive corporate governance, insider trading, product safety, and FDA compliance measures designed to prevent the reoccurrence of the alleged wrongdoing. In the plaintiff's expert's opinion, the reduction in the risk of recurrence of the events similar to the ones experienced (which resulted in a 30% drop in stock value and the establishment of a \$100 million product liability reserve) translated into a benefit of \$117 million to Intuitive and its shareholders. Cohen Milstein served as Co-Lead Counsel.
- Huron Securities Litigation (N.D. Ill.): Ms. Gilden represented the Public School Teachers' Pension & Retirement Fund of Chicago and the Arkansas Public Employees Retirement Fund in this securities fraud class action against Huron and its officers, alleging accounting fraud allegations. The case settled for \$40 million, consisting of \$27 million in cash plus 474,547 shares of common stock, valued at \$13,292,061. Cohen Milstein served as Co-Lead Counsel.
- City of Chicago v. Hotels.com, et al. (Circ. Ct. Cook Cty., Ill.): Ms. Gilden represented the City of Chicago in a high-profile lawsuit in Cook County Circuit Court, alleging that Expedia, Hotels.com, Orbitz, Priceline, and Travelocity failed to properly remit hotel taxes to the City of Chicago for hotel bookings. Expedia, the last remaining defendant, appealed a \$29 million judgment and settled on appeal after briefing concluded. The City of Chicago recouped \$23.6 million in back taxes and interest, and these defendants now collect and remit to the City of Chicago taxes on the markup of the room bookings. Ms. Gilden served as the lead attorney in this litigation.
- Credit Suisse Group AG Securities Litigation (S.D.N.Y.): Ms. Gilden represented the International Brotherhood of Teamsters Local No. 710 Pension Plan and achieved a \$15.5 million settlement in this securities class action against Credit Suisse Group AG, alleging misrepresentations of the Company's trading and risk limits leading to the accumulation of billions of dollars in risky, highly illiquid investments. Cohen Milstein was Co-Lead Counsel.
- Plumbers & Pipefitters National Pension Fund v. Davis, et al. (S.D.N.Y.): Ms. Gilden represented the United Association National Pension Fund, f/k/a Plumbers & Pipefitters National Pension Fund, in this securities class action alleging that PSG and its officers failed to disclose that PSG's growth was not based on

sustainable “organic growth” as represented but was driven by the company’s manipulative and coercive sale practices, which included pulling orders forward and forcing customers to increase their orders without regard for market demand. PSG subsequently filed for bankruptcy protection. Cohen Milstein is sole Lead Counsel, which after extensive discovery, achieved \$14.15 million in settlements for the benefit of the class.

- In re Alphabet Shareholder Derivative Litigation (Sup. Ct. Cal., Santa Clara Cnty.): Ms. Gilden represented the Northern California Pipe Trades Pension Plan and other institutions in this shareholder derivative lawsuit against the Board of Directors of Alphabet, Inc. The case alleged that the tech giant’s Board violated its fiduciary duty by enabling a double standard at Alphabet that allowed powerful executives to sexually harass and discriminate against women without consequence. On November 30, 2020, the court granted final approval of a historic settlement, including a \$310 million commitment to fund diversity, equity, and inclusion initiatives at Alphabet-owned companies, and workplace and corporate governance reforms including limiting non-disclosure agreements and ending mandatory arbitration in sexual harassment, gender discrimination, and retaliation-related disputes. Ms. Gilden was an active member of the Litigation Team. Cohen Milstein was Co-Lead Counsel.
- Ong v. Sears Roebuck & Co. (N.D. Ill): Ms. Gilden represented the State Universities Retirement System of Illinois and Mr. Ong and achieved a \$15.5 million settlement in this securities class action against Sears Roebuck, Sears Roebuck Acceptance Corp. and its underwriters. The case alleged that the defendants made misrepresentations and omissions regarding Sears’ credit card operations to make those operations appear more stable and profitable than they were. Cohen Milstein was Co-Lead Counsel.

#### Other Leadership Roles:

In addition to the cases listed above, Ms. Gilden has served as Lead and Co-Lead counsel in other notable matters, including, among others:

- MF Global Securities Litigation (S.D.N.Y.): Ms. Gilden represented the Central States, Southeast and Southwest Areas Pension Fund and achieved a \$90 million settlement in this precedent-setting securities class action in which the U.S. Court of Appeals for the Second Circuit sided with the plaintiffs and held that companies cannot make false or misleading statements in their offering documents and then hide behind risk disclosures related to those facts to escape liability. The National Law Journal singled out Ms. Gilden’s work on the case in connection with its selection of Cohen Milstein as a Hot Plaintiffs’ Firm for that year. Cohen Milstein was Co-Lead Counsel.
- ITT Educational Services, Inc. Securities Litigation (S.D.N.Y.): Ms. Gilden represented the Plumbers and Pipefitters National Pension Fund and Metropolitan Water Reclamation District Retirement Fund in this securities class action and achieved a \$16.96 million settlement against ITT and two of its officers. The case was hotly contested and involved unraveling complex accounting treatments governing ITT’s transactions with the third-party lenders, set against the Department of Education and Higher Education Act default guidelines. The case settled during discovery after reviewing and analyzing over two million pages of documents, after depositions had been taken and in the middle of class certification briefing. Cohen Milstein was Lead Counsel.
- IntraLinks Securities Litigation (S.D.N.Y.): Ms. Gilden represented the Plumbers and Pipefitters National Pension Fund in one of the first securities class actions to be certified following the Supreme Court’s decision in Halliburton II. The case alleged that IntraLinks Holdings Inc., a virtual data room – or cloud computing – company, and other defendants made misleading statements and omissions regarding the strength of the Company’s business and failed to disclose to investors the loss of IntraLinks’ largest client. The case settled for \$14 million after the class was certified and extensive fact discovery was completed. Cohen Milstein served as Lead Counsel.
- Orthofix International NV Securities Litigation (S.D.N.Y.): Ms. Gilden represented the Plumbers and Pipefitters National Pension Fund and reached an \$11 million settlement against this medical device company headquartered in Curacao, Netherlands Antilles, despite significant logistical obstacles during

investigation and discovery. Much of the information relevant to the case—internal company documents, witnesses, and news reports—were in six foreign languages and located in nine different countries on four different continents.

- Navistar Securities Litigation (N.D. Ill.): Ms. Gilden represented the Central States, Southeast and Southwest Areas Pension Fund in this securities class against Navistar International Corporation and its former officers, alleging material misrepresentations and omissions concerning the development and marketability of Navistar’s exhaust gas recirculation technology. The case settled for \$9.1 million. Cohen Milstein served as sole Lead Counsel.
- In re RehabCare Group, Inc. Shareholders Litigation (Del. Ch.): Ms. Gilden was co-lead counsel and settled the case for a cash payment to shareholders and significant deal reforms in this shareholder litigation challenging the acquisition of healthcare provider RehabCare Group, Inc. by Kindred Healthcare, Inc.

Ms. Gilden served in Executive Committee roles in other high-profile cases, Global Crossing Securities Litigation (settlements of \$448 million) and the Merrill Lynch Analyst cases (\$125 million settlement), as well as an active litigation team of the Waste Management Litigation (N.D. Ill) (\$220 million settlement). Under her leadership, her former firm was an active member of the litigation teams in the AOL Time Warner Securities litigation (\$2.5 billion settlement), CMS Securities Litigation (\$200 million settlement) and the Salomon Analyst Litigation/In re AT&T (\$75 million settlement). Further, Ms. Gilden was lead counsel in an opt-out securities litigation action on behalf of a large group of individual plaintiffs in connection with the McKesson/HBOC merger, Pacha, et al. v. McKesson Corporation, et al., which settled for a substantial, confidential sum.

Ms. Gilden has earned the trust of her clients, who know she will go to the mat for them, tenaciously advocating for them from start to finish in their cases. She draws respect from colleagues, as well as from adversaries who consistently place her in the highest ranks of the profession. In 2022, Ms. Gilden was chosen as one of The American Lawyer’s Trailblazers – Midwest. She has been repeatedly named one of Lawdragon’s “500 Leading Plaintiff Financial Lawyers” (2018-2022), which recognizes as the “best of the U.S. plaintiffs’ bar” attorneys specializing in representing individual investors and shareholders, as well as business and other organizations harmed by corporate misconduct or other failures. Ms. Gilden has been repeatedly designated one of Chicago’s Notable Women Lawyers by Crain’s Chicago Business, and in 2021, she was placed on the “Recommended” List by The Legal 500 Editorial Board. In 2019, she was named a “Women of Influence” by the Chicago Business Journal and received a “Women in Law Award” by Lawyer Monthly Magazine. In 2018, she was lauded the “Securities Litigation Attorney of the Year – Illinois” by Lawyer International’s Global Awards. Ms. Gilden is rated AV Preeminent by Martindale-Hubbell (the highest possible rating for professional excellence) and is consistently listed as an “Illinois Super Lawyer” by the Thomson Reuters magazine, Super Lawyers.

Ms. Gilden served as the first woman president of the National Association of Shareholder and Consumer Attorneys, the preeminent trade association for securities class action attorneys, as well as the organization’s first woman Treasurer. As president of NASCAT, she made repeated visits to Capitol Hill advocating for strong investor protection. She also engaged in outreach to the institutional investor community on needed reforms to reverse the erosion of investor rights. Under Ms. Gilden’s leadership, NASCAT also filed amicus briefs in connection with major securities cases before the Supreme Court and other courts. Prior she served as the president-elect. She continues to serve on NASCAT’s executive committee.

Ms. Gilden was selected to serve on the inaugural Corporate Governance Council and Markets Advisory Council to the Board of Directors for the Council for Institutional Investors (CII) during 2013-2015. CII is a nonprofit association of pension and other employee benefits funds, endowments and foundations and a voice for effective corporate governance and strong shareholder rights.

Ms. Gilden is a vice president of the Institute for Law and Economic Policy, a public policy research and educational foundation whose mission is to preserve, study and enhance investor and consumer access to the civil justice

system. She is also a member of the National Association of Public Pension Attorneys (NAPPA).

Ms. Gilden attended the University of Illinois Urbana-Champaign, earning a B.S. in Business Administration, and received her J.D. from Chicago-Kent College of Law, where she graduated with honors and was a member of the Chicago-Kent Law Review.

### **Geoffrey Graber**

Geoffrey Graber is a partner in Cohen Milstein's Consumer Protection practice, where he focuses on representing consumers in complex class action litigation involving issues of false advertising, fraud, data privacy theft and other forms of unfair business practices at the hands of social media companies, banks, insurance, health care companies, and other consumer providers. Mr. Graber also has extensive experience representing whistleblowers in qui tam litigation under the False Claims Act and whistleblower programs under the U.S. Securities Exchange (SEC), U.S. Department of Transportation (DOT), and U.S. Department of Defense (DOD).

Prior to joining Cohen Milstein in 2015, Mr. Graber had a distinguished career at the U.S. Department of Justice (DOJ), where he was part of the Department's senior leadership team serving as Deputy Associate Attorney General and Director of the DOJ's Residential Mortgage-Backed Securities (RMBS) Working Group. As the Director of the RMBS Working Group, Mr. Graber oversaw the DOJ's nationwide investigation into the packaging and sale of mortgage-backed securities (MBS) - the catalyst for the 2008 financial crisis - ultimately recovering more than \$36 billion from banks, including the record-breaking \$16.65 billion settlement with Bank of America – the largest settlement with a single entity in U.S. history – as well as settlements with Citigroup (\$7 billion) and JP Morgan (\$13 billion).

Earlier in his tenure at the DOJ, Mr. Graber served as Counsel in the Civil Division, where he led the three-year investigation (2004 – 2007) of Standard & Poor's (S&P) and its ratings of structured finance products. The investigation, which made groundbreaking use of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), resulted in the largest enforcement action filed by the United States concerning the financial crisis (United States v. Standard & Poor's). As a result of his successful work on S&P, Mr. Graber earned the Attorney General's Distinguished Service Award in 2015. Mr. Graber also received the Attorney General's Distinguished Service Award in 2014 for his work relating to the \$13 billion settlement with JP Morgan – including, at the time, the largest FIRREA penalty recovered by the DOJ.

Mr. Graber's distinguished background and experience has proven invaluable to his private sector clients.

Mr. Graber is currently litigating the following high-profile matters:

- *DZ Reserve, et al. v. Facebook* (N.D. Cal.): Mr. Graber serves as lead counsel representing advertisers who claim that Facebook's key advertising metrics (Potential Reach and Estimated Daily Reach) are false and misleading due to systemic inflation of Facebook's user base. The Court granted class certification on March 29, 2022.
- *Ariza v. Luxottica Retail North America (LensCrafters)* (E.D.N.Y.): Mr. Graber represents purchasers of LensCrafters' Accufit Digital Measurement System (Accufit) services, who allege that LensCrafters used false, misleading advertising and deceptive sales practices about Accufit being "five times more accurate" in measuring pupillary distance than traditional methods, to induce customers into purchasing LensCrafters' higher-priced prescription lens products. The Court granted class certification on December 13, 2021.

Mr. Graber's recent successes include:

- *LLE One, LLC v. Facebook* (N.D. Cal.): Mr. Graber served on the co-lead counsel team representing a class of advertising purchasers who claimed that Facebook breached its implied duty to perform with reasonable

care and violated California's Unfair Competition Law by intentionally miscalculating and inflating metrics related to its video advertisement services. If not for these miscalculations, plaintiffs claim, they would not have purchased more video advertisements and at a higher price than they otherwise would have paid. In June 2020, the Court granted final approval of a \$40 million settlement against Facebook.

- In re Anthem, Inc. Data Breach Litigation (N.D. Cal.): Cohen Milstein was co-lead counsel in a certified class action involving the 2015 cyberattack and massive data breach of Anthem, Inc., one of the nation's largest for-profit managed health care companies, which resulted in the theft of personal identification and health information of 78.8 million insureds. On August 16, 2018, the Court granted final approval to a \$115 million settlement in this class action – the largest data breach settlement in U.S. history. Mr. Graber was involved in all aspects of the litigation.

Before joining the DOJ, Mr. Graber was an associate at a top-tier defense law firm, where he defended Fortune 500 companies and their officers and directors in securities and derivative suits, consumer class actions and government investigations. Mr. Graber also devoted substantial time to pro bono representation of indigent individuals and families in civil rights actions against local law enforcement.

Mr. Graber received his undergraduate degree in Philosophy from Vassar College and earned his law degree from the University of Southern California Law School, where he served as the Managing Articles Editor on Southern California Law Review.

#### **Brent W. Johnson**

Brent W. Johnson is a partner at Cohen Milstein and co-chair of the firm's Antitrust practice. He also leads the practice's new case investigations.

Mr. Johnson has served as lead and co-lead counsel in cases that have compensated class members hundreds of millions of dollars for claims under Sherman Act Sections 1 and 2 and state antitrust laws. He also has initiated and developed cases that have helped break new ground in antitrust law, including those on behalf of workers challenging restraints in labor markets.

Mr. Johnson leads the Co-Lead Counsel teams in the following notable antitrust class actions:

- In re Broiler Chicken Antitrust Litigation (N.D. Ill.): Mr. Johnson leads the Co-Lead Counsel team for Cohen Milstein, representing a class of end-user consumers of broiler chicken in a litigation alleging that the defendants, who include Perdue Farms and Tyson Foods, agreed to restrict the supply of broilers, among other things, thereby raising their price to consumers. The Court has granted final approval of settlements with six of the defendants for a total of \$181 million and the case is in merits expert discovery against the remaining defendants. In its order on fees, the Court described co-lead counsel's work as "exemplary." Law360 cited plaintiffs' success in Broilers, naming Cohen Milstein one of its six Class Action Groups of the Year for 2021.
- Jien v. Perdue Farms, Inc. (D. Md.): Mr. Johnson leads the Co-Lead Counsel team for Cohen Milstein, representing a proposed class of poultry plant workers, in a suit alleging that the nation's largest chicken and turkey producers conspired to suppress their compensation. The Court so far has preliminarily approved settlements with six defendants for \$195.25 million and the case is in discovery with the remaining nearly dozen defendants.

Mr. Johnson's experience and success in antitrust class actions include:

- In re Animation Workers Antitrust Litigation (N.D. Cal.): Mr. Johnson developed this case with two other attorneys in the firm, and Cohen Milstein filed the first complaint. Cohen Milstein served as Co-Lead Counsel representing a class of animation and visual effects workers in a lawsuit alleging that the defendants,

including Pixar, Lucasfilm Ltd. and DreamWorks Animation, secretly agreed not to solicit class members and to coordinate on compensation. The Court approved settlements with all of the defendants for a total of \$168.5 million.

- In re Domestic Drywall Antitrust Litigation (E.D. Pa.): Mr. Johnson initiated the investigation and filed the first complaint in this case, in which Cohen Milstein served as Co-Lead Counsel for a class of direct purchasers of drywall against drywall manufacturers for price-fixing. The Court ultimately approved settlements that totaled more than \$190 million. The Court commented that it had sided with Plaintiffs because of counsel's "outstanding work," and that Plaintiffs' counsel had a "sophisticated and highly professional approach." It complimented the attorneys as "highly skilled" and noted that their performance on class action issues was "imaginative." It also stated that "Few cases with no government action, or investigation, result in class settlements as large as this one."
- Grand Strand v. Oltrin (D. S.C.): Mr. Johnson was personally appointed Co-Lead Class Counsel and led the Cohen Milstein team in representing a class of direct purchasers of bulk bleach, including municipal water authorities and others, against that product's manufacturers who engaged in an illegal market allocation agreement. The Court approved a settlement worth nearly all of the class's single damages and remarked that the case had been "skillfully handled."
- In re Urethane Antitrust Litigation (D. Kan.): Cohen Milstein served as Co-Lead Counsel on behalf of a certified class of direct purchasers of several types of chemicals who were overcharged as a result of a nationwide price-fixing and market allocation conspiracy. In the litigation, multiple defendants collectively settled for over \$130 million, and a jury verdict of \$1.1 billion was secured against Dow Chemical, the final defendant, in 2013. Dow ultimately settled for \$835 million while the case was on appeal before the Supreme Court, bringing the total recovery to \$974 million – nearly 250% of the damages found by the jury.
- The Shane Group, Inc. v. Blue Cross Blue Shield of Michigan (E.D. Mich.): Cohen Milstein served as Co-Lead Counsel, representing a class of purchasers of hospital services against Blue Cross Blue Shield of Michigan for agreeing to MFN provisions in its contracts with hospitals throughout Michigan that required those hospitals to charge other insurers as much or considerably more for services provided to class members. The Court approved a settlement with BCBSM for nearly \$30 million.

Currently, in addition to those above, Mr. Johnson is litigating the following antitrust class action:

- In re Interest Rate Swaps Antitrust Litigation (S.D.N.Y.): Cohen Milstein serves as Co-Lead Counsel, representing the Public School Teachers' Pension and Retirement Fund of Chicago and a proposed buy-side investor class against numerous Wall Street investment banks. The class alleges that the defendants conspired to prevent class members from trading IRS on modern electronic trading platforms and from trading with each other, all to protect the banks' trading profits from inflated bid/ask spreads.

Prior to joining Cohen Milstein, Mr. Johnson practiced at a premier global law firm, where he focused on antitrust litigation for plaintiffs and defendants. Some of Mr. Johnson's matters included:

- Feesers, Inc. v. Michael Foods, Inc. and Sodexo, Inc. (M.D. Pa.): Mr. Johnson was a member of the successful trial team that represented Michael Foods, a manufacturer of processed egg products and refrigerated potato products, in a three-week trial of a Robinson-Patman Act action brought by a broad-line distributor of food products.
- Dahl, et al. v. Bain Capital, et al. (D. Mass.): Mr. Johnson represented The Carlyle Group in a class action where plaintiffs alleged collusion among certain private equity firms and investment banks in specific going-private transactions in violation of Section 1 of the Sherman Act.
- In re Aftermarket Filters Antitrust Litigation (N.D. Ill.): Mr. Johnson represented Champion Laboratories, a manufacturer of aftermarket automotive filters, in a class action where plaintiffs alleged a conspiracy among manufacturers to fix prices in violation of Section 1 of the Sherman Act.
- National Laser Technology, Inc. v. Biolase Technology, Inc. (S.D. Ind.): Mr. Johnson represented Biolase, the

country's largest manufacturer of lasers for dental applications, against Sherman Act claims brought by a competitor aftermarket dental laser support company. The matter resulted in a favorable settlement for the client.

Mr. Johnson's work has been repeatedly recognized. Since 2019, Lawdragon has named him to its list of "500 Leading Plaintiff Financial Lawyers." Since 2021, Global Competition Review (GCR) has named him to its "Who's Who Legal: Competition" list for Plaintiffs. He was recognized by The Legal 500 in 2017 - 2019 as a "Next Generation Lawyer" and as a "Next Generation Partner" since 2020, an honor bestowed upon less than a dozen lawyers positioned to become leaders in the field of antitrust civil litigation and class actions. He also was named by Super Lawyers a "Rising Star" in Antitrust Litigation in 2016 - 2018 and a Super Lawyer for Antitrust Litigation in 2020 and 2021. He was named a "Future Star" by Benchmark Litigation in 2018.

Mr. Johnson is a commentator on antitrust and class action issues. In the fall of 2016, he provided testimony concerning Rule 23 to the Advisory Committee on Civil Rules on behalf of the Committee to Support the Antitrust Laws. Along with Emmy Levens, he has published two articles in the ABA's Antitrust magazine – one on ascertainability in the Spring 2016 issue and another on circuit splits affecting antitrust class actions in the Fall 2019 issue. He is a member of the ABA Section of Antitrust Law, and in July of 2019, he gave an ABA presentation on the legal standard to apply in cases regarding no-poach agreements. In his pro bono work, he has represented Covenant House Washington, D.C., Habitat for Humanity International Inc. and the Cystic Fibrosis Foundation.

Mr. Johnson graduated magna cum laude from Duke University with a B.A. in Political Science and Spanish, and attended Stanford Law School where he earned his law degree.

#### **Richard A. Koffman**

Richard A. Koffman is a partner at Cohen Milstein and former co-chair of the Antitrust practice. He litigates antitrust cases on behalf of the victims of corporations engaged in price-fixing, market monopolization, and other unlawful conduct.

Mr. Koffman has repeatedly been recognized as one of the world's top plaintiffs' antitrust lawyers. Mr. Koffman is named in Global Competition Review's "Who's Who Legal: Thought Leaders – Competition 2022" – one of only 40 plaintiffs' antitrust attorneys in the United States to earn this distinction. Since 2010, The Legal 500 has annually named Mr. Koffman as one of the top plaintiffs' class action antitrust litigators in the United States, describing him as a "strong brief writer and an excellent oral advocate," and inducted him into The Legal 500 Hall of Fame in 2017. Mr. Koffman was named Law360's Competition Law MVP (2016), recognizing him as one of the top five most influential antitrust lawyers in the United States. Annually, Mr. Koffman also is named to Global Competition Review's "Who's Who Legal: Competition" (since 2016), Lawdragon's 500 Leading Plaintiff Financial Lawyers (since 2019), and Washington, D.C. Super Lawyers (since 2020).

Mr. Koffman has had the honor of serving as court-appointed Lead or Co-Lead Counsel in many landmark antitrust class actions, including the Urethanes Antitrust Litigation, which resulted in the largest price-fixing verdict in U.S. history and the largest jury verdict of 2013.

A former Senior Trial Attorney in the U.S. Department of Justice's Antitrust and Civil Rights Divisions, Mr. Koffman views his role in litigating antitrust lawsuits as an extension of the public interest work he pursued at the DOJ in promoting competition and fighting discrimination.

Recent case successes include:

- In re: Urethanes (Polyether Polyols) Antitrust Litigation (D. Kan.): Co-Lead Counsel for plaintiffs in an antitrust class action alleging a conspiracy to fix the prices of chemicals used to make polyurethane foam.

Four defendants settled pre-trial for a total of \$139 million. After a four-week trial, the jury returned a \$400 million verdict for plaintiffs against the final defendant, The Dow Chemical Co., which the district court trebled to more than \$1 billion. Dow ultimately settled for \$835 million while the case was on appeal, bringing the total recovery to \$974 million – nearly 250% of the damages found by the jury.

- In re: Plasma-Derivative Protein Therapies Antitrust Litigation (N.D. Ill.): Co-Lead Counsel for plaintiffs alleging a conspiracy to reduce the supply and increase prices of IVIG and Albumin – life-saving therapies derived from blood plasma. Mr. Koffman and his team obtained settlements totaling \$128 million to compensate customers who were overcharged for these vital therapies.
- In re: Dental Supplies Antitrust Litigation (E.D.N.Y.): Co-Lead Counsel for a proposed class of dental practices and dental laboratories. The case alleges that Defendants Henry Schein, Inc., Patterson Companies, Inc., and Benco Dental Supply Company – the three largest dental supply and dental equipment distributors in the United States – fixed price margins on dental equipment, jointly pressured manufacturers to squeeze out competitors, and agreed not to “poach” each other’s employees, in violation of federal antitrust law. The Court granted final approval to an \$80 million settlement on June 24, 2019. In approving the settlement, the Honorable Brian M. Cogan of the U.S. District Court for the Eastern District of New York stated, “This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs’ Lawyers in this case who were running it.”

Current cases include:

- Mixed Martial Arts (MMA) Antitrust Litigation (D. Nev.): Co-Lead Counsel in a class action on behalf of MMA fighters alleging that Zuffa LLC – commonly known as the Ultimate Fighting Championship – has unlawfully monopolized the markets for promoting live professional MMA bouts and for purchasing the services of professional MMA fighters. The district court denied defendant’s motion to dismiss the case in September 2015.
- In re: Treasuries Securities Antitrust Litigation (S.D.N.Y.): Co-Lead Counsel in a ground-breaking antitrust and Commodity Exchange Act class action alleging many of the nation’s biggest banks manipulated the multi-trillion-dollar market for U.S. Treasuries and related instruments.

Mr. Koffman served as a law clerk to two Federal Judges: James B. McMillan of the U.S. District Court for the Western District of North Carolina, and Anthony J. Scirica of the U.S. Court of Appeals for the Third Circuit.

Mr. Koffman attended Wesleyan University, where he received a B.A. in English, with honors, and is a member of Phi Beta Kappa. Mr. Koffman is a graduate of Yale Law School, where he was Senior Editor of the Yale Law Journal.

#### **Eric A. Kafka**

Eric A. Kafka, a partner in Cohen Milstein’s Consumer Protection practice, is a tireless advocate for consumers. He represents plaintiffs in a wide range of consumer class actions, including false advertising, data breach, privacy, and product liability class actions.

Mr. Kafka is a member of both the American Association for Justice (AAJ) and Public Justice and he serves as the Secretary for the AAJ’s Class Action Litigation Section. He also serves on Public Justice’s Class Action Preservation Committee.

Currently, Mr. Kafka is litigating the following notable matters:

- Prescott, et al. v. Reckitt Benckiser LLC (N.D. Cal.): Mr. Kafka serves as Lead Counsel in the Prescott matter. On July 29, 2022, the court granted class certification for California, New York, and Massachusetts classes. In this false advertising consumer protection class action, Plaintiffs allege that Woolite laundry detergent “Color Renew” and “revives colors” representation is false and misleading because Woolite does not renew

or revive color in clothing.

- *DZ Reserve et al. v Facebook* (N.D. Cal.): Cohen Milstein represents advertisers who claim that Facebook's Potential Reach metric is false and misleading due to systemic inflation of the Potential Reach. The court granted class certification on March 29, 2022.
- *Ariza v. Luxottica Retail North America (LensCrafters)* (E.D.N.Y.): Cohen Milstein represents purchasers of LensCrafters' Accufit Digital Measurement System (Accufit) services, who allege that LensCrafters used false, misleading advertising and deceptive sales practices about Accufit being "five times more accurate" in measuring pupillary distance than traditional methods. The court granted class certification on December 13, 2021.

Mr. Kafka played an active role in the concluded, high-profile matters:

- *In re Anthem, Inc. Data Breach Litigation* (N.D. Cal.): Cohen Milstein was Co-Lead Counsel on behalf of a putative class of 78.8 million insureds, whose personal data and health information was stolen as a result of a massive data breach of Anthem, Inc., one of the nation's largest for-profit health care companies. In August 2018, the Court granted final approval of a \$115 million settlement – the largest data breach settlement in history.
- *LLE One, LLC v. Facebook* (N.D. Cal.): Cohen Milstein, as Co-Class Counsel, represented advertising purchasers, who claimed that Facebook intentionally inflated key metrics regarding their paid video advertisements' performance. Plaintiffs alleged that the inflated metrics caused them to buy more video advertisements and to pay a higher price than they otherwise would have paid. In June 2020, the Court granted final approval of a \$40 million settlement against Facebook.
- *HCA Litigation* (M.D. Fla.): Cohen Milstein was Lead Counsel in a class action, alleging that emergency room patients were billed unreasonably high fees for emergency radiology services, in excess of the amount allowed by their mandatory Florida Personal Injury Protection (PIP) insurance. In December 2018, the Court granted final approval of a \$220 million injunctive relief settlement.

Prior to attending law school, Mr. Kafka worked on multiple political campaigns, including President Obama's 2008 presidential campaign.

Mr. Kafka earned his J.D. from Columbia Law School, where he was a Harlan Fiske Stone Scholar. He received his B.A. from Yale University

### **Leslie M. Kroeger**

Leslie M. Kroeger is a partner in and the co-chair of the Cohen Milstein's Complex Tort Litigation practice. She focuses on complex, high-profile product liability, environmental toxic torts, consumer mass and class actions, wrongful death, and managed care abuse litigation.

Ms. Kroeger is a highly accomplished trial attorney who began her legal career in the courtroom as an Assistant Public Defender for the 18th Judicial Circuit of Florida and later became an Assistant State Attorney in Miami-Dade County, Florida. She then moved into private practice where she continues to handle a variety of complex civil litigation before state and federal courts in Florida and nationwide.

Ms. Kroeger is a Past President of the Council of Presidents for the American Association for Justice (AAJ), and is honored to represent the Council on the AAJ Executive Committee. She is also a Past-President of the Florida Justice Association (FJA), one of the nation's premier plaintiffs trial associations. She was the second female President in the history of the association.

Currently, Ms. Kroeger is litigating the following notable matters:

- In re Flint Water Cases (E.D. Mich.): Cohen Milstein was court-appointed Interim Co-Lead Class Counsel to oversee a group of toxic tort class actions filed on behalf of Flint, Michigan residents and businesses harmed by exposure to toxic levels of lead and other contaminants in the city's drinking water. On November 10, 2021, the United States District Court for the Eastern District of Michigan granted final approval of a landmark \$626.25 million settlement against the State of Michigan. Litigation against two private engineering firms, Veolia North America (VNA) and Lockwood, Andrews & Newnam (LAN), both charged with professional negligence, and separate litigation against the U.S. Environmental Protection Agency, continues before the United States District Court for the Eastern District of Michigan. On August 11, 2021, Judge Levy granted class certification on liability claims in the ongoing litigation against LAN and VNA.
- Underwood v. Meta Platforms, Inc. (Facebook) (Sup. Ct. Cal., Alameda Cnty): On January 6, 2022, Cohen Milstein filed a wrongful death lawsuit on behalf of Angela Underwood Jacobs, the sister of Dave Patrick Underwood, against Meta Platforms, Inc., formerly Facebook, Inc., alleging that by connecting users to extremist groups and promoting inflammatory, divisive, and untrue content, the company bears responsibility for the tragic murder of Mr. Underwood.
- Edwards v. Tesla (Sup. Ct. Cal., Alameda Cnty.): On June 25, 2020, Cohen Milstein filed a product liability lawsuit against Tesla, Inc. on behalf of Kristian and Jason Edwards. Ms. Edwards sustained catastrophic injuries as a result of the failure of the airbags to deploy in her Tesla Model 3 during an accident.
- Edenville and Sanford Dam Failure Litigation (Mich. Ct. of Claims; Cir. Ct., Cty. Saginaw, Mich.): On June 24, 2020, Cohen Milstein filed two separate property damage lawsuits against Michigan State Government agencies, including the Michigan Department of Environment, Great Lakes & Energy and Michigan Department of Natural Resources for blatantly mismanaging and failing to properly maintain the Edenville and Sandford dams, which catastrophically failed on May 19, 2020. Cohen Milstein is representing more than 300 residents and businesses in Midland County and Saginaw County, Michigan and the surrounding areas, including, Arenac, Gladwin, and Iosco counties.
- Bernardo, et al. v. Pfizer, Inc., et al. (S.D. Fla.): On February 20, 2020, Cohen Milstein filed a false advertising, medical monitoring, and personal injury class action against Pfizer, Inc., Boehringer Ingelheim, Sanofi, and other pharmaceutical companies on behalf of multiple plaintiffs and putative class members across the United States who, as a result of taking Zantac (ranitidine), may have been afflicted with cancer or may now be subjected to an increased risk of developing cancer.
- United States ex rel. Long v. Janssen Biotech, Inc. (D. Mass.): Cohen Milstein represents the plaintiff-relator in a whistleblower/qui tam lawsuit against Janssen Biotech (a subsidiary of Johnson & Johnson), alleging that the manufacturer of the rheumatoid arthritis drugs Remicade and Simponi ARIA violated federal law by engaging in a scheme through which it provided physicians free practice management and infusion business consulting services over an extended period to induce the physicians to purchase Remicade and Simponi ARIA and administer these drugs to patients, including Medicare beneficiaries, via infusions performed in their offices.

Ms. Kroeger has successfully litigated the following lawsuits:

- Lindsay X-LITE Guardrail Litigation (State Crts: Tenn., S.C.): Cohen Milstein represented more than five families of decedents and victims of catastrophic injuries in a series of individual products liability, wrongful death and catastrophic injury lawsuits in Tennessee and South Carolina state courts against the Lindsay Corporation and several related entities for designing, manufacturing, selling, and installing defective, X-Lite guardrails on state roadways.
- Ratha, et al. v. Phatthana Seafood Co. (C.D. Cal.): Cohen Milstein represented seven Cambodian plaintiffs in a cross-border human rights lawsuit, involving human trafficking, forced labor, involuntary servitude, and peonage by factories in Thailand that produce shrimp and seafood for export to the United States.
- Quinteros, et al. v. DynCorp, et al. (D.D.C.): Cohen Milstein represented over 2,000 Ecuadorian farmers and their families who suffered physical injuries and property damage as a result of aerial spraying of toxic

herbicides on or near their land by DynCorp, a U.S. government contractor. A bellwether trial on behalf of the first six Ecuadorian clients came to a conclusion in April 2017, when the ten-person jury unanimously determined that DynCorp was responsible for the conduct of the pilots with whom it had subcontracted to conduct the chemical spraying after April 2003. This resolution allowed for a successful case settlement.

- *Mincey v. Takata* (Cir. Ct., Duval Cty., Fla.): Cohen Milstein was lead counsel in a lawsuit brought on behalf of Patricia Mincey and her family. Patricia Mincey sustained catastrophic injuries that rendered her a quadriplegic in 2014 when the driver's side airbag in her Honda Civic deployed too aggressively during a collision due to a product defect. She passed away in early 2016 due to complications from her quadriplegia caused by the problematic airbag. The suit charged that Takata, the manufacturer of the airbag system, knew of the airbag defect and hid the problem from consumers. Evidence uncovered by the firm showed that Takata concealed the defective nature of the airbag system for more than a decade. The case was resolved in July 2016.
- *Quinlan v. Toyota Motor Corporation* (S.D. Fla.): Cohen Milstein was lead counsel in a product liability case filed against Toyota, alleging that manufacturing defects in the defendant's car caused the car being driven by the plaintiff to suddenly accelerate and go out of control, resulting in catastrophic injuries that left Quinlan a quadriplegic. The defendant entered into a confidential settlement. Ms. Kroeger was engaged in all aspects of the litigation.
- *In re: Caterpillar, Inc. Engine Products Liability Litigation* (D.N.J.): Cohen Milstein was co-lead counsel in a nationwide product liability class action lawsuit, alleging Caterpillar sold diesel engines with defective exhaust emissions system that resulted in power losses and shutdowns. Ms. Kroeger was involved all aspects of the litigation.
- *John Doe v. Sunz Insurance Company and CorVel Corporation* (State Ct., Fla.): Cohen Milstein successfully represented John Doe in a workers' compensation arbitration against his workers' compensation carrier and third-party administrator for breach of fiduciary duty and intentional infliction of emotional distress relating to their denial of medically necessary cervical spine surgery, recommended by a carrier-approved orthopedic surgeon, and their termination of his workers' compensation benefits.

Since 2001, Ms. Kroeger has been an active member of FJA, serving on the Executive Committee from 2011-2021 and more recently as FJA's President in 2019-2020. She is a past Chair of the Women's Caucus.

FJA has also recognized Ms. Kroeger for her leadership and advocacy efforts. In 2017, 2018 and 2019, she was presented with FJA's Cornerstone Award in recognition of her leadership and efforts in recruiting new members to the organization. In 2015, Ms. Kroeger was awarded FJA's Champion of Consumer Safety Award for her lobbying efforts before the Florida legislature, resulting in passage of SB 518, a state law requiring children under age five to be secured in federally-approved child-restraint devices.

Ms. Kroeger often speaks and writes on a range of issues dealing with litigation strategies and tactics from addressing the standards for expert witness testimony in light of the Supreme Court's Daubert ruling to delivering compelling opening statements and other trial skills, as well as legal trends related to automotive negligence, roadway safety and guardrail systems, managed care abuse, and denial of workers' compensation claims. She is frequently invited to speak at the Florida Workers' Advocates Annual Conference, the Annual Trial Lawyers Summit, and Florida Justice Association seminars and conventions throughout the year. In 2016, Ms. Kroeger was named to Law360's Product Liability Editorial Advisory Board.

Ms. Kroeger graduated with high honors from the University of Tennessee at Knoxville, and obtained her law degree from the Cumberland School of Law, Samford University. Following law school, she served in a trial clerkship in Miami.

### **Emmy L. Levens**

Emmy Levens is a partner at Cohen Milstein, chair of the Public Client practice, and a member of the Antitrust

practice. She has particular experience litigating large, high-profile complex litigation, class actions, and appellate litigation involving anticompetitive, consumer fraud, and environmental justice claims.

Ms. Levens has been repeatedly recognized by the legal industry for her exceptional work, including being named to The National Law Journal's 2021 "Elite Women of the Plaintiffs Bar," recognizing the top female litigators in the U.S., who "have demonstrated repeated success in cutting-edge work on behalf of plaintiffs," as well as Bloomberg Law's 2021 "They've Got Next: The 40 Under 40 – Mass Torts" and Law360's 2020 "Rising Stars – Class Action."

Currently, Ms. Levens is litigating these notable matters:

- Flint Water Crisis Litigation (E.D. Mich.): On November 10, 2021, the Court granted final approval of a landmark \$626.25 million settlement between Flint residents and businesses and multiple governmental defendants, including the State of Michigan, Michigan Department of Environmental Quality (DEQ), and individual defendants, including former Governor Rick Snyder, in this environmental toxic tort class action, affecting over 90,000 Flint residents and businesses. Litigation will continue against other defendants, including two private engineering firms, Veolia North America and Lockwood, Andrews & Newnam (LAN), both charged with professional negligence, and separate litigation against the U.S. Environmental Protection Agency will also continue. Cohen Milstein's is Interim Co-Lead Class Counsel in this litigation. Ms. Levens oversees class strategy and manages all aspects of the litigation.
- Iowa Public Employees Retirement System et al. v. Bank of America Corp. (S.D.N.Y.): Cohen Milstein is co-counsel in this groundbreaking putative class action, in which investors accuse Morgan Stanley, Goldman Sachs, Credit Suisse, UBS, J.P. Morgan, and other Wall Street banks of conspiring to thwart the modernization of and preserve their dominance over the \$1.7 trillion stock loan market. Ms. Levens is one of the lead Antitrust partners in this suit.

Some of her past successes include:

- Pre-Filled Propane Tank Antitrust Litigation (W.D. Mo.): Cohen Milstein served as Co-Lead Counsel to Direct Purchasers in this price fixing class action against two of the largest distributors of propane exchange tanks. In June 2020, the court granted final approval of the \$12.6 million settlement. Ms. Levens drafted the successful appellate brief argued before the Eighth Circuit en banc. The Court adopted Plaintiffs' articulation of the continuing violation doctrine and held that sales made pursuant to an anticompetitive agreement constitute new acts for purposes of determining the timeliness of a claim, thereby reviving Direct Purchasers' antitrust claims against distributors of pre-filled propane tanks. In January 2018, the U.S. Supreme Court refused to review the Eighth Circuit's ruling, allowing it to stand.
- Resistors Antitrust Litigation (N.D. Cal.): Cohen Milstein served as Interim Co-Lead Counsel for the direct purchasers of resistors, who accused the world's largest manufacturers of resistors of fixing prices. In November 2019, the court granted final approval of a \$50.25 million settlement – a remarkable recovery, reflecting 33% - 57% of estimated single damages according to Plaintiffs' preliminary analysis. Estimated payments to class members would be an average payment of \$46,850.64; a median payment of \$768.39. Ms. Levens managed all aspects of this litigation.
- Allen vs. Dairy Farmers of America (D. Vt.): Cohen Milstein served as Lead Counsel for one of two subclasses of dairy farmers challenging anticompetitive conduct in the Northeast which resulted in lower prices paid to farmers. In April 2017 the Second Circuit Court of Appeals affirmed a \$50 million settlement between plaintiffs and the remaining defendants, bringing the total settlement to more than \$80 million, in addition to industry-changing equitable relief. Ms. Levens served as one of the principle attorneys litigating this matter since its inception.
- Plasma-Derivative Protein Therapies Antitrust Litigation (N.D. Ill.): Cohen Milstein served as Co-Lead Counsel for plaintiffs alleging that the two largest manufacturers of IVIG and Albumin – life-saving therapies derived from blood plasma – conspired to reduce the supply, and increase the prices, of these therapies. Ms. Levens played an active role in the litigation, helping to obtain settlements totaling \$128 million for hospitals and

other direct purchasers.

- Bulk Bleach Litigation (D.S.C.): Ms. Levens served as one of the key attorneys at Cohen Milstein representing a class of municipalities and other direct purchasers of bulk bleach in a case alleging that the two dominant manufacturers of bulk bleach in the Carolina’s engaged in an illegal market allocation agreement. After successfully defeating multiple motions to dismiss, class counsel obtained a settlement that satisfied nearly all of the class’s damages. In approving the settlement, Judge Gergel complimented counsel, stating that the, “whole case has been, I think, very professionally handled, skillfully handled.”

Ms. Levens’s recent pro bono work includes:

- Access to Education Class Action (Circ. Ct., Prince George’s Cnty.): On June 12, 2019, Cohen Milstein, the ACLU of Maryland, and the Howard University School of Law Civil Rights Clinic filed an education discrimination class action and motion for a temporary restraining order against the Prince George’s County School Board, seeking to declare its charging of fees for summer school violates the Maryland Constitution (which requires the state to provide a free education), causing serious, irreparable harm to students in the county who cannot afford the fees.

Ms. Levens was also a member of the Apple price-fixing litigation team recognized as “Legal Lions” by Law360.

In addition to her work at the Cohen Milstein, Ms. Levens has served as an adjunct Professor at Georgetown School of Law and is a Board member and Secretary of Global Playground, a nonprofit that builds schools in the developing world. She recently co-authored an article entitled, “Heightened Ascertainability Requirement Disregards Rule 23’s Plain Language,” which appeared in the Spring, 2016 issue of Antitrust magazine.

Prior to joining the firm, Ms. Levens worked as a staff law clerk at the U.S. Court of Appeals for the Seventh Circuit.

Ms. Levens attended the University of Kansas, graduating with honors, and earned her J.D. at UCLA Law School, graduating Order of the Coif. While at law school, Ms. Levens served as the Managing Editor for the UCLA Journal of Environmental Law and Policy, Director of the Downtown Legal Housing Clinic, and President of Moot Court.

### **Daniel McCuaig**

Dan McCuaig is a partner at Cohen Milstein and a member of the Antitrust practice. He represents a broad range of plaintiffs in civil litigation, with a focus on class actions and antitrust litigation.

Immediately prior to joining Cohen Milstein, Mr. McCuaig was a trial attorney in the Antitrust Division at the U.S. Department of Justice for more than a decade, where he led investigation and litigation teams in both criminal and civil matters related to price fixing, bid rigging, anticompetitive mergers, and other antitrust law violations.

As a criminal prosecutor at the DOJ, Mr. McCuaig led the investigation and prosecution of antitrust, fraud, and obstruction of justice claims against corporations and individuals. He was the principal trial lawyer in related plea hearings, sentencings, and before grand juries, and successfully generated significant charges and guilty pleas. Even while carrying out his prosecutorial duties, Mr. McCuaig continued to provide his expertise on major Antitrust Division civil actions, such as its successful challenge to the proposed merger between Anthem and Cigna—in which Mr. McCuaig cross-examined Anthem expert economist Robert Willig at trial.

While a civil litigation trial lawyer at the DOJ, Mr. McCuaig oversaw the government’s investigation into the e-books price fixing conspiracy litigated in *In Re Electronic Books Antitrust Litigation* (S.D.N.Y.), involving Apple and five major publishers, and played a principal role in the government’s successful trial of Apple. Leading up to that trial, Mr. McCuaig coordinated with foreign enforcement agencies, 33 state attorneys general, and private plaintiffs’ counsel,

and negotiated consent decrees with all publisher defendants. More generally, Mr. McCuaig investigated competitive effects of proposed mergers in media, sports, real estate, and tangential industries, as well as potential anticompetitive effects of non-merger activity in the same industries, and negotiated divestitures and consent decrees to remedy anticompetitive aspects of mergers and non-merger activities.

Prior to his work with the DOJ, Mr. McCuaig was counsel at a prestigious international white collar and corporate defense firm, where, in addition to civil antitrust defense work, he focused on telecommunications disputes before the FCC, state public service commissions, and state and federal courts.

He is regularly sought to speak on antitrust and class certification panels and has been repeatedly recognized by Lawdragon as one of the nation's "500 Leading Plaintiff Financial Lawyers."

Currently, Mr. McCuaig is litigating the following notable matters:

- Iowa Public Employees Retirement System et al. v. Bank of America Corp. (S.D.N.Y.): Cohen Milstein is co-counsel in this groundbreaking putative class action, in which investors accuse Morgan Stanley, Goldman Sachs, Credit Suisse, and other Wall Street investment banks of conspiring to thwart the modernization of, and preserve their dominance over, the \$1.7 trillion stock loan market.
- In Re: Da Vinci Surgical Robot Antitrust Litigation (N.D. Cal.): On September 24, 2021, the Court appointed Cohen Milstein Interim Co-Lead Counsel in this consolidated antitrust class action against Intuitive Surgical, Inc. Plaintiffs allege that Intuitive engages in an anticompetitive scheme under which it ties the purchase or lease of its must-have, market-dominating da Vinci surgical robot to the additional purchases of (i) robot maintenance and repair services and (ii) unnecessarily large numbers of the surgical instruments, known as EndoWrists, used to perform surgery with the robot—a violation of Sections 1 and 2 of the Sherman Act.
- Pacific Steel Group v. Commercial Metals Company (N.D. Cal.): Cohen Milstein represents Pacific Steel Group, a steel rebar fabricator, in challenging the lawfulness of an agreement extracted by one of the world's largest steel companies (CMC) from the world's only manufacturer of steel rebar micro mills to refuse to build a micro mill for Pacific Steel in any location that could threaten CMC's rebar monopoly in Southern California or otherwise allow Pacific Steel to become a more formidable competitor in the downstream rebar fabrication market.

Mr. McCuaig is the co-author of Telecommunications Convergence Overview (with William T. Lake and Thomas P. Olson), 698 PLI/Pat 9 (May 2002), and the author of Halve the Baby: An Obvious Solution to the Troubling Use of Trademarks as Metatags, 18 J. Marshall J. Computer & Info. L. 643 (Spring 2000).

Mr. McCuaig received his B.A., summa cum laude, from The George Washington University. He is a member of Phi Beta Kappa. He received his J.D., cum laude, from Harvard Law School, where he was a Senior Editor and the Treasurer of the Harvard Negotiation Law Review.

Mr. McCuaig was a judicial clerk to The Honorable Algenon L. Marbley of the United States District Court for the Southern District of Ohio (Columbus).

#### **Douglas J. McNamara**

Douglas J. McNamara, a partner in Cohen Milstein's Consumer Protection practice, focuses on litigating complex, multi-state class action lawsuits against manufacturers and consumer service providers, such as banks, insurers, credit card companies and others. He has helped litigate precedent-setting cases, involving issues of preemption, choice of law, and class certification. He is a hands-on litigator who takes pleasure in the details, facts, and documents of each case. Mr. McNamara is also a highly regarded speaker who has presented at several forums on such topics as federal preemption, class certification and civil litigation, and is the author of scholarly articles focusing on emerging legal issues.

Mr. McNamara has worked on numerous cases involving data breaches, dangerous pharmaceuticals and medical devices, light cigarettes, defective consumer products, and environmental torts.

Mr. McNamara is currently litigating the following notable matters:

- General Motors Litigation (E.D. Mich.): On September 26, 2019, Cohen Milstein (via Theodore Leopold) was appointed Lead Counsel to oversee a consolidated consumer class actions filed on behalf of hundreds of thousands of GM vehicle owners across 30 states against GM related to defective eight-speed automatic transmissions in vehicles manufactured between 2015 and 2019. Mr. McNamara has led discovery and briefing efforts.
- In re MGM Resorts International Data Breach Litigation (D. Nev.): On February 1, 2021, Cohen Milstein's Douglas J. McNamara was appointed Co-Lead Interim Class Counsel in this consolidated data breach class action against MGM Resorts for failing to implement reasonable data security practices, thereby allowing the personal information of between 10.6 million and 142 million MGM hotel guests and customers to be stolen on or about July 7, 2019.
- In re: Marriott International Inc. Customer Data Security Breach Litigation (D. Md.): In April 2019, Cohen Milstein was appointed Consumer Plaintiffs' Co-Lead Counsel to oversee a class action related to the data breach that compromised the personal data of nearly 400 million customers, making it one of the largest data breaches in U.S. history. On May 3, 2022, the Court granted class certification to eight classes of plaintiffs.
- In Re: Blackbaud, Inc., Customer Data Breach Litigation (D.S.C.): On February 16, 2021, Cohen Milstein's Douglas J. McNamara was appointed to the Plaintiffs' Steering Committee in this data breach class action in which Plaintiffs claim that Blackbaud failed to take reasonable steps to prevent a data breach, starting in February 2020, and failed to promptly or accurately provide notice of the data breach to those affected.
- Cape Fear River Contaminated Water Litigation (E.D.N.C.): On January 4, 2018, Cohen Milstein was appointed Interim Co-Lead Class Counsel in a consolidated toxic tort class action filed against DuPont and Chemours, alleging that for more than four decades the companies polluted the Cape Fear River near Wilmington, North Carolina with a chemical called GenX, contaminating the water supply of five counties, and misrepresented their conduct to state and federal regulators.

Some of Mr. McNamara's recent successes include:

- Facebook 2018 Data Breach Litigation (N.D. Cal.): On May 6, 2021, the Court granted final approval of an injunctive relief settlement in this data breach class action against Facebook, which requires Facebook to adopt, implement, and/or maintain a detailed set of security commitments for the next five years, which will be independently assessed by a third-party. In 2019, Cohen Milstein was appointed Co-Interim Class Counsel.
- In re Apple Inc. Device Performance Litigation (N.D. Cal.): On March 17, 2021, the Court granted final approval of a \$500 million settlement fund, concluding this consumer litigation between iPhone users and Apple. Specifically, the settlement fund will be used by Apple to pay out between \$310 million and \$500 million to iPhone users — which the Court called one of the largest class action settlements in the Ninth Circuit. Owners of Apple's iPhone SE, 6, 6 Plus, 6s, 6s Plus, 7, and 7 Plus claimed that Apple failed to disclose material information about Apple's iOS software operating system updates. Mr. McNamara was appointed to the Plaintiffs' Steering Committee and was Co-Chair of the Expert Committee.
- Herrera v. JFK Medical Center and HCA, Inc. (M.D. Fla.): Cohen Milstein was Lead Counsel in a class action, alleging that emergency room patients were billed unreasonably high fees for emergency radiology services, in excess of the amount allowed by their mandatory Florida Personal Injury Protection (PIP) insurance. In December 2018, the Court granted final approval of a \$220 million injunctive relief settlement.
- Lumber Liquidators Chinese-Manufactured Flooring Products Liability Litigation (E.D. Va.): Cohen Milstein

is co-lead counsel in a consumer class action lawsuit, alleging the nationwide retailer sold Chinese-made laminate flooring containing hazardous levels of the carcinogen formaldehyde while falsely labeling their products as meeting or exceeding California emissions standards, a story that was profiled twice on 60 Minutes in 2015. On October 9, 2018, the Court granted final approval of a \$36 million settlement. Mr. McNamara was involved in all aspects of the litigation, including discovery, writing and arguing pleadings, and settlement.

- *Khoday et al. v. Symantec Corp. et al.* (D. Minn.): Cohen Milstein was lead counsel in a nationwide class action involving the marketing to consumers of a re-download service in conjunction with the sale of Norton software. In April 2016, the case settled in a \$60 million all-cash deal a month before it was to go to trial – one of the most significant consumer settlements in years. Mr. McNamara was involved in all aspects of the case, from managing the litigation to overseeing a staff of contract attorneys to settlement discussions.
- *Caterpillar Engine Product Liability Litigation* (D.N.J.): Cohen Milstein was co-lead counsel on behalf of 22 trucking and transportation companies in 18 states in a class action lawsuit against Caterpillar alleging that the MY2007 CAT engine, designed to meet the EPA’s tougher Clean Air Act emissions standards, was defective, causing power loss and shutdowns that prevented or impeded vehicles from transporting goods or passengers. Caterpillar sought to dismiss the case claiming EPA approval of the engine preempted any state law claims. Mr. McNamara was the architect of the successful opposition to the motion, and he was involved in all aspects of the litigation. On September 20, 2016, the Court granted final approval of the \$60 million settlement.

Mr. McNamara also is actively involved in the firm’s high-profile pro bono litigation, including:

- *NAACP v. Donald J. Trump, President of the United States* (D.D.C.): Cohen Milstein represented the NAACP and two unions in a lawsuit against President Donald J. Trump, Department of Homeland Security and other U.S. immigration enforcement agencies and their efforts to terminate the Deferred Action for Childhood Arrivals (DACA) program. On June 18, 2020, in a 5-4 ruling, the Supreme Court blocked the Trump Administration’s plan to rescind DACA, preserving immigration protections for approximately 650,000 current DACA recipients.

Prior to joining Cohen Milstein in 2001, Mr. McNamara was a litigation associate at an international defense firm, specializing in pharmaceutical and product liability cases. He started his career at New York City’s Legal Aid Society, defending indigent criminal defendants at trial and on appeal.

He has been the lead author on three law review articles: “Buckley, Imbler and Stare Decisis: The Present Predicament of Prosecutorial Immunity and An End to Its Absolute Means,” 59 *Albany Law Review*, 1135 (1996); “Sexual Discrimination and Sexual Misconduct: Applying New York’s Gender-Specific Sexual Misconduct Law to Minors,” 14 *Touro Law Review*, 477 (Winter 1998), and most recently, Douglas McNamara, et al, “Reexamining the Seventh Amendment Argument Against Issue Certification,” 34 *Pace Law Review*, 1041 (2014). He has also taught a course on environmental and toxic torts as an adjunct at George Washington University School of Law. Mr. McNamara is currently on Law360’s 2022 Cybersecurity & Privacy Editorial Advisory Board.

Mr. McNamara graduated summa cum laude from SUNY Albany, and he earned his J.D. from New York University School of Law.

#### **Laura H. Posner**

Laura H. Posner is a partner at Cohen Milstein and a member of the Securities Litigation & Investor Protection and Ethics & Fiduciary Counseling practices.

Prior to joining the firm, Ms. Posner was appointed by the New Jersey Attorney General to serve as the Bureau Chief

for the New Jersey Bureau of Securities – the top Securities Regulator in New Jersey. In that capacity, Ms. Posner was responsible for administering and enforcing the New Jersey Uniform Securities Law and regulations thereunder, as well as managing and overseeing the employees who staff the Bureau of Securities. Cases prosecuted under Ms. Posner’s direction as Bureau Chief resulted in hundreds of millions of dollars in recoveries for New Jersey residents, as well as more than 20 criminal convictions.

Ms. Posner is currently involved in the following notable matters:

- In re Wells Fargo & Company Securities Litigation (S.D.N.Y.): Cohen Milstein is Co-Lead Counsel in this putative securities class action, alleging that Wells Fargo and certain executives misrepresented that the bank had improved its governance and oversight structures following a widespread consumer fraud banking scandal in direct violation of its 2018 consent orders with the CFPB, OCC, and the Federal Reserve. On May 16, 2023, the Court granted preliminary approval of a historic \$1 billion settlement.
- IBEW Local 98 Pension Fund v. Deloitte (D.S.C.): Cohen Milstein is sole Lead Counsel in this putative securities class action against Deloitte entities for allegedly breaching its external auditor duties related to as SCANA’s multi-billion-dollar nuclear energy expansion project in South Carolina.
- Chahal v. Credit Suisse Grp. AG, et al. (S.D.N.Y.): Cohen Milstein is Co-Lead Counsel in this putative securities class action alleging fraud and market manipulation of XIV Exchange Traded Note market.
- In Re Overstock Securities Litigation (D. Utah): Cohen Milstein is sole Lead Counsel in this putative securities class action against Overstock.com Inc., its former CEO, CFO, and current Retail President for engineering a market manipulation “short squeeze” scheme in the company’s common stock and insider trading.
- Northwest Biotherapeutics, Inc. v. Canaccord Genuity LLC, et al. (S.D.N.Y.): Cohen Milstein is leading this securities litigation against market makers Canaccord Genuity LLC, Citadel Securities LLC, G1 Execution Services LLC, GTS Securities LLC, Instinet LLC, Lime Trading Corp., Susquehanna International Group LLP, and Virtu Americas LLC for repeated market manipulation tactics involving the spoofing of company stock.

Ms. Posner’s recent high-profile successes include:

- Miller Energy/KPMG (E.D. Tenn.): Cohen Milstein, as Co-Lead Counsel in this certified securities class action, represented plaintiffs who alleged that KPMG failed to meet its obligation as the independent auditor of Miller Energy Resources, Inc., perpetrating a massive fraud by Miller Energy, including overstating the value of largely worthless oil reserves to more than \$480 million, among other claims. In July 2022, the Court granted final approval of a \$35 million settlement.
- In re Pinterest Derivative Litigation (N.D. Cal.): Cohen Milstein, as Interim Lead Counsel, represented the Employees Retirement System of Rhode Island and other Pinterest shareholders in a consolidated shareholder derivative complaint against certain current officers and directors of Pinterest, including its Board Chairman and CEO, for breaches of fiduciary duty and other violations of Section 14(a) of the Exchange Act, relating to their alleged personal engagement in and facilitation of a systematic practice of illegal discrimination of employees on the basis of race and sex. As a result of this illegal misconduct, the company’s financial position, goodwill, and reputation among users had been harmed. In June 2022, the Court granted final approval of a \$50 million settlement.
- L Brands, Inc. Derivative Litigation: Cohen Milstein, in partnership with the State of Oregon, the Oregon Public Employees Retirement Fund, and other shareholders, helped resolve allegations that officers and directors of L Brands, Inc., previous owners of Victoria’s Secret, breached their fiduciary duties by maintaining ties with alleged sex offender and pedophile Jeffrey Epstein and fostering a culture of discrimination and misogyny at the company. Following a Delaware General Corporate Law Section 220 books and records demand and an extensive, proprietary investigation, L Brands and the now-standalone company, Victoria’s Secret, agreed to stop enforcing non-disclosure agreements that prohibit the discussion of a sexual harassment claim’s underlying facts; stop using forced arbitration agreements; implement sweeping reforms to their codes of conduct, policies and procedures related to sexual misconduct and

retaliation; and to invest \$45 million each, for a total of \$90 million, in diversity, equity and inclusion initiatives and DEI Advisory Councils.

- Wynn Resorts, Ltd. Derivative Litigation (Eighth Jud. Dist. Ct., Clark Cnty., Nev.): Cohen Milstein represented New York State Common Retirement Fund and the New York City Pension Funds as Lead Counsel in a derivative shareholder lawsuit against certain officers and directors of Wynn Resorts, Ltd., arising out of their failure to hold Mr. Wynn, the former CEO and Chairman of the Board, accountable for his longstanding pattern of sexual abuse and harassment of company employees. In March 2020, the Court granted final approval of a \$90 million settlement in the form of cash payments and landmark corporate governance reforms, placing it among the largest, most comprehensive derivative settlements in history.
- Tradex Global Master Fund SPC Ltd. et al. v. Lancelot Investment Management, LLC, et al. (Circ. Ct., Cook Cnty., Ill.): In August 2018, the Court granted final approval of a \$27.5 million settlement, concluding a nearly decade-old putative investor class action against McGladrey & Pullen LLP, an accounting firm, for its alleged fraud and negligence arising out of the Tom Petters' Ponzi scheme, one of the largest Ponzi schemes in U.S. history. This case significant for not only the dollar value of the final settlement, but the rarity of such a case in which the auditor was allegedly complicit in its client's fraud, as well as the number of legal hurdles cleared.

Ms. Posner has recovered billions on behalf of defrauded investors. Her notable successes include 5 of the top 100 securities fraud class action settlements of all time, including:

- In re Schering-Plough Corp./ENHANCE Securities Litigation (D.N.J.) and In re Merck & Co., Inc. Vytarin/Zetia Securities Litigation (D.N.J.): Obtained \$688 million for investors on the eve of trial, the third largest recovery ever achieved in the Third Circuit and District of New Jersey, the second largest securities fraud settlement ever against a pharmaceutical company and among the top 25 securities fraud settlements of all time.
- In re The Mills Corporation Securities Litigation (E.D. Va.): Obtained \$202.75 million for investors, the largest recovery ever achieved in a securities class action in Virginia, and the second largest recovery ever in the Fourth Circuit.
- In re WellCare Health Plans, Inc. Securities Litigation (M.D. Fla.): Obtained \$200 million for investors, the largest recovery ever achieved in a securities class action in Florida, and the second largest recovery in the Eleventh Circuit.

Ms. Posner has also been involved in several landmark derivative cases, including the In re Walt Disney Co. Derivative Litigation, which redefined the fiduciary duties of corporate directors and officers. She has authored several successful amicus briefs to the United States Supreme Court, most recently on behalf of the North American Securities Administrators Association in support of the SEC in Liu v. SEC and Lorenzo v. SEC and in support of the Arkansas Teacher Retirement System in Goldman Sachs v. Arkansas Teacher Retirement System.

Ms. Posner currently serves as the incoming president of the Institute for Law and Economic Policy, a public policy research and educational foundation seeking to preserve, study and enhance investor and consumer access to the civil justice system. She is also a member of the Public Policy Council of the CFP Board. She is the immediate past-Chair of the Association of the Bar of the City of New York's (NYC Bar) Securities Litigation Committee, and previously served as a member of the NYC Bar's Securities Regulation and Consumer Affairs Committees. Ms. Posner also is the former Chairwoman of the North American Securities Administrators Association (NASAA) Enforcement Committee, and previously served on NASAA's Multi-Jurisdictional Action Committee, Technology Committee and State Legislation Committee.

For her work, Ms. Posner has received numerous peer and industry recognitions, including The National Law Journal's 2021 Elite Trial Lawyers "Elite Women of the Plaintiffs Bar Award" and Crain's New York Business 2020 "Notable Woman in Law." Annually, she is honored as a New York Super Lawyer, as a member of Benchmark Litigation's "40 & Under Hot List" and "Future Stars List," and as one of Lawdragon's Leading Plaintiff Financial

Lawyers. In 2017, Ms. Posner received NASAA's 2017 "Outstanding Service Award."

Ms. Posner graduated with a B.A. in Political Science, magna cum laude, from the University of California, Los Angeles in 2001. She received her law degree at Harvard Law School in 2004, where she served on the Executive Editorial Committee for the Harvard Women's Law Journal.

### **Julie Goldsmith Reiser**

Julie Goldsmith Reiser is a partner at Cohen Milstein and co-chair of the Securities Litigation & Investor Protection practice. Ms. Reiser focuses on public pension plans, institutional investors, retirees and plan participants, representing them in high-stakes, complex litigation, including securities, ERISA, and antitrust litigation.

Law360 recognized Ms. Reiser as a "Titan of the Plaintiffs Bar," not long after citing her as one of the "25 Most Influential Women in Securities Law." The National Law Journal placed her among the "Elite Women of the Plaintiffs Bar" and, Lawdragon has repeatedly named her one of the leading 500 lawyers in America.

Ms. Reiser was recognized by The American Lawyer as "Litigator of the Week," for the historic \$310 million settlement In re Alphabet Shareholder Derivative Litigation (Sup. Ct. Cal., Santa Clara Cnty.), a shareholder derivative action, which established a framework for board accountability following allegations of systemic corporate mismanagement of sexual harassment, discrimination, and retaliation claims.

Ms. Reiser is highly regarded by clients, co-counsel, and opposing counsel for her tenacious advocacy, shrewd understanding of complex financial and economic issues, meticulous preparation, and dynamic leadership. Indeed, co-counsel and opposing counsel were quoted in Law360's "Titans of the Plaintiffs Bar: Cohen Milstein's Julie Goldsmith Reiser" profile:

- "I think [Ms. Reiser] is an excellent attorney. Very good in advocating in the courtroom and in settlement negotiations, a very good strategic thinker and a nice person." Louise Renne, former City Attorney of San Francisco, founding partner of Renne Public Law Group, and co-counsel in Alphabet.
- Ms. Reiser is "a very candid, trustworthy person" and working with her and her co-counsel was a "highlight of the case." Boris Feldman, partner at Freshfields Bruckhaus Deringer LLP and opposing counsel in Alphabet.

Including Alphabet, Ms. Reiser has helped shareholders achieve a total \$550 million in corporate diversity, equity and inclusion commitments and sweeping corporate governance and workplace policy changes at Wynn Resorts, Pinterest, and L Brands through novel shareholder derivative litigation she helped pioneer. In addition, she led litigation teams in several of the country's most complex class actions and landmark settlements, including a \$500 million settlement related to Countrywide's issuance of mortgage-backed securities ("MBS") and the Fifth Circuit affirmation of an investor class in the BP securities fraud litigation, stemming from the 2010 Deepwater Horizon oil spill, which settled for \$175 million.

Currently, Ms. Reiser is litigating the following notable matters:

- El Paso Firemen & Policemen's Pension Fund, San Antonio Fire & Police Pension Fund, and Indiana Public Retirement System v. InnovAge Holding Corp, et. al. (D. CO.): Ms. Reiser is Lead Counsel in this lawsuit that alleges InnovAge "substantially failed" to "provide to its participants medically necessary items and services" as required by government regulation. As a result, CMS and the State of Colorado suspended enrollment at InnovAge's Colorado facilities. InnovAge's stock price declined 78% just nine months after its IPO, giving InnovAge the distinction of being one of 2021's five worst performing stocks.
- In re Wells Fargo & Company Securities Litigation (S.D.N.Y.): Ms. Reiser represents the State of Rhode Island, Office of the General Treasurer in this putative securities class action, alleging that Wells Fargo and certain

executives misrepresented that the bank had improved its governance and oversight structures following a widespread consumer fraud banking scandal in direct violation of its 2018 consent orders with the CFPB, OCC, and the Federal Reserve. On May 16, 2023, the Court granted preliminary approval of a historic \$1 billion settlement.

- Bank of America Corp. Stock Lending Markets Antitrust Lawsuit (S.D.N.Y.): Ms. Reiser represents Iowa PERS, Los Angeles County Employees Retirement Association, Orange County Employees Retirement System and Sonoma County Employees' Retirement Association in this ground-breaking lawsuit, in which plaintiffs allege collusion among six of the world's largest investment banks to prevent modernization of the securities lending market, a critical component of a strong economy.

Ms. Reiser also maintains an active pro bono practice her most notable success is:

- Vivian Englund v. World Pawn Exchange, LLC (Cir. Ct., Coos Cnty., Or.): Cohen Milstein successfully represented the estate of a Kirsten Englund in a wrongful death case of first impression in Oregon state court and nationally, addressing the legal liability for federally licensed firearms dealers involved in online straw sales. The landmark settlement (October 2018) establishes important legal precedent at the state and federal levels regarding gun dealer responsibility for online sales of firearms. Given the precedential significance of this lawsuit, Cohen Milstein was named to The National Law Journal's "2019 Pro Bono Hot List" and won Public Justice Foundation's "2019 Trial Lawyer of the Year – Finalist" award.

Ms. Reiser has twice been named a winner of the Burton Awards, placing her among the "finest law firm writers" in the nation. She was a winner of the Burton Awards in 2019, as a co-author of "INSIGHT: Holding Firearms Dealers Accountable for Online Straw Sales," Bloomberg Law (December 19, 2018), and in 2016 for "Pre-Dispute Arbitration Clauses: Taking the Alternative Out of Dispute Resolution," Bloomberg BNA, Class Action Litigation Report (December 11, 2015). After the publication of "Pre-Dispute Arbitration Clauses," Paul Bland, Executive Director of Public Justice wrote: "This is invaluable advocacy that takes industry-side advocacy and exposes its flaws and failings. I'm very glad to see this kind of very high-quality advocacy and critical thinking."

Most recently, Ms. Reiser is the author or co-author of "Boards Must Be Held Accountable for Sexual Harassment Scandals," Financial Times (January 1, 2020); "Event-Driven Litigation Defense," Harvard Law School Forum on Corporate Governance and Financial Regulation (May 23, 2019); "INSIGHT: Sandy Hook Decision Reins in Gun Industry Shield Law," Bloomberg Law (March 28, 2019); "The Critical ABCs of Financial Antitrust Litigation & Recovery Opportunities," an ISS Securities Class Actions Services White Paper (February 18, 2019); and, "Trends in ERISA Litigation in 2017," Law360 (December 17, 2017).

Ms. Reiser attended Vassar College, graduating with honors, and earned her J.D. at the University of Virginia School of Law. She serves as Chair of U.S. Youth Soccer's Legal Advisory Committee and previously served as a board member at Seattle Works and the Eastside Domestic Violence Program (now known as LifeWire).

### **Christina Donato Saler**

Christina Donato Saler is a partner in Cohen Milstein's Securities Litigation & Investor Protection practice.

Ms. Saler represents clients in a broad range of securities, shareholder rights, and derivative actions as well as other complex litigation. Ms. Saler also has substantial trial experience prosecuting First Amendment cases involving individual plaintiffs against media defendants. Annually, she has been named in Lawdragon's "500 Leading Plaintiff Financial Lawyers" list since 2021, and she has been recognized by Law & Politics and the publishers of Philadelphia Magazine as a Rising Star, as listed in the Super Lawyer's publications (2011 – 2013).

Prior to joining Cohen Milstein in 2017, Ms. Saler was a securities class action litigator at a nationally recognized plaintiffs law firm, where she distinguished herself as a skilled litigator and trusted client counselor of public

pension funds and other institutional investors.

Ms. Saler is currently involved in the following notable matters:

- In re EQT Corporation Securities Litigation (W.D. Pa.): Cohen Milstein is Co-Lead Counsel in this securities class action, in which Plaintiffs allege that EQT misrepresented the synergies and cost savings that could be expected to arise from EQT's \$6.7 billion merger with rival natural gas producer Rice Energy, and then concealed that EQT was suffering from undisclosed well collapses and skyrocketing costs after the merger closed.
- PBM State Investigations: Led by Ms. Saler, Cohen Milstein serves as Special Counsel to state Attorneys General throughout the United States in their investigation into the billing practices and fee structures of managed care organizations (MCOs) and PBMs in their delivery of services to state-funded health plans. To date, Ms. Saler's work with Attorneys General has resulted in more than \$900 million in recoveries on behalf of certain state's Medicaid programs.
- Ohio Highway Patrol Retirement System (HPRS) v. Express Scripts, Inc. (Franklin C.P., Ohio): Cohen Milstein serves as Special Counsel to the Ohio Attorney General in this breach of contract litigation alleging that Express Scripts, Inc. overcharged HPRS on the pharmaceutical claims that Express Scripts processed as HPRS' PBM.
- In Re Tintri, Inc. Securities Litigation (Sup. Ct., San Mateo County, Cal.): Cohen Milstein represents investors in this securities class action, alleging that Tintri made misstatements and omissions in its IPO registration statement and prospectus.

Some of Ms. Saler's recent successes include:

- Ohio Bureau of Workers Compensation (BWC) v. OptumRx Administrative Services, LLC (Franklin C.P., Ohio): Led by Ms. Saler, Cohen Milstein served as Special Counsel to the Ohio Attorney General's Office in breach of contract litigation against OptumRx Administrative Services, LLC for its allegedly overcharging BWC on certain pharmaceutical claims that OptumRx processed as BWC's PBM. On October 28, 2022, OptumRx agreed to pay the State of Ohio \$15 million to settle the litigation.
- Ohio Department of Administrative Services - PBM Investigation: Led by Ms. Saler, Cohen Milstein served as Special Counsel to the Ohio Attorney General's Office in an investigation of the Pharmacy Benefit Management (PBM) services that OptumRx Administrative Services, LLC provided to the Ohio Department of Administrative Services. The investigation was resolved by \$7 million settlement on June 6, 2022.
- Ohio Department of Medicaid v. Centene, Corp. (Franklin C.P., Ohio): Led by Ms. Saler, Cohen Milstein served as Special Counsel to the Ohio Attorney General's Office in this litigation. On June 14, 2021, the Ohio Attorney General announced a \$88.3 million settlement with Centene Corporation and its wholly owned subsidiaries for their alleged role in not only breaching contractual and fiduciary obligations to the Ohio Department of Medicaid (ODM), but also defrauding ODM out of millions of dollars through an elaborate scheme with pharmacy benefit subcontractors to maximize company profits at the expense of the ODM and millions of Ohioans who rely on Medicaid.
- Eric Weiner v. Tivity Health, Inc. (M.D. Tenn.): Cohen Milstein was Class Counsel, representing Class Representative Oklahoma Firefighters' Pension and Retirement System and other purchasers of Tivity Health stock in a putative securities class action for Exchange Act violations related to Tivity's misleading the public about its relationship with United Healthcare, Inc. On October 7, 2021, the Court granted final approval of a \$7.5 million settlement. Ms. Saler managed all aspects of the litigation.
- In re Woodbridge Investments Litigation (C.D. Cal.): Cohen Milstein is a part of the executive leadership team in a consolidated securities class action against Comerica Bank for violating California statutory law and breaching its fiduciary duties by aiding and abetting an elaborate multi-billion-dollar Ponzi-scheme fraud committed by Robert H. Shapiro and the Woodbridge Group of Companies, a real estate investment company that transacted the scheme through Comerica bank accounts. On September 3, 2021, the Court

granted preliminary approval of a \$54.2 million settlement between Woodbridge investors and Comerica Bank.

In addition to her litigation work, Ms. Saler also advises Cohen Milstein's clients on regulatory trends and legal decisions that may impact the management of their funds. In this capacity, she is the editor of the Shareholder Advocate, a quarterly publication focused on legal issues relevant to public and Taft-Hartley pension funds and the institutional investor community.

In 2017, Governor Tom Wolf of Pennsylvania appointed Ms. Saler to the Board of the Pennsylvania Humanities Council, whose mission is to find ways of using the humanities to help people take action for positive change in their lives and communities, and to demonstrate this effectiveness to leaders and organizations invested in making Pennsylvania a better place to live. Ms. Saler is a member of the Executive Committee and Chairs the Government Advocacy Committee.

Ms. Saler is also a volunteer at Philadelphia Volunteer Indigence Program (VIP), where she represents individuals in jeopardy of losing their homes in the Philadelphia Common Pleas Court's Mortgage Foreclosure Program.

Ms. Saler received her B.A. from Fairfield University. She received her J.D., with honors, from Rutgers University Law School. In addition to other academic honors, Ms. Saler was selected for the Rutgers Law Journal and served as the Lead Articles Editor. She is also the author of "Pennsylvania Law Should No Longer Allow a Parent's Right to Testamentary Freedom to Outweigh the Dependent Child's 'Absolute Right to Child Support,'" 34 Rutgers Law Journal, 235 (Fall 2002).

Ms. Saler's professional career began in advertising. She was a Senior Account Executive with the Tierney Agency, where she managed various advertising campaigns and Verizon's contractual relationship with its spokesperson, James Earl Jones.

### **Daniel H. Silverman**

Daniel H. Silverman is a partner in Cohen Milstein's Antitrust practice, where he prosecutes class actions on behalf of consumers, small businesses, and employees in a variety of industries in courts around the country.

Mr. Silverman is highly regarded by the legal industry, economists, and academics alike for his deep engagement with economic experts and for successfully shepherding cases through class certification. In 2022, Law360 named him a "Rising Star - Antitrust," the only plaintiff lawyer to be named, citing Mr. Silverman's keen interest in the dynamic interplay of economics, econometrics, and social science in driving antitrust law and economic justice. The National Law Journal also recognized him as a 2022 Elite Trial Lawyers "Rising Star of the Plaintiffs Bar."

Among his successes, Mr. Silverman has helped litigate the following matters:

- Domestic Drywall Antitrust Litigation (E.D. Pa.): Co-Lead Counsel in an antitrust litigation alleging that the seven major U.S. manufacturers of drywall conspired to manipulate prices. The Court granted final approval of settlements that totaled more than \$190 million.
- VFX/Animation Workers: In re Animation Workers Antitrust Litigation (N.D. Cal.): Mr. Silverman represented a class of animation and visual effects workers in a lawsuit alleging that the defendants, who include Pixar, Lucasfilm Ltd. and DreamWorks Animation, secretly agreed not to solicit class members and to coordinate on compensation. The Court approved settlements with all of the defendants for a total of \$168.5 million.
- Plasma-Derivative Protein Therapies Antitrust Litigation (N.D. Ill.): Co-Lead Counsel for plaintiffs alleging a conspiracy to reduce the supply and increase prices of IVIG and Albumin—life-saving therapies derived from blood plasma. The lawsuit was resolved for \$128 million to compensate customers who were overcharged

for these vital therapies.

Mr. Silverman is currently involved in the following notable matters:

- In re Interest Rate Swaps Antitrust Litigation (S.D.N.Y.): Co-Lead Counsel in a class action against several of the world's largest investment banks that are alleged to have colluded with one another to crush competition in the trillion-dollar market for interest rate swaps, a type of financial derivative. The case is in active discovery.
- Mixed Martial Arts (MMA) Antitrust Litigation (D. Nev.): Co-Lead Counsel in a class action on behalf of MMA fighters alleging that Zuffa LLC – commonly known as the Ultimate Fighting Championship or "UFC" – has unlawfully monopolized the markets for promoting live professional MMA bouts and for purchasing the services of professional MMA fighters.
- In re Broiler Chicken Antitrust Litigation (N.D. Ill.): Co-Lead Counsel representing a certified class of consumers who allege that the defendants, including Perdue Farms and Tyson Foods, agreed to restrict the supply of broilers, thereby raising consumer prices. The Court approved settlements with six of the defendants for a total of \$181 million. Law360 cited plaintiffs' success in Broilers in naming Cohen Milstein a Law360 "Class Action Group of the Year" (2021).
- Jien v. Perdue Farms, Inc. (D. Md.): Interim Co-Lead Counsel representing a proposed class of poultry plant workers, in a suit alleging that the nation's largest chicken and turkey producers conspired to suppress their compensation. The Court so far has preliminarily approved settlements with four defendants for \$195.25 million and the case is in discovery with the remaining defendants.
- Moehl v. National Association of Realtors (N.D. Ill.): Co-Lead Class Counsel representing a certified class of home sellers in litigation against the four largest national real estate services conglomerates, and their trade association. The class alleges that the defendants violated federal antitrust law by conspiring to require sellers to pay the broker representing their homes' buyer (and to do so at an inflated level).

Prior to joining the firm in 2012, Mr. Silverman served as the executive director of Legal Economics, LLC, a Cambridge, Massachusetts-based firm specializing in the analysis of complex economic issues related to legal issues. At Legal Economics, he supported expert economic testimony in a variety of antitrust matters involving horizontal price-fixing, mergers, and loyalty discounts in industries ranging from health care and computer hardware to live music promotion. His experience at Legal Economics provides him with unique insight into the inner workings of expert testimony in antitrust matters. In addition, Mr. Silverman has represented public sector clients before the Federal Energy Regulatory Commission, state public utility commissions, and federal appellate courts.

Mr. Silverman is a magna cum laude graduate of Brown University, with a B.S. in Physics, where he was elected to Phi Beta Kappa. He earned a J.D., magna cum laude, from Harvard Law School. In law school, he served as a Managing Editor of the Harvard Environmental Law Review. Mr. Silverman also served as a summer associate at the U.S. Department of Justice in the Environment and Natural Resources Division, Law and Policy Section.

### **Daniel S. Sommers**

Daniel S. Sommers is a partner at Cohen Milstein, the immediate past co-chair of the Securities Litigation & Investor Protection practice, and a former member of the firm's Executive Committee, on which he served for twelve years from 2007 through 2019.

Mr. Sommers is a highly-regarded securities litigator and thought leader in the areas of securities and class action litigation as well as investor rights. During his over three-decade career at Cohen Milstein, Mr. Sommers has taken leadership roles in litigating large, complex and significant securities cases. He has provided litigation counsel to institutional investors, including state-wide public pension funds; public safety pension funds and Taft-Hartley pension funds. Many of his cases have resulted in important rulings and legal precedents, as well as in significant recoveries for investors totaling hundreds of millions of dollars.

Some of his notable matters include:

- Bear Stearns Mortgage Pass Through Securities Litigation (S.D.N.Y.): Co-lead counsel representing the New Jersey Carpenters Health Fund in a \$505 million landmark settlement (including a \$5 million expense fund) of a securities class action suit alleging that Bear Stearns violated securities laws in the sale of mortgage backed securities to investors. This is the largest recovery ever obtained in a securities class action on behalf of investors in mortgage-backed securities.
- Converium/SCOR Securities Litigation (Netherlands): Co-lead counsel in a groundbreaking \$58.4 million securities class action recovery, in which the Amsterdam Court of Appeal declared binding a world-wide class action settlement of claims of non-U.S. investors who purchased Converium shares outside of the United States. The ruling was a major victory for worldwide investors because it successfully implemented the Dutch Collective Settlement Statute even though the underlying transactions had limited contact with the Netherlands.
- Fannie Mae Securities Litigation (D.D.C.): Played a significant role in a high-profile securities class action representing the Ohio Public Employees Retirement System and the State Teachers Retirement System of Ohio against Fannie Mae, several of its former executives and KPMG involving allegations of falsified financial statements. The \$153 million settlement amount represents the largest recovery in a securities fraud class action ever obtained in the United States District Court for the District of Columbia.
- CP Ships Ltd. Securities Litigation (M.D. Fla.): Co-lead counsel in a class action lawsuit alleging that CP Ships, a Canadian company headquartered in England but with substantial operations in Tampa, Florida, issued false financial statements. Mr. Sommers argued an appeal in the U.S. Court of Appeals for the Eleventh Circuit, successfully opposing objections to a settlement that provided non-U.S. investors with the protections of the federal securities laws.

Mr. Sommers has obtained significant recoveries for investors in numerous other securities class action cases in federal courts throughout the United States including: *Steiner v. Southmark Corporation* (N.D. Tex.) (over \$70 million recovery); *In re PictureTel Inc. Securities Litigation* (D. Mass.) (\$12 million recovery); *In re Opus Bank Securities Litigation* (C.D. Cal.) (representing the Arkansas Public Employees Retirement System and obtaining a \$17 million recovery); *In re Physician Corporation of America Securities Litigation* (S.D. Fla.) (\$10.2 million recovery); *In re Gilat Satellite Securities Litigation* (E.D.N.Y.) (\$20 million recovery); *In re Pozen Inc. Securities Litigation* (M.D.N.C.) (\$11.2 million recovery); *In re Nextel Communications Securities Litigation* (D.N.J.) (up to \$27 million recovery); *In re PSINet Inc. Securities Litigation* (E.D. Va.) (\$17.8 million recovery); *In re Cascade International Inc. Securities Litigation* (S.D. Fla.) (global recovery of approximately \$10 million); *In re GT Solar Securities Litigation* (D.N.H.) (representing the Arkansas Public Employees Retirement System and obtaining a recovery of \$10.5 million); *Mulligan v. Impax Laboratories, Inc.* (N.D. Cal.) (representing the Boilermakers Blacksmith National Pension Trust and obtaining a recovery of \$8 million); *Plumbers & Pipefitters National Pension Fund v. Orthofix, N.V.* (S.D.N.Y.) (representing the Plumbers & Pipefitters National Pension Fund and obtaining a recovery of \$11 million) and *In re ECI Telecom Securities Ltd. Litigation* (E.D. Va.) (\$21.75 million recovery). He has also handled significant appellate matters including arguing before the United States Court of Appeals for the Ninth Circuit in *Hemmer Group v. Southwest Water Company*, where he obtained a reversal of the district court's order dismissing investors' claims under the Securities Act of 1933. In addition, he was co-lead counsel for investors before the Supreme Court of the United States in *Broudo v. Dura Pharmaceuticals, Inc.*, 544 U.S. 336 (2005) (addressing the standards for pleading loss causation).

Mr. Sommers is also experienced in non-class action litigation. He represented TBG Inc., a multi-billion dollar privately-held overseas corporation, in a multi-party, complex action alleging fraud in a corporate acquisition and represented individuals in connection with investigations brought by the United States Securities and Exchange Commission. He also has represented publicly traded corporations in the prosecution and defense of claims.

Mr. Sommers has litigated cases covering a wide-range of industries including the financial services, computer software, pharmaceutical, healthcare, insurance, real estate and telecommunications industries among others. In addition, he has substantial experience in cases presenting complex accounting and auditing issues.

A thought leader in the area of securities and class action litigation, as well as investor rights, Mr. Sommers is frequently called on to speak both to other lawyers and institutional investors. He has been quoted on these topics in a variety of publications including The Wall Street Journal, The Washington Post, Bloomberg BNA, Pension and Investments, and Law360.

Mr. Sommers is the immediate past Chair of the Markets Advisory Council of the Council of Institutional Investors, having served for two consecutive terms (2018 – 2019). He is currently a member of the Securities Litigation Committee of the National Association of Public Pension Attorneys. He served as Chairman and Vice-Chairman of the Investor Rights Committee of the Corporation, Finance and Securities Law Section, District of Columbia Bar, and through the years has been a guest lecturer at Columbus School of Law at the Catholic University of America; Georgetown Law Center; and George Washington University Law School. He has also served as a member of the editorial advisory boards of Bloomberg BNA Securities Litigation & Law Report and Law360 Securities.

Named a Washington, D.C. Super Lawyer every year since 2011, Mr. Sommers has also been awarded Martindale-Hubbell's highest rating of AV Preeminent®, and Benchmark Plaintiff has recognized him as a litigation star in multiple years.

Mr. Sommers attended Union College, where he earned a B.A., magna cum laude, in Political Science, and graduated from George Washington University Law School.

#### **Christine E. Webber**

Christine E. Webber, co-chair of Cohen Milstein's Civil Rights & Employment practice, represents victims of discrimination and wage and hour violations in class and collective actions.

Ms. Webber is a tenacious, hands-on litigator, highly-regarded for her ability to organize large, high-profile class and collective actions and work closely with economic and statistical experts on developing sophisticated statistical analyses of class claims.

Ms. Webber has had the honor of representing clients in some of the largest, groundbreaking discrimination and Fair Labor Standards Act (FLSA) class and collective actions in the United States, including *Keepseagle v. Vilsack* (D.D.C.), a historic nationwide race-based discrimination class action brought by Native American ranchers and farmers against the United States Department of Agriculture (USDA). The landmark \$760 million settlement required the USDA to pay \$680 million in damages to thousands of Native Americans, to forgive up to \$80 million in outstanding farm loan debt and to improve the farm loan services the USDA provides to Native Americans. Ms. Webber was lead counsel in *In re Tyson Foods FLSA MDL* (M.D. Ga.), a collective action involving FLSA claims at over 40 Tyson chicken processing plants, which ultimately resolved the claims of 17,000 chicken processing workers who had been denied compensation for donning and doffing required safety and sanitary equipment; and *Hnot v. Willis Group Insurance* (S.D.N.Y.), where she represented a class of women vice presidents in Willis' Northeast region, who complained of discrimination with respect to their salary and bonuses, as well as promotions. This "glass ceiling" case settled for an average payment of \$50,000 per woman, a record-breaking settlement in 2007 for a sex discrimination class action. Ms. Webber continues the fight in *Dukes v. Wal-Mart* – a nationwide pay and promotion sex discrimination class action that went to the U.S. Supreme Court in 2011 and addressed standards for class certification in employment discrimination matters.

Ms. Webber is currently leading several high-profile class and collective actions, including:

- Bird, et al. v. Barr (D.D.C.): Ms. Webber is leading a putative class action of women who suffered systemic discrimination on the basis of sex when they were terminated from the Federal Bureau of Investigation's Basic Training program for new agents and intelligence analysts. In April 2022, the Court denied the FBI's motion to dismiss.
- CFHC, et al. v. CoreLogic Rental Property Solutions (D. Conn.): Ms. Webber represents the Connecticut Fair Housing Center and Carmen Arroyo in a cutting-edge legal challenge to CoreLogic's algorithmic background check system which allegedly discriminates against African-Americans and Latinos seeking rental housing in violation of the Fair Housing Act. Because of the novel artificial intelligence (AI)-related discrimination claims, the case has been identified as one of Law360's "3 Real Estate Cases to Watch in 2022." A bench trial was initiated in March 2022.
- Reynolds et al v. Fidelity Investments Institutional Operations Company (M.D.N.C.): Ms. Webber successfully negotiated a settlement of a nationwide FLSA class action involving thousands of employees at Fidelity Investments Institutional Operations Company, Inc. call centers who were not paid overtime for mandatory pre-shift work. The court granted final approval to the settlement in January 2020.
- Ralph Talarico v. Public Partnerships, LLC (E.D. Pa.): Ms. Webber is leading a conditionally certified collective action of more than 4,900 past and present "direct care" workers, who provide home care for individuals with disabilities, for denied overtime wages. The case involves novel joint employer issues. In 2020, the Third Circuit reversed and remanded the district court's order granting PPL summary judgement. In February 2021, the Third Circuit denied PPL's request for a rehearing, thereby upholding its 2020 ruling and reaffirming Plaintiffs' successful appeal.
- Castillo, et al. v. Western Range Association (D. Nev.): Ms. Webber is also representing a putative class of shepherds hired primarily from Peru and Chile, who allege that Western Range Association, which brought the plaintiffs into the U.S. to work as herders through the H-2A visa program, grossly underpaid them, in violation of Nevada law. As of May 2022, we are awaiting district court rulings on class certification and on summary judgment.
- Dukes v. Walmart (federal courts nationwide): Ms. Webber is coordinating a series of individual gender-related pay and promotion discrimination claims against Walmart on behalf of approximately 1800 women who filed charges before the EEOC following decertification of the Dukes class. This is the latest step in addressing the merits of this massive discrimination lawsuit, which went up to the Supreme Court in 2011. As of January 2022, nearly all of these lawsuits have been resolved, but many claims remain pending before the EEOC.

For her tireless work, Ms. Webber has been frequently recognized by the legal industry. In 2023, Chambers USA named her a "Top Ranked" lawyer in Labor & Employment: Mainly Plaintiffs - District of Columbia. In 2022, The National Law Journal named her a winner of its "Elite Women of the Plaintiffs Bar" award, which recognizes a small handful of female plaintiffs' attorneys who "have demonstrated repeated success in cutting-edge work on behalf of [clients]" over their careers. The same year, The Best Lawyers in America named Ms. Webber the "Lawyer of the Year – Employment Law – Individuals – Washington, D.C." In 2019, Ms. Webber was the recipient of the "Roderic V.O. Boggs Award" for her "sustained commitment" to the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Annually, she has been recognized by Lawdragon 500 Leading Plaintiff Employment Lawyers (since 2018), The Best Lawyers in America (since 2018), and Super Lawyers (since 2012).

She is co-chair of the National Employment Lawyers' Association's Class Action Committee, the nation's pre-eminent employee-side legal association, a position she has held since 1999. Ms. Webber is also a member of Law360's Employment Editorial Advisory Board (2020 – 2021). She speaks and writes frequently on employment discrimination, wage and hour issues, and class actions.

Prior to joining Cohen Milstein in 1997, Ms. Webber received a Women's Law and Public Policy fellowship which funded the first of her four years at the Washington Lawyers' Committee for Civil Rights and Urban Affairs in their

Equal Employment Opportunity Project. There, she worked on employment discrimination cases, focusing in particular on the sexual harassment class action *Neal v. Director, D.C. Department of Corrections, et al.* (D.D.C.). Ms. Webber participated in the trial of this groundbreaking sexual harassment class action in 1995. Ms. Webber also tried the race discrimination case *Cooper v. Paychex* (E.D. Va.), and successfully defended the plaintiffs' verdict before the Fourth Circuit.

Ms. Webber attended Harvard University, graduating magna cum laude, with an A.B. in Government, and earned her J.D., magna cum laude, Order of the Coif, at the University of Michigan Law School. Following law school, she clerked for the Honorable Hubert L. Will, United States District Judge for the Northern District of Illinois.

### **Michelle C. Yau**

Michelle C. Yau, chair of Cohen Milstein's Employee Benefits/ERISA practice, has spearheaded some of the most significant ERISA class actions in the nation. Since 2022, Chambers USA has named her a "Top Ranked" individual in ERISA Litigation and in 2021, she was named a Law360 Benefits MVP. Ms. Yau combines ardent dedication to protecting her clients' retirement assets with rare insight into complex financial transactions and actuarial issues, informed by her Wall Street and government experience.

Ms. Yau is passionate about righting economic injustice and protecting pension plan participants. She has a unique background having served as an Honors Program Attorney at the Department of Labor where she enforced and administered a variety of labor statutes and working as a financial analyst at Goldman Sachs in the Financial Institutions Group of the Investment Banking Division.

This experience has allowed Ms. Yau to play an instrumental role in important financial litigation, including high-profile ERISA lawsuits emerging from the Madoff Ponzi scheme:

- In re Beacon Association Litigation (S.D.N.Y.): Ms. Yau represented a multi-plan class of participants, beneficiaries, and fiduciaries, which settled along with other consolidated cases for \$219 million in 2013, representing 70% of the Class members' out-of-pocket losses. The judge praised the settlement, describing the outcome as "extraordinary" and the praising the "hard work" done by plaintiffs' counsel, including Cohen Milstein.
- *Becker v. Wells Fargo & Co. et al.* (D. Minn.): Ms. Yau led the team in litigation and recently achieved a \$32.5 million settlement prior to class certification and expert discovery. If approved, the settlement will recover 40% of estimated damages.

Ms. Yau is currently involved in a series of high-profile class actions involving 401(k) Plans, Employee Stock Ownership Plans (ESOPs) for the mismanagement of employee retirement savings. Notable matters include:

- Casino Queen ESOP Litigation (S.D. Ill.): To date, Ms. Yau has won two motions to dismiss in this case on behalf of employee participants. She represents ESOP participants who allege that the Board of Directors of CQ Holding Company, Inc. and related defendants violated ERISA when they created an ESOP to buy their Casino Queen stock for \$170 million, a significantly inflated price.
- Western Global Airlines ESOP Litigation (D. Del.): Ms. Yau represents employees in challenging the valuation of Western Global Airlines at approximately \$1.3 billion, based on the sale of 37.5% of the company to the ESOP for \$510 million. The lawsuit seeks to restore substantial losses to the ESOP and to disgorge all ill-gotten gains received by the Neff family.
- New York Life 401(k) Plan Litigation (S.D.N.Y.): Ms. Yau represents employees in a lawsuit against New York Life which alleges corporate self-dealing and the prohibited transfer of employees' retirement assets to defendants at the expense of the retirement savings of New York Life employees and agents.
- Triad Manufacturing Inc. ESOP Litigation (N.D. Ill.): Ms. Yau defeated a motion to compel arbitration in this

case and thereafter achieved a precedent-setting decision in the Seventh Circuit upholding the lower court's denial of the motion to compel arbitration. As a result of this decision, Cohen Milstein and co-counsel were recognized in *The American Lawyer* as "Litigators of the Week."

- Western Milling ESOP Litigation (E.D. Cal.): Cohen Milstein represents participants and beneficiaries of the Western Milling Employee Stock Ownership Plan, who allege that the ESOP's trustees breached their fiduciary duties by engaging in risky investments in violation of ERISA, including purchasing 100% of Kruse-Western, Inc. company stock, which was valued at approximately 90% of the purchase price for several years after the ESOP Transaction.

Ms. Yau played an instrumental leadership role in the following high-profile cases:

- Dignity Health Church Plan Litigation (N.D. Cal.): Cohen Milstein is co-counsel to a class of defined benefit participants, which alleges that Dignity Health is improperly claiming that its pension plans are exempt from ERISA's protections because they are "church plans," and as a result has underfunded its plans by over \$1.2 billion. In June 2017, the Supreme Court reversed previous rulings on consolidated church plan cases and ordered plaintiffs, in this case, to file an amended complaint. On July 15, 2022, the court granted final approval of a \$100 million settlement.
- Presence Health Plan Litigation (N.D. Ill.): Cohen Milstein represented Presence Health Network-sponsored pension plan participants and beneficiaries, who allege that defendants wrongly claimed that the plans under dispute qualified as ERISA-exempt "church plans" and subsequently denied participants the protections of ERISA, including underfunding the plans by over \$175 million. In July 2018, the court granted final approval to a \$50 million settlement.
- Trinity Church Plan Litigation (D. Md.): Cohen Milstein was counsel to a class of defined benefit participants in which allege that the hospital's plan is not a church plan and thus the class is entitled to ERISA's protections and thereby underfunded the plan by over \$600 million. In May 2017, the granted final approval of a \$75 million settlement.
- Merrill Lynch ERISA Litigation (S.D.N.Y.): Cohen Milstein served as interim co-lead counsel in a class action alleging that fiduciaries of the Merrill Lynch retirement plans imprudently purchased and held inflated Merrill employer stock for the retirement accounts of the companies' employees. The litigation was resolved for \$75 million. Ms. Yau was engaged in all aspects of the litigation.
- Weyerhaeuser Pension Plan Litigation (D. Or.): Cohen Milstein was lead counsel in a lawsuit alleging that the Weyerhaeuser Company caused its Defined Benefit Retirement Plans to engage in a risky investment strategy involving alternative investments and derivatives, causing the Plans' master trust to become underfunded. A settlement was reached for injunctive relief on behalf of Plans' participants and beneficiaries. Ms. Yau was engaged in all aspects of the litigation.

Ms. Yau is a prolific public speaker and is frequently invited to speak on ERISA litigation updates and trends. She is also a senior editor of the ERISA treatise published by Bloomberg BNA, *Employee Benefits Law*, and a member of the Benefits Editorial Advisory Board for *Law360*.

Ms. Yau received her law degree from Harvard Law School, where she was awarded several public interest fellowships, including the Heyman Fellowship for academic excellence and a demonstrated commitment to federal public service. She graduated Phi Beta Kappa with a B.A. in Mathematics from the University of Virginia. Ms. Yau was also selected as an Echols Scholar and awarded the Student Council Scholarship for leadership, academic achievement, and community service.

## **Attorney Profiles – Of Counsel, Associates, Discovery Counsel & Staff Attorneys**

**Susan Banks**

Susan Banks is a staff attorney at Cohen Milstein and a member of the Antitrust practice. In this role, she assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Ms. Banks brings to bear extensive discovery experience, having worked as a discovery and contract attorney with several renowned defense firms prior to joining Cohen Milstein. Ms. Banks was also the Director of The Socratic School of Language in Washington, D.C. where she created and administered a multilingual language curriculum and innovative afterschool programming in partnership with public, private, and charter school networks.

Ms. Banks is a graduate of The University of Illinois Urbana-Champaign, where she received a B.A. She earned her J.D. and a LL.M. in Intellectual Property Law from The University of Illinois Chicago School of Law. Ms. Banks also holds an A.A.S. in Early Childhood Education from Ashworth College.

### **Luke Bierman**

Luke Bierman is of counsel to Cohen Milstein, and adviser to the Ethics and Fiduciary Counseling and Securities Litigation & Investor Protection practices. Mr. Bierman's role is to counsel pension funds and public entities on fiduciary, ethics, governance and compliance issues. He joined Cohen Milstein in 2011, bringing with him a singular perspective and substantive experience as in-house counsel to one of the leading pension funds in the country, appointments to state task forces to review the state code of judicial ethics and professionalism, and a scholarly and academic background as the Dean and Professor of Law at a rising law school that President Bill Clinton has called "interesting and innovative." His experience provides him with a unique context for assisting public pension funds at critical and challenging times for those funds, and to offer collaborative and creative solutions.

Mr. Bierman served from 2007 to 2010 as General Counsel for the Office of the New York State Comptroller, the sole trustee of the state's then \$150 billion pension fund and the state's chief fiscal officer for the state of New York's then \$130 billion budget. This was during the period when the Office of the Comptroller faced unprecedented challenges including an international placement agent scandal and the Great Financial Crisis, and Mr. Bierman led the review of policies and procedures in the Office. In this role, Mr. Bierman managed a legal staff that included 55 attorneys and was responsible for legal advice and counsel on all matters relating to the comptroller's constitutional and statutory responsibilities, including fiduciary, governance, ethics, litigation, investment, pension benefits, state and municipal finance and legislative matters. He also managed the 35 outside law firms that represented the Comptroller in litigation and transactional matters.

Mr. Bierman is a noted expert on legal ethics and professionalism, who has spoken and written widely about state courts and judicial conduct. He has served as a member of the North Carolina Commission on Administration of Law and Justice and on the North Carolina Chief Justice's Commission on Professionalism. He was a member of the Massachusetts Supreme Judicial Court's Task Force on the Code of Judicial Conduct, which was assigned to review and suggest updates to the Court. He served on the ABA Presidential Task Force on Financing Legal Education and the ABA Presidential Task Force on Legal Access JobCorps. While working at the American Bar Association, Mr. Bierman initiated the project that resulted in revisions to the Model Code of Judicial Conduct (2007), which many states have since adopted. Mr. Bierman is Professor of Law and Dean Emeritus at Elon University School of Law in Greensboro, North Carolina, an innovative law school that blends the most important traditional elements of legal education with highly experiential learning in the nation's first 2½ year JD program.

Previously, Mr. Bierman was the Associate Dean for Experiential Education and Distinguished Professor of Practice of Law at Northeastern University School of Law in Boston, where he was responsible for Northeastern's Cooperative Legal Education Program. Earlier in his career, Mr. Bierman served as a Fellow in Government Law and Policy at Albany Law School. He also has served as Director of the Institute for Emerging Issues at North Carolina State University, where he held the rank of Associate Professor of Political Science; as Founding Director of the Justice

Center and Special Assistant to the President of the American Bar Association; as Visiting Specialist in Constitutional Law with the rank of Associate Professor at The Richard Stockton College of New Jersey; and as law clerk to the Presiding Justice and an Associate Justice as well as Chief Attorney of the New York Supreme Court, Appellate Division, Third Department. Mr. Bierman also has taught at Northwestern University School of Law, the University at Albany - State University of New York and Trinity College in Hartford.

Mr. Bierman is widely published for his legal analysis and is a frequent lecturer and commentator about corporate governance reform, fiduciary responsibility and ethics and justice reform. He was a member of the board of directors of the Council of Institutional Investors, where he co-chaired the policies committee. Mr. Bierman earned his Ph.D. and M.A. in Political Science from the University at Albany - State University of New York; his J.D. from the Marshall-Wythe School of Law of the College of William and Mary, where he was a member of the Law Review; and his B.A. magna cum laude in American Political History with High Honors from Colgate University, where he was elected to Phi Beta Kappa. He is an elected member of the American Law Institute.

### **John Bracken**

John Bracken is a staff attorney in the Antitrust practice. He assists with discovery and evidentiary-related aspects of the litigation and deposition preparation.

Currently, Mr. Bracken is assisting in litigating the following notable matters:

- Domestic Drywall Antitrust Litigation: Cohen Milstein is co-lead counsel in an antitrust litigation alleging that the seven major U.S. manufacturers of drywall conspired to manipulate prices. To date, settlements for \$45 million have been reached with two of the defendants. The case is ongoing.
- VFX/Animation Antitrust Litigation: Cohen Milstein is one of three court-appointed co-lead counsels in a litigation alleging that the major animation studios conspired to limit the opportunities and suppress the pay of special effects and animation workers by agreeing not to poach each other's employees. The litigation has survived a motion to dismiss and the firm is in the process of filing a class motion.
- Mixed Martial Arts (MMA) Antitrust Litigation: Cohen Milstein is co-lead counsel in a class action on behalf of MMA fighters alleging that Zuffa LLC – commonly known as the Ultimate Fighting Championship or “UFC” – has unlawfully monopolized the markets for promoting live professional MMA bouts and for purchasing the services of professional MMA fighters. The district court denied the defendant's motion to dismiss the case in September 2015 and discovery is ongoing.
- Solodyn Antitrust Litigation: Cohen Milstein is a movant in a pay-for-delay litigation, alleging that Medicis Pharmaceutical Corp. and other drug manufacturers colluded to keep a generic version of the acne drug Solodyn off the market. The case is ongoing.

Among Mr. Bracken's successes are the following matters:

- Sports Broadcasting Antitrust Litigation: Cohen Milstein is lead counsel for plaintiffs in class actions alleging that the system of geographical broadcasting territories employed by the National Hockey League (NHL) and Major League Baseball (MLB) amount to unlawful market allocation under Section 1 of the Sherman Act. The NHL lawsuit settled in 2015. A proposed settlement was reached with the MLB in January 2016.
- Symantec Antivirus Antitrust Litigation: Cohen Milstein was lead counsel in a class action alleging Symantec, a computer security provider, and another defendant sold consumers worthless and unnecessary download insurance. The case was resolved just prior to the trial for a \$60 million settlement.

Mr. Bracken graduated from Vassar College with a B.A. in History and earned his J.D. from American University, Washington College of Law.

### **Caroline Bressman**

Caroline Bressman is an associate in Cohen Milstein's Employee Benefits/ERISA practice. Ms. Bressman represents the interests of employees, retirees, plan participants and beneficiaries in ERISA class-action lawsuits across the country.

Prior to joining Cohen Milstein, she was an associate at a highly regarded national plaintiffs' law firm, where she represented clients in employee benefits/ERISA, employment and financial class actions.

Ms. Bressman is litigating the following high-profile matters:

- AT&T Pension Benefit Plan Litigation (N.D. Cal.): Cohen Milstein represents a putative class of pension plan participants and beneficiaries, who allege that AT&T used outdated mortality tables to determine the value of joint and survivor annuities, resulting in plaintiffs receiving less than the actuarial equivalent of the benefit than they were entitled to under ERISA.
- World Travel ESOP Litigation (E.D. Pa.): Cohen Milstein represents a putative class of employee stock option plan (ESOP) participants and beneficiaries who allege that the founders of World Travel and the ESOP trustees created the ESOP and then sold 100% of the employees World Travel stock to the ESOP at an above-market price, saddling it with over \$200 million in debt.
- Intel Minimum Pension Plan Litigation (N.D. Cal.): Cohen Milstein represents a putative class of pension plan participants and beneficiaries, who allege that the Intel Minimum Pension Plan utilized outdated mortality tables to determine the value of joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.

In addition to managing a full docket, Ms. Bressman is an adjunct faculty member at the University of Minnesota Law School, where she teaches a Law in Practice course. She also speaks frequently on ERISA, wage theft and employment law topics in continuing legal education programs.

Ms. Bressman received her B.A., magna cum laude, from St. Olaf College, and she received her J.D., cum laude, from the University of Minnesota Law School, where she was a staff member and articles editor for the Minnesota Law Review.

### **Jay Chaudhuri**

Mr. Chaudhuri has spent his career fighting for, and working on behalf of, the people of North Carolina. Prior to joining Cohen Milstein, Mr. Chaudhuri served as General Counsel & Senior Policy Advisor at the North Carolina Department of State Treasurer, the sole trustee of the state's \$90 billion pension fund and administrator of the \$8 billion defined contribution plan.

Mr. Chaudhuri oversaw all legal and corporate governance matters. In his role, he recovered more than \$100 million for the pension and unclaimed property funds, including settlements with a real estate investment manager and custodian bank. He played a key role in uncovering alleged wrongdoing that led to eight investment managers paying the pension fund back \$15 million and tougher, cutting-edge ethical standards for these managers.

Mr. Chaudhuri also helped organize a coalition of 11 public pension funds against Massey Energy's Board of Directors and Chairman, after a coal-mining explosion resulted in the death of 29 workers. That engagement resulted in key corporate governance changes and the Chairman's resignation. Today, the coalition's engagement is cited as a model of collaboration among shareholder rights advocates. In addition, Mr. Chaudhuri worked closely with the Harvard Shareholder Rights Project where the Department helped declassify twenty corporate boards, including Stanley Black & Decker, Hess, Lexmark, Foot Locker, and Jarden Corporation. Mr. Chaudhuri served as Chair of the Council of Institutional Investors, an association of the pension funds with combined assets of more than \$3 trillion.

which serves as the leading voice for effective corporate governance and strong shareholder rights. As Chair, he led the development and adoption of the organization's long-term strategic plan.

Before joining the Department of State Treasurer, Mr. Chaudhuri served as Special Counsel at the North Carolina Department of Justice, where he led an investigation by all 50 Attorneys General that resulted in a landmark agreement with two leading social networking sites to better protect children from Internet predators. For his efforts, the National Association of Attorneys General honored him with the Marvin Award, given to an individual who furthers that association's goals.

The North Carolina Bar Association has awarded Mr. Chaudhuri its Citizen Lawyers Award, given to lawyers who provide exemplary service to the communities. Lawyers Weekly has also honored him with its Leader in the Law award. In addition, he has been awarded the William C. Friday Fellowship, Henry Toll Fellowship, and American Marshall Memorial Fellowship.

Mr. Chaudhuri currently serves in the North Carolina State Senate representing parts of Raleigh, Cary, and Morrisville. As one of the newest state senators, he serves on the Commerce, Pension & Retirements and Aging, Judiciary II, State and Local Government, and Appropriations on General Government committees. Mr. Chaudhuri has co-sponsored a bill to repeal House Bill 2, a bill critics have referred to as the most anti-LGBT legislation in the country. He is the first South Asian American to serve in the North Carolina General Assembly.

Mr. Chaudhuri graduated from Davidson College, Columbia University School of International and Public Affairs, and North Carolina Central University School of Law (cum laude), where he was executive editor of the Law Journal.

#### **Arthur E. Coia**

Arthur E. Coia is of counsel at Cohen Milstein and is a member of the Securities Litigation & Investor Protection practice. Mr. Coia works to keep clients, many of which are Taft-Hartley pension plans, informed of potential fraud and corporate governance issues within their investments so they are able to consider appropriate action in a timely manner.

Prior to joining the firm in 2013, Mr. Coia spent more than 20 years in the investment advisory business. He was President of an asset management company for 10 years, where he oversaw the management of more than \$4 billion in assets. Earlier in his career, Mr. Coia worked as a Portfolio Manager and Securities Analyst for a well-respected trust company and other independent "buy side" advisors. Because of his prior role as a fiduciary in managing benefit fund assets, Mr. Coia understands how important it is for such funds to recover all assets to which they are legally entitled, and to take timely corporate governance actions where appropriate. Mr. Coia uses his unique combination of investment experience and legal knowledge to raise client awareness of instances where they have been defrauded of assets and helps them with the recovery process.

Mr. Coia earned a B.S. in Finance from Georgetown University McDonough School of Business, and received his J.D. from Georgetown University Law Center.

#### **Suzanne Dugan**

Suzanne M. Dugan is special counsel to Cohen Milstein and leads the Ethics & Fiduciary Counseling practice, a practice she helped found within the Securities Litigation & Investor Protection practice.

Ms. Dugan joined Cohen Milstein after more than 20 years of service in government, including as Special Counsel for Ethics for the Office of the New York State Comptroller, and as counsel to and acting director of the New York State Ethics Commission. Her service and experience in government offer the broad and unique perspective of a

regulator and the understanding of an in-house counsel.

Ms. Dugan brings her experience gained from having served as ethics counsel to the third largest public pension fund in the country to advise and counsel pension fund trustees and senior managers on issues and challenges, providing collaborative and creative solutions for pension funds as they navigate changing economic challenges and organizational requirements.

From this unique vantage, Ms. Dugan counsels pension funds on fiduciary responsibility, ethical duties, strategic governance and compliance issues. She consults with governmental entities and other clients on design, implementation, management and assessment of comprehensive ethics programs. She also assists in conducting investigations and structuring recommendations, and provides expert legal and consulting services to law firms retained to conduct special reviews, providing an additional layer of oversight and accountability.

Ms. Dugan has worked with public pension fund and municipal government clients in the following capacities:

- Service as Fiduciary Counsel, Ethics Counsel, and Compliance Counsel to public pension plans from coast to coast, including some of the largest institutional investors in the country.
- Providing ethics and fiduciary training to boards of trustees, designing and delivering educational programs for sophisticated public pension plans and government entities.
- Outside Ethics Officer to municipalities across the country, evaluating and investigating complaints of unethical conduct, providing objective and independent guidance, and working to ensure a culture of ethical leadership.

Ms. Dugan serves on the Executive Board of the National Association of Public Pension Attorneys (NAPPA), a professional organization dedicated to providing legal educational opportunities and informational resources to its member attorneys. She also serves on NAPPA's Executive Board Committees for Diversity, Equity & Inclusion and Publications; as Board Liaison to and Acting Co-Chair of the ESG Resources Working Group; and on the New Member Education Committee. She is a former member of the Fiduciary and Plan Governance Section Steering Committee. In addition, Ms. Dugan is an active member of the Council on Government Ethics Laws, an international organization dedicated to issues involving governmental ethics, elections, campaign finance, lobby laws and freedom of information.

Ms. Dugan is a frequent lecturer at conferences and forums addressing ethics and fiduciary issues in the public and nonprofit sectors, including pension funds, bringing with her an understanding of ethical issues born out of practical experience as well as scholarly pursuits. She has served as an adjunct professor, teaching a course on Government Ethics, and writes frequently on ethics, fiduciary responsibilities of pension trustees and the role of pension fund attorneys. In 2014, Ms. Dugan won the Burton Award, the country's most prestigious legal writing award run in association with the Library of Congress, for her Bloomberg BNA article, "Ethics and Fiduciary Issues for Public Pension Plans: Lessons Learned".

Ms. Dugan is also an active member of her community. She is currently an elected Trustee of her local public library. In addition, she serves as a member of the Governance Committee of a Planned Parenthood affiliate, following many years of service on the Board of Directors. She also previously served as the pro bono legal director of a not-for-profit in the Albany area.

Ms. Dugan is an elected member of the American Law Institute, where she is a member of the Consultative Group on Government Ethics.

Ms. Dugan began her career as a judicial clerk with the Appellate Division, Third Department, of the New York State Supreme Court. She graduated magna cum laude from Siena College and earned her J.D. cum laude from Albany

Law School of Union University.

### **Robert Dumas**

Robert Dumas is a staff attorney at Cohen Milstein and a member of the Securities Litigation & Investor Protection practice. He is engaged in document discovery and review and in preparing the attorneys in deposing witnesses. Since joining the firm in 2014, he has worked on some of the most important mortgage backed securities (MBS) litigations to emerge from the financial crisis.

Prior to joining Cohen Milstein, Mr. Dumas practiced at a leading plaintiff firm, litigating securities fraud matters, and then later at a smaller plaintiff firm, where he helped litigate the In re IPO Securities Litigation, in which investors accused the leading investment banks of rigging IPOs during the 1990s tech bubble; after nearly a decade of legal wrangling, a \$586 million settlement was reached. Earlier, he practiced at a leading intellectual property and trademark law firm, where he defended trademark matters for an international clothing manufacturer.

### **Lisa Ebersole**

Lisa Ebersole is an associate in the firm's Public Client practice. Her practice focuses on the representation of state attorneys general and other public-sector clients in investigations and lawsuits involving false claims and fraudulent and deceptive trade practices.

Prior to joining Cohen Milstein, Ms. Ebersole was a Second Amendment Fellow at Everytown for Gun Safety, and before that she was a litigation associate at a highly regarded global defense law firm. She also served as a Law Clerk for the Honorable Rowan D. Wilson of the New York State Court of Appeals.

Ms. Ebersole graduated with a B.A., cum laude, from Cornell University. She earned her J.D., cum laude, from Harvard Law School, where she was a Senior Article Editor and Senior Online Editor for the Harvard Law & Policy Review.

### **Donna M. Evans**

Donna M. Evans is of counsel at Cohen Milstein and a member of the Antitrust practice.

Ms. Evans' practice spans thirty years as a trial lawyer in civil cases and includes many years as a litigation partner at large global firms. Ms. Evans is an accomplished trial lawyer and has tried numerous cases to verdict, including obtaining, as part of a trial team, one of the largest plaintiff jury verdicts in Massachusetts Superior Court.

Ms. Evans' experience includes pharmaceutical litigation in which she has represented plaintiffs in antitrust class actions; prescription drug manufacturers; biomedical device companies and inventors; private medical consulting services; and global pharmaceutical companies. For nearly a decade, Ms. Evans has focused on cutting-edge pay-for-delay pharmaceutical antitrust litigation, which addresses collusive, non-competition agreements between brand and generic drug manufacturers in order to delay entry of lower-priced generic drug products. Ms. Evans was part of the trial team in In re Nexium Antitrust Litigation, the first pharmaceutical antitrust case to go to trial following the Supreme Court's landmark decision in FTC v. Actavis, 570 U.S. 756 (2013). She is also involved in the litigation of generic drug price-fixing cases, which come on the heels of a government investigation led by the U.S. Department of Justice alleging similar conduct, which, while ongoing, has already resulted in indictments and guilty pleas.

Ms. Evans currently serves as a member of Cohen Milstein's Professional Development Mentoring Committee and co-lead the firm's two-day young associate training program in 2017 and 2019.

Among other honors, since 2019, Ms. Evans has been annually selected for Lawdragon's "500 Leading Plaintiff Financial Lawyers" list. Ms. Evans has also been named a Massachusetts Super Lawyer numerous times, and served on the Hon. Nancy Gertner's Equality Commission and the Corporate Advisory Board of the Commonwealth Institute, advising women-owned businesses.

Ms. Evans' successfully concluded matters include:

- In re Lidoderm Antitrust Litigation (N.D. Cal.): Cohen Milstein served as Co-Lead Counsel for the End-Payor Class in a suit alleging that Endo and Teikoku, manufacturers of the Lidoderm patch, paid Watson Pharmaceuticals to delay its generic launch. The case settled on the eve of trial and on September 20, 2018, Plaintiffs obtained final approval of a \$104.75 million settlement – more than 40% of Plaintiffs' best-case damages estimate. This case was ranked by Law360 as "The Biggest Competition Cases Of 2017 So Far" (July 7, 2017).
- In re Loestrin Antitrust Litigation (D.R.I.): Cohen Milstein served as Co-Lead Counsel for the End-Payor Plaintiffs in a case alleging that Warner Chilcott PLC entered into agreements to delay the introduction of a generic version of the contraceptive drug Loestrin and thereafter engaged in a "product hop" to further impede generic entry. The case settled on the last business before trial for \$63.5 million – representing one of the largest settlements in a federal generic suppression case in over a decade. On September 1, 2020, the settlements received final approval.
- In re Solodyn Antitrust Litigation (D. Mass.): Cohen Milstein served as a member of the executive committee and Ms. Evans played a significant role in discovery on behalf of the End-Payor Plaintiffs. The case, which settled mid-trial, resulted in a \$43 million recovery for the Class.

Ms. Evans is currently representing End-Payor Plaintiffs in the following pay-for-delay pharmaceutical antitrust cases in which Cohen Milstein serves as Co-Lead Counsel:

- In re Lipitor Antitrust Litigation (D.N.J.): Plaintiffs allege that Pfizer, the manufacturer of the cholesterol drug Lipitor, the best-selling drug in pharmaceutical history, conspired with Ranbaxy, the generic manufacturer, to delay its introduction of a generic Lipitor product. On August 21, 2017, the Third Circuit handed a sweeping victory to Plaintiffs, reviving their antitrust claims. This case was ranked by Law360 as "The Biggest Competition Cases Of 2017 So Far" (July 7, 2017).
- In re Tracleer Antitrust Litigation (D. Md.): Plaintiffs allege that Defendant Actelion engaged in an anticompetitive scheme to withhold samples of its life-saving pulmonary arterial hypertension medication from would-be rivals, under the guise of the REMs program, which conduct ultimately delayed generic competition.
- In re Bystolic Antitrust Litigation (S.D.N.Y.): Plaintiffs allege that Forest Laboratories Inc., now a part of AbbVie, engaged in an illegal scheme with pharmaceutical generic manufacturers not to make generic versions of Bystolic®, a hypertension prescription medication containing the active pharmaceutical ingredient nebivolol hydrochloride.
- In re Zytiga Antitrust Litigation (D.N.J.): Plaintiffs allege that Janssen Biotech and BTG International Limited engaged in sham litigation, thereby delaying generic manufacturers from entering the market with competing generic versions of Zytiga for more than year.

Ms. Evans is also currently involved in pay-for delay cases in which Cohen Milstein plays a significant role, including: In re Niaspan Antitrust Litigation (E.D. Pa.), In re Suboxone Antitrust Litigation (E.D. Pa.), In re ACTOS Antitrust Litigation (S.D.N.Y.) and In re Zytiga Antitrust Litigation (D.N.J.).

In addition, Ms. Evans is involved in cases on behalf of direct purchaser plaintiffs, including: In re Zetia Antitrust Litigation (E.D. Va.), In re Generic Pharmaceuticals Pricing Antitrust Litigation (E.D. Pa.), In re Sensipar (Cinacalcet

Hydrochloride Tablets) Antitrust Litigation (D. Del.), In re Intuniv Antitrust Litigation (D. Mass.) and In re Ranbaxy Fraud Antitrust Litigation (D. Mass.).

Throughout her career, Ms. Evans has been deeply involved in the issue of equality. She served on the Honorable U.S. District Court Judge Nancy Gertner's Equality Commission, the Boston Bar Association's Diversity and Attorney Attrition Standing Committee, and the BBA's Task Force on Professional Challenges and Family Needs. Ms. Evans participated in writing a ground-breaking BBA report addressing the costs of attorney attrition, *Facing the Grail: Confronting the Cost of Work-Family Imbalance*, as well as implementing the report's recommendations in Boston law firms. Ms. Evans has also served on the Board of Directors of Greater Boston Legal Services and has been active in pro bono representation, including fair housing issues.

Ms. Evans graduated from the University of North Carolina at Chapel Hill with a B.A. in English and Political Science, and an M.A. in English. She received a J.D., cum laude, from the University of North Carolina School of Law, where she served as a Note and Comment Editor on the Board of the North Carolina Law Review. She interned with the Criminal Division of the U.S. Attorney's Office for the District of Massachusetts during law school.

Ms. Evans has written articles on topics including the federal mail fraud statute and construction pay-when-paid contract clauses, and she authored a chapter in *Inside the Minds*, addressing best practices in client relationships. She taught legal writing at Boston University Law School for six years, has guest lectured at Duke University and the University of North Carolina law schools, and – prior to practicing law – she taught English at the University of North Carolina and was a Visiting Lecturer in English at North Carolina State University.

### **Rachael Flanagan**

Rachael Flanagan is an associate at Cohen Milstein and a member of the Complex Tort Litigation practice. Her practice is focused on catastrophic injury, wrongful death, medical malpractice, and sexual abuse, sex trafficking, and domestic violence cases.

Prior to joining Cohen Milstein, Ms. Flanagan was an associate at a highly regarded medical malpractice and personal injury law firm in Florida.

Ms. Flanagan is currently working on the following high profile litigation:

- *Doe, et al. v. Washington Hebrew Congregation, et al.* (D.C. Supr. Ct.): On April 15, 2019, Cohen Milstein, on behalf of the families of 11 children between the ages of three and four, filed a lawsuit against Washington Hebrew Congregation Edlavitch Tyser Early Childhood Center and its Director for failing to protect their children from sexual abuse by a preschool teacher over a two-year period.
- *Doe v. Scores, et al.* (13th Jud. Cir., Fla.): On January 29, 2020, Cohen Milstein filed a lawsuit on behalf of a young woman against Scores Holding Company, Inc., and its affiliates for illegally employing her when she was a minor at one of its Florida locations, subjecting her to be sexual abuse and human trafficking.

Ms. Flanagan proudly serves the legal and local community as a board member of the Palm Beach County chapter of the National Alliance on Mental Illness (NAMI) and a board member of the Florida Justice Association's Women's Caucus. She is also a member of the local chapter of the Florida Association for Women Lawyers (FAWL) and the Palm Beach County Bar Association's Lawyers for Literacy Committee.

Ms. Flanagan earned her B.S. at East Tennessee State University. She earned her J.D., magna cum laude, at Barry University Dwayne O. Andreas School of Law, where she graduated in the top 10% of her class and served as managing editor of the Barry Law Review.

Before pursuing a career as a lawyer, Ms. Flanagan was a paralegal for over a decade, working in the areas of medical malpractice, managed care abuse, products liability, mass torts, and class action litigation. During that time, she worked for several years at Leopold Law, which merged with Cohen Milstein in 2015.

### **Eleanor Frisch**

Eleanor Frisch is an associate in Cohen Milstein's Employee Benefits/ERISA practice. She represents the interests of employees, retirees, plan participants and beneficiaries in ERISA class-action lawsuits across the country.

Prior to joining Cohen Milstein, Ms. Frisch spent several years at an appellate litigation boutique representing employees and consumers before the federal courts of appeals. Before that, Ms. Frisch was an associate at a highly regarded national plaintiffs' law firm, where she represented clients in employee benefits/ERISA, employment and consumer class actions.

Before entering private practice, Ms. Frisch served as a law clerk to the Honorable Roger L. Wollman on the U.S. Court of Appeals for the Eighth Circuit.

Some of Ms. Frisch's legal publications include:

- Coauthor, "The Fair Labor Standards Act," ch. 2, Minnesota Continuing Legal Education, The Complete Employment Lawyer's Quick Answer Book (May 2017)
- State Sexual Harassment Definitions and Disaggregation of Sex Discrimination Claims, 98 Minn. L. Rev. 1943 (2014)
- Coauthor, The Canary Sings Again: New Life for the Minnesota Whistleblower Act, Bench & B. Minn. (Sept. 2013)

Ms. Frisch received her B.A., magna cum laude, from Trinity University, and received her J.D., magna cum laude, from the University of Minnesota Law School, where she was an executive board member of the Minnesota Law Review and a member of the Order of the Coif.

### **Zachary Glubiak**

Zachary Glubiak is an associate at Cohen Milstein and a member of the Antitrust practice. He represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Mr. Glubiak first joined Cohen Milstein in 2020, and he rejoined the firm following a clerkship with the Honorable Randolph D. Moss of the United States District Court for the District of Columbia.

Previously, Mr. Glubiak served as the John Marshall Fellow in the Solicitor General's Office of the Virginia Attorney General. In this capacity, Mr. Glubiak litigated constitutional and other high-profile matters on behalf of the Commonwealth, including defending the constitutionality of recently enacted gun-control legislation and the Governor's Covid 19-related executive orders, serving as lead counsel in appeals before the United States Court of Appeals for the Fourth Circuit, and presenting oral arguments before both the Supreme Court of Virginia and the Court of Appeals of Virginia.

Prior to joining the Solicitor General's Office, Mr. Glubiak clerked for the Honorable Pamela A. Harris of the United States Court of Appeals for the Fourth Circuit.

Mr. Glubiak is involved in the following high-profile matters:

- *Jien v. Perdue Farms, Inc.* (D. Md.): On October 8, 2019, the Court appointed Cohen Milstein Co-Lead Counsel in this putative wage and hour suppression class action against the nation's largest chicken and turkey producers conspired to suppress their compensation. As of July 20, 2021, the Court has preliminarily approved \$195.25 million in settlements with four defendants. Litigation continues against other defendants.
- *In Re: Da Vinci Surgical Robot Antitrust Litigation* (N.D. Cal.): On September 24, 2021, the Court appointed Cohen Milstein Interim Co-Lead Counsel in this consolidated antitrust class action against Intuitive Surgical, Inc. Plaintiffs allege that Intuitive engages in an anticompetitive scheme under which it ties the purchase or lease of its must-have, market-dominating da Vinci surgical robot to the additional purchases of (i) robot maintenance and repair services and (ii) unnecessarily large numbers of the surgical instruments, known as EndoWrists, used to perform surgery with the robot—a violation of Sections 1 and 2 of the Sherman Act.

Mr. Glubiak received his B.A. from Columbia University and his M.S.T. from Fordham University's Graduate School of Education. He received his J.D. from Stanford Law School, where he was the Co-Founder and Co-President of the Stanford Plaintiffs' Lawyers Association.

Prior to law school, Mr. Glubiak was a history teacher, coach, and advisor at KIPP NYC College Prep, a high school in South Bronx, NY.

### **Leslie Greening**

Leslie Greening is a staff attorney at Cohen Milstein and a member of the Public Client practice. She assists in legal research, as well as discovery and evidentiary-related aspects of the firm's representation of state attorneys General and other public sector clients in investigation and lawsuits involving health care fraud and other fraudulent and deceptive trade practices.

Ms. Greening previously worked as a contract attorney with Cohen Milstein. She joined the firm as a staff attorney in 2018.

Prior to her work at Cohen Milstein, Ms. Greening was a Post-Graduate Fellow at nonprofit legal aid groups in North Carolina, including the Wake Forest University Innocence & Justice Clinic.

Ms. Greening attended Davidson College, graduating with a B.A. She earned her J.D. from Wake Forest University School of Law.

### **Susan M. Greenwood**

Susan M. Greenwood is a member of Cohen Milstein's Securities Litigation & Investor Protection practice. With extensive experience in the area of securities law and class action litigation, Ms. Greenwood analyzes and evaluates securities litigation case opportunities.

Prior to joining Cohen Milstein, Ms. Greenwood was a Securities Law Specialist at Bloomberg Law, providing analysis of trends and developments in securities litigation, regulation and enforcement and serving as the editor of the Bloomberg Law Securities Litigation and Enforcement Report. She also has served as counsel at a prominent insurance company and two large litigation firms.

Ms. Greenwood attended Cornell University, graduating cum laude with Distinction, and earned her J.D. at the

University of Pennsylvania School of Law.

### **Alicia Gutiérrez**

Alicia Gutiérrez is discovery counsel at Cohen Milstein and a member of the Antitrust practice. Ms. Gutiérrez is engaged in a number of the group's ongoing cases. Additionally, she is a member of the group's New Case Investigations Team, where she identifies and helps develop potential cases.

Ms. Gutiérrez's case work includes the following:

- Sutter Health Antitrust Litigation (Sup. Ct., San Fran. Cnty., Cal.): On August 27, 2021, the Court granted final approval of a \$575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California's Attorney General joined the suit in March 2018.
- Animation Workers Litigation (N.D. Cal.): Cohen Milstein served as co-lead counsel representing a class of animation and visual effects workers who alleged that Pixar, Lucasfilm, DreamWorks, Disney and other studios conspired to suppress their pay primarily through no poach agreements. The court granted final approval of \$168.95 million in settlements.
- In re Broiler Chicken Antitrust Litigation (N.D. Ill.): Cohen Milstein represents a class of end-user consumers of broiler chicken in a litigation alleging that the defendants, who include Perdue Farms and Tyson Foods, agreed to restrict the supply of broilers, among other things, thereby raising their price to consumers.

Ms. Gutiérrez's legal practice has focused for more than a decade on complex commercial litigation, with an emphasis on antitrust litigation. She has worked on cases in both state and federal courts, as well as advised clients on investigations and litigation involving government agencies. Prior to joining Cohen Milstein, Ms. Gutiérrez was Counsel and an Associate at two notable firms, where she represented both defendants and plaintiffs. A significant case from one of her prior firms was a single plaintiff antitrust case in the credit card industry, which resulted in a \$4 billion settlement. Before embarking on her legal career, she was a financial analyst in investment banking at Merrill Lynch and a management consultant at The Boston Consulting Group.

Ms. Gutiérrez attended Princeton University, where she graduated with an A.B. from the Woodrow Wilson School of Public and International Affairs. She received her J.D. from Stanford Law School in 2002 and her M.B.A. from the Stanford Graduate School of Business in 2002.

### **D. Michael Hancock**

D. Michael Hancock is of counsel at Cohen Milstein and a member of the Civil Rights & Employment practice.

Mr. Hancock is the former Assistant Administrator for the U.S. Department of Labor's (DOL) Wage and Hour Division. As a senior DOL employee for 20 years, conducting policy-related work, including policy interpretation and enforcement, he helped enforce a wide range of workplace protections, from minimum wage, overtime, child labor and the Family Medical Leave Act, to guest worker and other employment-based immigration programs. Most recently, as Acting Director, DOL's Division of Interpretation and Regulatory Analysis, and as Assistant Administrator for Policy, Mr. Hancock managed a team of 40 senior managers and analysts and worked with, among others, the Solicitor of Labor, the Secretary of Labor, the Office of Management and Budget, and the White House.

At the DOL, Mr. Hancock also served as Branch Chief, Wage and Hour Division, Division of Interpretations and

Regulatory Analysis, and as National Farm Labor Coordinator, Wage and Hour Division. While on detail from the DOL, he served as Senior Labor Advisor to the U.S. Agency for International Development (USAID), where he provided guidance to the Bureau of Democracy, Conflict and Humanitarian Assistance, Office of Democracy and Governance, on a broad range of labor, civil society, democracy and development programs funded and administrated by USAID.

Prior to joining the DOL in 1995, Mr. Hancock was the Executive Director of Farmworker Justice, where he helped provide policy support to farmworker organizations, labor unions, migrant legal services programs, administrative and legislative bodies, and other organizations. Before that, he was General Counsel of the National Coalition to Ban Handguns and President of the Foundation for Handgun Education. He also served as Executive Director of the Aviation Consumer Action Project.

Mr. Hancock was awarded a fellowship from Howard University — the Reginald Heber Smith Community Lawyer Fellowship, Ozark Legal Services, Fayetteville, Arkansas — to practice poverty law in rural Arkansas, and was a law clerk at Ozark Legal Services. He also worked as an administrator and social worker with the Arkansas Department of Human Services.

Mr. Hancock received his B.S. from Oklahoma State University, and his J.D., with honors, from the University of Arkansas, where he was appointed to the Arkansas Law Review.

### **Benjamin F. Jackson**

Benjamin F. Jackson is an associate at Cohen Milstein and a member of the Securities Litigation & Investor Protection practice where he represents institutional and individual shareholders in derivative lawsuits and securities class actions. In 2022, Super Lawyers recognized Mr. Jackson as a New York Metro Rising Star.

Prior to joining Cohen Milstein, Mr. Jackson was a litigation associate at a highly regarded national defense firm, where he focused on securities, antitrust, white collar investigations, and intellectual property litigation.

Currently, Mr. Jackson is involved in litigating the following notable matters:

- In re EQT Corporation Securities Litigation (W.D. Pa.): Cohen Milstein is Co-Lead Counsel in this securities class action, in which Plaintiffs allege that EQT misrepresented the synergies and cost savings that could be expected to arise from EQT's \$6.7 billion merger with rival natural gas producer Rice Energy, and then concealed that EQT was suffering from undisclosed well collapses and skyrocketing costs after the merger closed.
- Bayer Securities Litigation (N.D. Cal.): Cohen Milstein is Lead Counsel in this securities class action, in which Plaintiffs allege that in connection with its \$63 billion acquisition of Monsanto, Bayer misrepresented the rigor of its due diligence and the nature of the legal risk presented by Monsanto's flagship product, the herbicide Roundup. Bayer investors incurred significant losses after bellwether jury trials in toxic tort cases repeatedly found in favor of the plaintiffs against Monsanto, including finding that Roundup was a "substantial factor" in causing the plaintiffs' non-Hodgkin's lymphoma, and leading to jury awards totaling hundreds of millions of dollars.
- Bristol-Myers Squibb CVR Securities Litigation (S.D.N.Y.): Cohen Milstein is Lead Counsel in this securities class action arising from Bristol Myers' alleged subversion of the FDA approval process for the cancer therapy Liso-cel for the purpose of avoiding a \$6.4 billion payment to holders of contingent value rights (CVRs).
- Nikola Corp. Derivative Litigation (Del. Ch.): Cohen Milstein filed a shareholder derivative action against

Trevor Milton, the founder and former CEO and Executive Chairman of Nikola Corporation, a zero-emissions vehicle startup company, and certain other current and former directors and officers of Nikola. The action alleges that Milton engaged in an ongoing criminal fraud involving the dissemination of materially false and misleading statements regarding Nikola's business, technology and expected financial performance to Nikola stockholders and the public. Nikola ultimately paid the SEC \$125 million to settle an investigation relating to Milton's fraudulent scheme.

Mr. Jackson served as a law clerk to the Honorable Katherine B. Forrest of the United States District Court for the Southern District of New York and to the Honorable Robert D. Sack of the United States Court of Appeals for the Second Circuit.

Mr. Jackson earned his A.B., summa cum laude, at Washington University in St. Louis, where he was a Lien Scholar. He earned his J.D., magna cum laude, from Harvard Law School, where he served as Forum Chair of the Harvard Law Review and won the Ames Moot Court Competition.

A prolific writer, Mr. Jackson's legal publications include *Censorship and Freedom of Expression in the Age of Facebook*, 44 N.M. L. Rev. 121 (2014); Note, *Danger Lurking in the Shadows: Why Regulators Lack the Authority to Effectively Fight Contagion in the Shadow Banking System*, 127 Harv. L. Rev. 729 (2013); and Recent Case, *U.S. Bank National Ass'n v. Ibanez*, 941 N.E.2d 40 (Mass. 2011), 125 Harv. L. Rev. 827 (2012).

Mr. Jackson currently serves as the Co-Chair of the Committee on Securities and Exchanges of the New York County Lawyers Association (NYCLA), and he is also a member of NYCLA's Committee on Federal Courts.

Before attending law school, Mr. Jackson was a consultant in the financial services practice of a global strategy consulting firm.

### **Nicholas J. Jacques**

Nicholas J. Jacques is an associate at Cohen Milstein and a member of the Human Rights practice. His practice focuses on representing individuals who have been victims of torture, human trafficking, forced labor, and other violations of international law.

Prior to becoming an associate at Cohen Milstein, Mr. Jacques was a Law Fellow at the firm where he worked across practices and was involved in litigating individual and class action cases at the district and appellate levels.

Immediately before his Fellowship, Mr. Jacques was a law clerk to the Honorable Carolyn Dineen King for the United States Court of Appeals for the Fifth Circuit, as well as a law clerk to the Honorable Nancy Moritz for the United States Court of Appeals for the Tenth Circuit.

Mr. Jacques received his B.A., summa cum laude, from Northeastern University, where received several academic awards, including the Kappa Tau Alpha Top Scholar Award. He received his J.D., magna cum laude, from Cornell Law School, where he received numerous academic awards, including The Freeman Award for Civil-Human Rights and the Arthur S. Chatman Labor Law Prize.

While at law school he was Articles Editor at Cornell Law Review, Executive Bench Editor for the Moot Court Board, and Chapter President of the National Lawyers Guild.

Mr. Jacques's publications include, "Information Gathering in the Digital Age: Towards a Liberal Right to Record," 102 Cornell Law Review 783 (2017).

Prior to law school, Mr. Jacques was a journalist at The Boston Globe.

### **Peter Ketcham-Colwill**

Peter Ketcham-Colwill is an associate at Cohen Milstein and a member of the Public Client practice. His practice focuses on the representation of state attorneys general and other public-sector clients in investigations and lawsuits involving false claims and fraudulent and deceptive trade practices.

Prior to joining Cohen Milstein in 2018, Mr. Ketcham-Colwill practiced as a litigation associate at an international disputes and transactions law firm in Washington, D.C. Before that, he served as the Voter Protection Director for the Democratic Party of Virginia's 2018 Coordinated Campaign. He also worked as a Regional Voter Protection Director for the Ohio Democratic Party's 2016 Coordinated Campaign.

Mr. Ketcham-Colwill is involved in the following high-profile litigation:

- Grubhub and DoorDash Litigation: Representing the City of Chicago in its enforcement actions against Grubhub and DoorDash for violations of the City's consumer protection laws. These cases allege widespread deceptive and unfair business practices impacting local restaurants, consumers, and drivers. [Click here to view the lawsuit filed against DoorDash](#); [click here to view the lawsuit filed against Grubhub](#).
- Uber Eats, Postmates Investigation: Represented the City of Chicago in its investigation into UberEats and Postmates for allegedly listing Chicago restaurants on their platforms without the eateries' consent, for violating the City's emergency fee cap ordinance during the COVID-19 pandemic, and for other false advertising-related misconduct. On December 5, 2022, the City announced a \$10 million settlement.

Following law school, Mr. Ketcham-Colwill served as a Law Clerk for the Honorable David Ezra, U.S. District Court for the Western District of Texas.

Mr. Ketcham-Colwill graduated from Princeton University with an A.B. in the Woodrow Wilson School of Public and International Affairs. He earned his J.D. with Highest Honors from The George Washington University Law School, where he was the Senior Executive Editor of The George Washington Law Review.

Prior to law school, Mr. Ketcham-Colwill worked for the U.S. House of Representatives Committee on Energy and Commerce, where he organized investigative hearings and drafted legislation related to consumer protection and the environment.

### **Zachary Krowitz**

Zachary Krowitz is an associate in Cohen Milstein's Antitrust practice, where he represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Prior to joining Cohen Milstein, Mr. Krowitz served as a law clerk for the Honorable Pamela A. Harris of the U.S. Court of Appeals for the Fourth Circuit.

Before his clerkship, Mr. Krowitz was an associate at a distinguished global law firm, where he focused on complex commercial litigation matters.

Mr. Krowitz is working on the following high-profile antitrust matters:

- Jien v. Perdue Farms, Inc. (D. Md.): Cohen Milstein serves as Co-Lead Counsel, representing a proposed class of poultry plant workers, in a suit alleging that the nation's largest chicken and turkey producers conspired to suppress their wages.
- In re Broiler Chicken Antitrust Litigation (N.D. Ill.): Cohen Milstein represents a putative class of broiler chicken consumers in a suit alleging that the nation's largest chicken producers, including Perdue Farms and

Tyson Foods, conspired to raise the price of chicken.

Mr. Krowitz received his B.A., summa cum laude, from the University of Pennsylvania, B.A., and his J.D. from Stanford Law School, where he was the recipient of numerous awards for outstanding academic performance. During law school, Mr. Krowitz served as Symposium Co-Chair and Senior Editor for the Stanford Law Review. He co-authored “Confronting Efforts at Election Manipulation from Foreign Media Organizations” in *Securing American Elections: Prescriptions for Enhancing the Integrity and Independence of the 2020 U.S. Presidential Elections and Beyond*, Stanford Cyber Policy Center Freeman Spolgi Institute (June 2019).

Before law school, Mr. Krowitz was a staff assistant for U.S. Senator Richard Blumenthal.

### **Christopher Lometti**

Christopher Lometti is of counsel in Cohen Milstein’s Securities Litigation & Investor Protection practice group. In this role, Mr. Lometti has litigated some of the most significant mortgage-backed securities (MBS) class action lawsuits to emerge from the financial crisis.

Mr. Lometti, together with his colleague Joel Laitman, initiated the Bear Stearns, Harborview, RALI, Lehman and HEMT MBS litigation at their named firm prior to joining Cohen Milstein. The lawsuits were high-risk matters involving novel claims on behalf of their Taft-Hartley pension fund clients injured by the dramatic downgrades of their MBS holdings from AAA to junk status. The MBS litigations have earned Cohen Milstein’s Securities Litigation Practice numerous accolades from the National Law Journal, Law360 and American Lawyer.

Mr. Lometti’s successes include the following notable matters:

- Bear Stearns MBS Litigation: \$500 million settlement with JPMorgan Chase. Cohen Milstein was lead counsel in a class action lawsuit alleging Bear Stearns violated securities laws in selling toxic mortgage-backed securities that failed to meet the bank’s own underwriting standards and that contained false and misleading information as to the appraised values of the underlying mortgages. Mr. Lometti was one of the key litigators in the case, developing strategy and conducting extensive fact discovery into the 22 offerings backed by approximately 71,000 largely Alt-A mortgages that Bear Stearns sold to investors from May 2006 to April 2007.
- RALI MBS Litigation: \$335 million settlement with Citigroup, Goldman Sachs and UBS. Cohen Milstein was lead counsel in a class action litigation alleging RALI and its affiliates sold shoddy MBS securities that did not meet the standards of their underwriters. Mr. Lometti was one of the senior litigators on the class action, conducting fact discovery, deposing economic experts and preparing witnesses.
- Harborview MBS Litigation: \$275 million settlement with Royal Bank of Scotland. Cohen Milstein was lead counsel in a complex case, in which presiding Judge Loretta A. Preska, of the U.S. District Court, Southern District of New York, commented on the “job well done” by the Cohen Milstein team of which Mr. Lometti was a senior litigator.
- NovaStar MBS: Cohen Milstein is lead counsel in litigation alleging that RBS, Wells Fargo (formerly Wachovia) and Deutsche Bank sold toxic mortgage-backed securities to investors. The litigation is one of the last outstanding class action MBS lawsuits. The Second Circuit Court of Appeals reversed an earlier dismissal of the lawsuit, paving the way for prosecution of the case. In March 2019, the Court granted final approval of a \$165 million all-cash settlement.
- HEMT MBS Litigation: \$110 million settlement with Credit Suisse. Cohen Milstein was lead counsel in a case alleging Credit Suisse and its affiliates sold toxic securities to pension fund investors. The suit, filed in 2008, was one of the first class action cases involving mortgage-backed securities to be filed.
- Lehman Litigation: \$40 million settlement. Cohen Milstein was lead counsel in a class action lawsuit against individuals affiliated with the bankrupt firm, the largest bankruptcy in U.S. history. Mr. Lometti was a senior litigator on the lawsuit, developing strategy.

- FirstEnergy Shareholder Derivative Litigation: Cohen Milstein represented the Massachusetts Laborers Pension Fund in two shareholder derivative actions against certain current and former officers and directors and nominal defendant FirstEnergy related to the Company's involvement in Ohio's largest public bribery schemes. On August 23, 2022, the Court granted final approval of a \$180 million global settlement of all shareholder derivative cases.
- Dynex Litigation: \$7.5 million settlement. Cohen Milstein was lead counsel in a class action lawsuit involving the asset-backed securities. Mr. Lometti was a central member of the team to litigate this seminal lawsuit involving hybrid securities. In the litigation, the U.S. District judge issued one of the first decisions certifying an investor class pursuing fraud claims in connection with the sale of asset-backed securities. The Dynex litigation laid out a road map that could be followed in litigating an asset-backed security.
- Braskem Litigation: \$10 million settlement. Cohen Milstein represented shareholders in a class action suit alleging that the Brazilian petrochemical company lied to investors in its American Depository Receipts about its role in a bribery scheme involving Petrobras, Brazil's giant oil producer.
- Prior to his joining Cohen Milstein, Mr. Lometti played a substantive role in litigating and settling the massive class action suit against WorldCom, one of the largest bankruptcies in history, representing significant stakeholders in the telecom's bond offerings. The lawsuit resulted in a settlement of \$6.15 billion.

Mr. Lometti has been repeatedly recognized for his career accomplishments, including being named to the 2016 Lawdragon 500, one of the industry's leading peer-reviewed surveys, as well as annually recognized by New York Super Lawyers (2011- 2019).

He has served as a non-industry arbitrator for the New York Stock Exchange and National Association of Securities Dealers helping to resolve disputes, and as a mediator for the New York State Court System.

Mr. Lometti received a Bachelor of Arts from Fordham University in 1983, and his J.D. from Fordham Law School in 1986.

### **Joshua Lurie**

Joshua Lurie is a staff attorney at Cohen Milstein and a member of the firm's Antitrust practice. In this role, Mr. Lurie assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to joining Cohen Milstein, Mr. Lurie was a senior associate at an Illinois-based defense law firm, where he focused on consumer-related financial services litigation, mortgage related disputes, and general civil litigation and criminal proceedings.

Mr. Lurie earned his B.A., magna cum laude, from Elon University and his J.D. from Chicago-Kent College of Law, where he was on the Executive Board of The Chicago-Kent Law Review and a member of the Chicago-Kent Moot Court Honor Society.

While attending law school, Mr. Lurie was a judicial extern for the Honorable Robert E. Gordon for the Illinois Court of Appeals.

Mr. Lurie is the Founder and Editor-in-Chief of Vertical Slice Games, an online website that aggregates video game reviews from professional game critics.

### **Jeanne A. Markey**

Jeanne A. Markey is of counsel at Cohen Milstein and a member of the Whistleblower/False Claims Act practice. She has successfully represented whistleblowers in federal and state cases across the country in some of highest-profile qui tam litigation in the healthcare, defense, financial services, and education industries. She has also represented

whistleblower clients in the public housing sector, in S.E.C. related matters, and in matters involving complex financial instruments.

Representative settled cases include:

- United States of America et al., ex rel. Lauren Kieff, v. Wyeth: Ms. Markey was co-lead counsel in this False Claims Act whistleblower case against pharmaceutical giant Wyeth (subsequently acquired by Pfizer), in which the whistleblowers alleged that Wyeth defrauded Medicaid, the joint federal/state healthcare program for the poor, when it reported falsely inflated prices for its acid suppression drug Protonix from 2001 through 2006 for Medicaid rebate purposes. Weeks before trial, in February 2016, in one of the largest qui tam settlements in U.S. history, Wyeth agreed to pay \$784.6 million to the U.S. government and the over 35 intervening states.
- United States et al. ex relators v. Southern SNF Management, Inc. and Rehab Services in Motion, LLC: Ms. Markey was lead counsel in this False Claims Act case in which three whistleblowers employed by a chain of skilled nursing facilities located in Florida and Alabama alleged that the chain was engaged in a multi-year scheme of inflating the facilities' Medicare collections by assigning Medicare patients to levels of therapy, (often referred to as "RUG" levels), higher than what was medically reasonable and necessary for that patient. In July 2018 this case settled for \$10 million.
- Ven-A-Care Whistleblower Litigation: Ms. Markey was involved in a series of Ven-A-Care whistleblower cases which pertained to the inflated reimbursement amounts drug companies were causing Medicare and Medicaid to pay for prescription drugs by reporting inflated wholesale prices to the government. These large, highly-successful groundbreaking cases helped to pave the way for a wide range of subsequent False Claims Act cases in the realm of healthcare and directed at drug companies in particular.

In 2016, Ms. Markey was recognized as one of the top 25 women lawyers in the Commonwealth of Pennsylvania by The Legal Intelligencer. In 2018, she, an alumna of Cornell University Law School, was invited to become a member of The President's Council of Cornell Women.

She is also an active member of Taxpayers Against Fraud, a nonprofit, public interest organization dedicated to combating fraud against the Federal Government through the promotion and use of the Federal False Claims Act and its Qui Tam provisions, and the Association of qui tam attorneys.

She frequently speaks about developments in the qui tam field and has co-authored several articles about topics including statistical sampling and representing whistleblowers in cases involving issues of medical necessity.

Ms. Markey received her B.A. (cum laude) from Colgate University and her J.D. from Cornell University Law School.

### **Aaron J. Marks**

Aaron J. Marks is an associate at Cohen Milstein and a member of the firm's Antitrust practice group. In this role, Mr. Marks represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Prior to joining Cohen Milstein, Mr. Marks was a Law Clerk for the Honorable Carol Bagley Amon of the United States District Court for the Eastern District of New York.

Before his clerkship, Mr. Marks served as a Litigation Associate at a distinguished international law firm.

Mr. Marks is working on the following high-profile matters:

- In re Tracleer Antitrust Litigation (D. Md.): Cohen Milstein serves as Co-Lead Counsel in this antitrust action,

alleging that Defendant Actelion engaged in an anticompetitive scheme to withhold samples of its life-saving pulmonary arterial hypertension medication from would-be rivals, under the guise of a REMS program, which conduct ultimately delayed generic competition.

- In re Actos Antitrust Litigation (S.D.N.Y.): Cohen Milstein represents End-Payor Plaintiffs in this antitrust action, alleging that Defendant Takeda engaged in anticompetitive conduct related to the listing of certain patents in the FDA's Orange Book thereby resulting in unlawful delays to the market entry of generic versions of Takeda's diabetes drug, Actos.
- PBM State Investigations: Cohen Milstein serves as Special Counsel to state Attorneys General throughout the United States in their investigation into the billing practices and fee structures of managed care organizations (MCOs) and PBMs in their delivery of services to state-funded health plans. To date, Cohen Milstein's work with Attorneys General has resulted in more than \$900 million in recoveries on behalf of state Medicaid programs.
- Ohio Highway Patrol Retirement System (HPRS) v. Express Scripts, Inc. (Franklin C.P., Ohio): Cohen Milstein serves as Special Counsel to the Ohio Attorney General in this breach of contract litigation alleging that Express Scripts, Inc. overcharged HPRS on the pharmaceutical claims that Express Scripts processed as HPRS's PBM.

Mr. Marks received his B.A. from New York University and his J.D., magna cum laude, from Harvard Law School. During law school, he was Online Editor of the Harvard National Security Journal.

Mr. Marks currently serves on the Antitrust & Trade Regulation Committee of the New York City Bar Association. Prior to pursuing a career in law, Mr. Marks was a software engineer.

#### **Diana L. Martin**

Diana L. Martin is of counsel at Cohen Milstein, and a member of the Complex Tort Litigation and Consumer Protection practices. Her practice focuses on appellate litigation involving complex product liability, consumer class, mass tort, and managed care litigation. She not only handles appeals in these areas of law, but also provides appellate support at the trial stage. In this role, she works as an integral part of the trial team by strategizing best practices, drafting and arguing complex and case dispositive motions, handling jury instruction charge conferences, and assisting trial counsel in preserving and protecting the record in the event of an appeal.

Ms. Martin is often involved in cases that involve complex issues or require the development of innovative strategies for novel or evolving theories of liability. These areas have included developing legal theories to avoid the application of legal immunity to workers' compensation carriers who deny or delay medical care to injured workers, and using Florida's Deceptive and Unfair Trade Practices Act to hold hospitals accountable for drastically overbilling patients on a uniform basis. Her experience spans various practice areas, such as constitutional and civil rights law, commercial litigation, mass tort and class action litigation, managed care litigation, products liability law, and catastrophic personal injury litigation.

Ms. Martin is on the litigation team for the following notable matters:

- United States ex rel. Long v. Janssen Biotech, Inc. (D. Mass.): Cohen Milstein represents the plaintiff-relator in a whistleblower/qui tam lawsuit against Janssen Biotech (a subsidiary of Johnson & Johnson), alleging that the manufacturer of the rheumatoid arthritis drugs Remicade and Simponi ARIA violated federal law by engaging in a scheme through which it provided physicians free practice management and infusion business consulting services over an extended period to induce the physicians to purchase Remicade and Simponi ARIA and administer these drugs to patients, including Medicare beneficiaries, via infusions performed in their offices.
- Underwood v. Meta Platforms, Inc. (Facebook) (State Ct., Cal.): Cohen Milstein has filed a wrongful death

lawsuit on behalf of Angela Underwood Jacobs, the sister of slain federal security officer Dave Patrick Underwood, against Meta Platforms, Inc., formerly Facebook. On May 29, 2020, Officer Underwood was providing security at a federal courthouse during a rally to protest the killing of George Floyd. According to documents filed in federal criminal proceedings, Officer Underwood was the victim of a drive-by shooting by Steven Carrillo and his accomplice, Robert Alvin Justus, Jr., who identify as boogaloo adherents, part of an extremist movement that advocates targeted violence against federal officers. Plaintiff alleges that by connecting users to extremist groups, including Officer Underwood's killers who met through Facebook where they hatched their extremist plot to target and kill federal officers, and promoting inflammatory, divisive, and untrue content, the company bears responsibility for the tragic murder of Officer Underwood.

- CSX Litigation (E.D. N.C.): On October 4, 2018, Cohen Milstein filed a putative class action on behalf of faith leaders, businesses, and residents in the southern and western portions of Lumberton, North Carolina who have twice suffered catastrophic flooding and damage due to CSX Corporation and CSX transportation entities ignoring and trying to block government entities from building a floodgate on a train underpass it owns and operates, including preventing the city from building a temporary berm in 2018 to protect its citizens from impending Hurricane Florence.
- Edwards v. Tesla (State Ct., Cal.): On June 25, 2020, Cohen Milstein filed a product liability lawsuit against Tesla, Inc., on behalf of Kristian and Jason Edwards. Ms. Edwards sustained catastrophic injuries as a result of the failure of the airbags to deploy in her Tesla model 3 during an accident.
- Doe v. Chiquita Brands International (S.D. Fla.): Cohen Milstein is representing families of banana workers and others killed or tortured by the Autodefensas Unidas de Colombia, a foreign terrorist organization designated by the United States, which was allegedly receiving financial support and firearms and ammunition from Chiquita, a U.S. corporation with operations throughout Colombia.

Ms. Martin has successfully litigated the following matters:

- Trahan v. Mulholland (Cir. Ct., Alachua Cnty., Fla.): In August 2018, after a week-long trial, a jury awarded Ms. Trahan, an adult survivor of childhood sexual abuse, \$4.6 million in damages for more than a decade of sexual abuse perpetrated by her father, a prominent Central Florida businessman. The jury also found her mother negligent in failing to use reasonable care to protect her daughter from the abuse. Ms. Martin represented Ms. Trahan as part of the trial team and on appeal, where she successfully defended the \$4.6 million judgment in Florida's First District Court of Appeal.
- S.B. v. FAMU (11th Cir. Ct. of Appeals): Cohen Milstein represented a FAMU student who filed an action alleging the university committed Title IX violations in failing to adequately investigate her claims of sexual assault. To protect her identity, Cohen Milstein named the plaintiff under a pseudonym, and the district court repeatedly denied the university's attempts to make her identity public. Ms. Martin successfully defended the district court's orders, protecting the plaintiff's anonymity, when the university appealed the issue to the United States Court of Appeals for the Eleventh Circuit.
- Herrera, et al. v. JFK Medical Center, et al. (M.D. Fla.): Cohen Milstein was lead counsel in a class action lawsuit alleging that four Florida plaintiffs and others like them were billed inflated and exorbitant fees for emergency radiology services, in excess of the amount allowed by law, covered in part by their mandatory Florida Personal Injury Protection insurance. When the district court struck plaintiffs' class claims, Ms. Martin successfully petitioned the Eleventh Circuit Court of Appeals to accept immediate appellate review and obtained a reversal of the district court's order. Cohen Milstein resolved the case and secured final approval of a \$220 million injunctive relief settlement.
- Lindsay X-LITE Guardrail Litigation (State Cts.: Tenn., S.C.): Cohen Milstein successfully represented more than five families of decedents and victims of catastrophic injuries in a series of individual products liability, wrongful death and catastrophic injury lawsuits in Tennessee and South Carolina state courts against the Lindsay Corporation and several related entities for designing, manufacturing, selling, and installing defective X-Lite guardrails on state roadways.
- H.C., et al. v Ric Bradshaw, et al. (S.D. Fla.): Cohen Milstein, in conjunction with the Human Rights Defense

Center and the Legal Aid Society of Palm Beach County, successfully represented juvenile offenders against the Palm Beach County Sheriff's Office and the Palm Beach County School Board, challenging the practice of placing juvenile offenders in solitary confinement and for allegedly denying mandated educational services to juvenile offenders held at the Jail, "including services needed to address their disabilities," in violation of the federal Individuals with Disabilities Education Act. Cohen Milstein and its co-counsel resolved the matter in 2018 by obtaining a settlement that was first-of-its-kind in Florida, as it ended the systemic practice of holding juveniles charged as adults in solitary confinement and ensures the provision of educational services to such juveniles.

- *Hand et al., v. Scott et.al* (N.D. Fla.): Cohen Milstein and Fair Elections Legal Network, a national voting rights organization, achieved a major victory in 2018 on behalf of former felons in Florida, who claimed their constitutional rights had been infringed by Florida's Clemency Board. The court ruled that the Clemency Board's process to grant or deny former felons' restoration of voting rights applications was unconstitutionally arbitrary and violated the U.S. Constitution's First and Fourteenth Amendments. While this case was on appeal before the 11th Circuit, Floridians voted to allow such voting rights restoration to felons.
- *In re: Caterpillar, Inc. Engine Products Liability Litigation* (D.N.J.): Cohen Milstein was co-lead counsel in a nationwide product liability class action lawsuit alleging Caterpillar sold diesel engines with defective exhaust emissions system that resulted in power losses and shutdowns. The case was settled in September 2016 for \$60 million.
- *Mincey v. Takata* (Cir. Crt., Duval Cnty., Fla.): Cohen Milstein was lead counsel in a lawsuit brought on behalf of Patricia Mincey and her family, a Florida woman who sustained catastrophic injuries that rendered her a quadriplegic in 2014 when the driver's side airbag in her Honda Civic deployed too aggressively during a collision due to a product defect. Patricia Mincey passed away in early 2016 due to complications from her quadriplegia. The suit charged that Takata, the manufacturer of the airbag system, knew of the airbag defect and hid the problem from consumers. When the defendants removed Ms. Mincey's case to federal court in an attempt to have it bogged down in multi-district litigation, Ms. Martin successfully had the case remanded to Florida state court, where it is was resolved in July 2016.
- *Wal-Mart Employment Discrimination Litigation* (S.D. Fla.): Cohen Milstein represented individual female Walmart employees in a lawsuit alleging that the company discriminated against them on the basis of their sex. Ms. Martin worked as part of the trial and appellate teams until the parties reached a confidential settlement with the plaintiffs.

Ms. Martin currently serves on the Civil Procedure Rules Committee of the Florida Bar and serves as Audit Committee Chair of Families First of Palm Beach County. She is a past President of Florida Legal Services, where she was a board member from 2007 to 2016, and served as a board member on the Florida Bar Foundation from 2015 to 2016. She has written numerous legal articles, which have been published in a variety of journals, including *Trial Magazine*, *The Florida Bar Journal*, and the *Florida Justice Association Journal*, and co-authors *Florida Insurance Law and Practice*, an annual publication by Thomson/West. She was recognized by "Best Lawyers in America" in 2021 as "Best Lawyer" for practice areas of Appellate Practice; Mass Tort Litigation / Class Actions; and Personal Injury Litigation. In 2018, Ms. Martin was recognized by the *Daily Business Review* as the "Most Effective Lawyer" in the area of Pro Bono.

Ms. Martin attended Flagler College, graduating summa cum laude with Departmental Honors in Philosophy/Religion. She earned her J.D. from the University of Florida Levin College of Law, graduating with High Honors and achieving admission to the Order of the Coif.

Ms. Martin clerked for three years between 2002 and 2005 for the Honorable Martha C. Warner in Florida's Fourth District Court of Appeal.

**David M. Maser**

David M. Maser is of counsel at Cohen Milstein and a member of the Securities Litigation & Investor Protection practice. Prior to joining Cohen Milstein, Mr. Maser worked with a nationally recognized securities class action plaintiffs law firm for more than a decade, where he helped create the firm's securities monitoring program and cultivated important relationships with the firm's growing portfolio of institutional investor clients, nationally and globally.

As a result of his work, Mr. Maser successfully engaged over 25 public fund and union clients with well over \$200 billion in assets under management. Clients he has represented have been involved in more than 60 actions, generating more than \$4.6 billion in case recoveries.

Mr. Maser has worked extensively in both the public and private sectors and brings more than 25 years of experience and insight to pension funds and other institutional clients, specifically at the intersection of law, business and government.

Through his extensive experience in the public and private sectors, Mr. Maser has established bipartisan relationships in the political arena on the federal, state and local levels. His ability to see the big picture and create bipartisan collaborations has earned him a reputation as an exceptional diplomat and strategic consensus builder.

#### **Kalpish K. Mehta**

Kalpish K. Mehta is a staff attorney at Cohen Milstein and a member of the Antitrust practice. He assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Mr. Mehta has extensive discovery experience in antitrust class action litigation, including Department of Justice Antitrust Division and Federal Trade Commission investigations.

Mr. Mehta's case work includes:

- Sutter Health Antitrust Litigation (Sup. Ct., San Fran. Cnty., Cal.): On August 27, 2021, the Court granted final approval of a \$575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely-watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California's Attorney General joined the suit in March 2018.
- Stock Lending Litigation (S.D.N.Y.): Cohen Milstein and co-counsel filed a putative class action on August 17, 2017 in the Southern District of New York on behalf of Iowa Public Employees Retirement System and other investors, alleging collusion among six of the world's largest investment banks to prevent modernization of the \$1.7 trillion stock loan market. Plaintiffs allege that Bank of America, Credit Suisse, Goldman Sachs, JP Morgan, Morgan Stanley, and UBS conspired to overcharge investors and maintain the power they hold over the stock loan market, obstructing multiple efforts to create competitive electronic exchanges and enhance price transparency that would benefit both stock lenders and borrowers.

Mr. Mehta served in the United States Army. Prior to military service, he worked in variety of private practice settings. Mr. Mehta's litigation experience includes medical malpractice and criminal defense.

Mr. Mehta attended Santa Clara University, graduating cum laude with a B.S. in Accounting. He earned his J.D. from Brooklyn Law School.

## Jan E. Messerschmidt

Jan E. Messerschmidt is an associate in Cohen Milstein's Securities Litigation & Investor Protection practice, where he represents institutional and individual shareholders in derivative lawsuits and securities class actions.

Prior to joining Cohen Milstein, Mr. Messerschmidt was an associate at a highly regarded national litigation boutique, where he represented both plaintiffs and defendants in a range of issues involving antitrust, securities, cybersecurity, contract, personal tort, and malicious prosecution claims.

For his work, The National Law Journal named Mr. Messerschmidt one of its 2022 Elite Trial Lawyers "Rising Stars of the Plaintiffs Bar."

Mr. Messerschmidt is involved in the following notable matters:

- *IBEW Local 98 Pension Fund v. Deloitte* (D.S.C.): Cohen Milstein is sole Lead Counsel in this putative securities class action against Deloitte entities for allegedly breaching its external auditor duties related to SCANA's multi-billion-dollar nuclear energy expansion project in South Carolina.
- *Pluralsight, Inc. Securities Litigation* (D. Utah): Cohen Milstein is sole Lead Counsel in this securities class action, alleging that Pluralsight, a provider of cloud-based and video training courses, and its senior officers misrepresented and omitted material information from investors concerning the company's sales force before a \$37 million stock cash-out by Pluralsight insiders and in an over \$450 million secondary public offering orchestrated by those insiders.
- *El Paso Firemen & Policemen's Pension Fund, San Antonio Fire & Police Pension Fund, and Indiana Public Retirement System v. InnovAge Holding Corp, et. al.* (D. CO.): Cohen Milstein is sole Lead Counsel in this securities class action, alleging that InnovAge "substantially failed" to "provide to its participants medically necessary items and services" as required by government regulation. As a result, Centers for Medicare & Medicaid Services and the State of Colorado suspended enrollment at InnovAge's Colorado facilities. InnovAge's stock price declined 78% just nine months after its IPO, giving it the distinction of being one of 2021's five worst performing IPOs.

Mr. Messerschmidt's recent successes include:

- *Miller Energy/KPMG* (E.D. Tenn.): Cohen Milstein was Co-Lead Counsel in this certified securities class action, alleging that KPMG failed to meet its obligation as the independent auditor of Miller Energy Resources, Inc., perpetrating a massive fraud by Miller Energy, including overstating the value of largely worthless oil reserves to more than \$480 million. On July 12, 2022, the court granted final approval of a \$35 million settlement.
- *In re GreenSky Securities Litigation* (S.D.N.Y.): Cohen Milstein was Co-Lead Counsel in this putative securities class action against GreenSky, a financial technology company, for failing to disclose the substantial change in the composition of GreenSky's merchant business mix and the resulting diminution in transaction-fee revenue, accounting for 87% of its overall revenue, as it moved from the solar panel energy merchant sector to the healthcare sector. On October 22, 2021, the court granted final approval of a \$27.5 million settlement.

Before entering private practice, Mr. Messerschmidt served as a law clerk to the Honorable Beryl A. Howell, Chief Judge of the United States District Court for the District of Columbia. He was also a law clerk to the Honorable Rosemary S. Pooler of the United States Court of Appeals for the Second Circuit.

Mr. Messerschmidt earned his B.A., magna cum laude, from New York University, where he was the Co-Founder and Editor of *Journal of Politics & International Affairs*. He earned his J.D. from Columbia Law School, where he was a Harlan Fiske Stone Scholar and received the Parker School Certificate for Achievement in International and

Comparative Law. During law school, Mr. Messerschmidt had the distinction of participating in the Philip C. Jessup International Law Moot Court Competition (U.S. National Champions (2012, 2013)), and he was the Head Articles Editor for Columbia Journal of Transnational Law and the note author of, "Hackback: Permitting Retaliatory Hacking by Non-State Actors as Proportionate Countermeasures to Transboundary Cyberharm," 52 COLUM. J. TRANSNAT'L L. 275 (2013)

Prior to law school, Mr. Messerschmidt was a legislative policy analyst for the New York City Council, Policy Division.

### **Amy Miller**

Amy Miller is of counsel in Cohen Milstein's Securities Litigation & Investor Protection practice, where she represents institutional and individual shareholders in derivative lawsuits and securities class actions, seeking accountability on issues ranging from breach of fiduciary to corporate waste. She is also a member of the practice's shareholder derivative case development team.

Ms. Miller brings to bear more than 20 years of plaintiff-side and defense-side securities litigation experience addressing matters involving corporate governance and corporate wrongdoing, mergers and acquisitions in which stockholders were not provided maximized value, and more recently with SPAC investment vehicles.

Immediately prior to joining Cohen Milstein in 2019, Ms. Miller led the corporate governance and litigation practice at a highly regarded national securities plaintiffs' class action law firm. She began her career at one of the nation's top securities defense firms where she worked for nearly a decade.

Some of Ms. Miller's representations include:

- Zucker, et al. v. Bowl America, Inc., et al. (D. Md.): Cohen Milstein represents shareholders of Bowl America, Inc., who allege that the board of directors of Bowlero Corp., orchestrated a merger that was unfair, misleading and grossly inadequate, forcing the sale of Bowl America at a fire sale price. On October 11, 2022, the court denied in part defendants' motion to dismiss and the case is currently in discovery.

Some of Ms. Miller's recent successes include:

- FirstEnergy Shareholder Derivative Litigation (S.D. Ohio; N.D. Ohio): Cohen Milstein represented the Massachusetts Laborers Pension Fund in two shareholder derivative actions against certain current and former officers and directors and nominal defendant FirstEnergy related to the Company's involvement in Ohio's largest public bribery schemes. On August 23, 2022, the Court granted final approval of a \$180 million global settlement of all shareholder derivative cases.
- Boeing Derivative Litigation (N.D. Ill.; Del. Ch.): Cohen Milstein served as sole lead counsel in a federal derivative case brought by the Seafarers Pension Plan against The Boeing Company's directors and officers arising out of the 737 MAX crashes and alleging federal proxy statement violations in connection with director elections. After the case was dismissed on forum non conveniens grounds, Plaintiffs successfully argued before the U.S. Court of Appeals for the Seventh Circuit, obtaining a 2-to-1, precedent-setting decision reversing the district court's dismissal of the case based on enforcement of Boeing's forum selection bylaw. The derivative action ultimately settled, along with a companion class action filed by the Seafarers in Delaware Chancery Court after the district court's dismissal and challenging the bylaw under Delaware law, for corporate governance reforms valued in excess of \$100 million and a \$6.25 million payment by the Directors' insurers to the Company.

Since 2018, Ms. Miller has contributed to the American Bar Association's Survey of Federal Class Action Law: A U.S. Supreme Court and Circuit-by-Circuit Analysis. The Survey, produced by the ABA Litigation Section's Class Actions and Derivative Suits Committee, provides up-to-date analysis of class action law in each federal circuit.

Ms. Miller was an extern for the Honorable George B. Daniels of the U.S. District Court for the Southern District of New York.

Ms. Miller earned her B.A. from Boston University, magna cum laude, and she received her J.D. from New York Law School, summa cum laude. While attending law school, Ms. Miller was the Articles Editor for the New York Law School Law Review.

### **Blake R. Miller**

Blake R. Miller is discovery counsel in Cohen Milstein's Consumer Protection practice. Mr. Miller has developed expertise in handling all aspects of discovery in complex litigation. He has extensive knowledge regarding data breach litigation, cyber security, and various fraudulent schemes large corporations commit against consumers, including healthcare fraud.

Mr. Miller is currently litigating the following notable matters:

- In re: Marriott International Inc. Customer Data Security Breach Litigation (D. Md.): Cohen Milstein is court appointed Consumer Plaintiffs' Co-Lead Counsel to oversee a class action related to the data breach that compromised the personal data of nearly 400 million customers, making it one of the largest data breaches in U.S. history. On May 3, 2022, the Court granted class certification to eight classes of plaintiffs.
- In Re: Blackbaud, Inc., Customer Data Breach Litigation (D.S.C.): Cohen Milstein is court appointed to the Plaintiffs' Steering Committee in this data breach class action in which Plaintiffs claim that Blackbaud failed to take reasonable steps to prevent a data beach, starting in February 2020, and failed to promptly or accurately provide notice of the data breach to those affected.

Immediately prior to joining Cohen Milstein, Mr. Miller was a staff attorney at the United States Department of Justice, Civil Division, Consumer Protection Branch for nearly a decade. Prior to that he worked at the U.S. Drug Enforcement Administration, and at the U.S. DOJ, Civil Rights Division, Special Litigation Section.

Mr. Miller earned his B.B.A. at University of Miami Herbert Business School. He earned his J.D. from Emory University School of Law.

### **Rebecca Ojserkis**

Rebecca Ojserkis is an associate at Cohen Milstein and a member of the Civil Rights & Employment Litigation practice.

Prior to joining Cohen Milstein, Ms. Ojserkis was an associate at a highly regarded national plaintiffs' law firm, where she represented clients in employment discrimination cases, including Title VII and ADA-related cases, and other public interest matters.

Prior to working in private practice, Ms. Ojserkis was a Fellow at the ACLU, where she worked with the Women's Rights Project, Immigrants' Rights Project, and National Prison Project. She also clerked for the Honorable Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit and the Honorable Sidney H. Stein of the U.S. District Court for the Southern District of New York.

Currently, Ms. Ojserkis is litigating the following notable matters:

- Salvation Army ARC Unpaid Wages Litigation: Cohen Milstein represents participants in Salvation Army's adult rehabilitation centers (ARC), who perform labor in support of the organization as a condition of their

enrollment, in three lawsuits alleging that The Salvation Army violated federal and state laws when it failed to pay minimum wage to ARC workers.

- Bird, et al. v. Garland (D.D.C.): Cohen Milstein represents a putative class action of women who suffered systemic discrimination on the basis of sex when they were terminated from the Federal Bureau of Investigation's Basic Training program for new agents and intelligence analysts.
- Ndugga v. Bloomberg, L.P. (S.D.N.Y.): Cohen Milstein represents a putative class of women who work or have worked as reporters, producers and editors at Bloomberg Media, and have been subjected to gender discrimination in pay.

Ms. Ojserkis received her B.A., magna cum laude, from Amherst College. She received her J.D. from Yale Law School, where she served as an editor of the Yale Law Journal and engaged in litigation and advocacy as a member of the Veterans Legal Services Clinic, the Reproductive Rights and Justice Project, and the Liman Project.

Before pursuing a career in law, Ms. Ojserkis worked at Massachusetts General Hospital in the area of mental health.

### **Madelyn Petersen**

Madelyn Petersen is an associate in Cohen Milstein's Consumer Protection practice. Ms. Petersen's practice focuses on litigating class actions on behalf of consumers who have been misled, deceived or harmed by large corporations.

Prior to becoming an associate at Cohen Milstein, Ms. Petersen was a law fellow at the firm. In this role, she worked across practices and was involved in litigating individual and class action cases at the district and appellate levels.

Before that, Ms. Petersen was a law clerk to the Honorable William Dimitrouleas of the United States District Court for the Southern District of Florida.

Ms. Petersen received her B.A. from University of Nebraska-Lincoln. She received her J.D. from Harvard Law School, where she was Managing Editor, Harvard Journal of Law and Gender and Online Content Editor for Harvard Civil Rights-Civil Liberties Law Review. While in law school, Ms. Petersen was also a board member of the Harvard Prison Legal Assistance Project and participated in Harvard Law School's International Human Rights Clinic. She was also a legal intern for the Corporate Accountability Lab, the Advancement Project, and Oxfam America.

### **Kit A. Pierson**

Kit A. Pierson is of counsel at Cohen Milstein and a member of the Antitrust practice. Mr. Pierson has also had the honor of serving as co-chair of the Antitrust practice (2010-2017). Under his leadership, the Legal 500 recognized Cohen Milstein as a Leading Plaintiff Class Action Firm for seven consecutive years and Law360 selected the Antitrust practice as a Competition Law Practice Group of the Year in 2013 and 2014.

Mr. Pierson has served as lead or co-lead counsel in many of the nation's most significant antitrust class actions on behalf of the victims of corporations engaged in price-fixing, market monopolization and other unlawful conduct. Prior to joining Cohen Milstein in 2009, he spent more than 20 years primarily representing defendants in a broad range of complex matters. Some of the companies he represented included Microsoft Corp., 3M Corp. and other major corporations, national associations and individuals in class actions and other antitrust litigation. As a result of his experience as a defense lawyer, Mr. Pierson possesses deep insight into defense strategies, understands the dynamics of the other side and is someone who has earned the respect and credibility of opposing counsel.

Mr. Pierson is a hands-on litigator who has litigated and tried antitrust lawsuits and other complex civil cases in many jurisdictions, helping to win settlements and judgments cumulatively totaling more than \$1.8 billion in the past several years. Currently, he is lead or co-lead counsel in many antitrust cases at the firm. Some of Mr. Pierson's

recent successes include:

- Domestic Drywall Litigation (E.D. Pa.): Cohen Milstein was co-lead counsel in an antitrust litigation alleging that the seven major U.S. manufacturers of drywall conspired to manipulate prices. Mr. Pierson ran the case for Cohen Milstein and in 2015 took the lead for the direct purchaser plaintiffs in arguing against the defendants' summary judgment motions (which were denied by the Court for four of the five defendants). The Court granted final approval to settlements totaling \$190 million.
- Ductile Iron Pipe Fittings Litigation (D.N.J.): Cohen Milstein, as co-lead counsel, represented direct purchasers in a price-fixing class action against the three largest manufacturers of ductile iron pipe fittings—McWane Inc., Sigma Corporation and Star Pipe Products—and a monopolization case against McWane for excluding significant competition in the domestic ductile iron pipe fittings market. In May 2018 the Court granted final approval to the outstanding settlement, ending the litigation and bringing the total recovery to more than \$17.3 million.
- Cast Iron Soil Pipe & Fittings Litigation (E.D. Tenn.): Cohen Milstein, as co-lead counsel, represented direct purchasers against the two largest soil pipe and fittings manufacturers in the country (McWane Inc. and Charlotte Pipe & Foundry) and the trade association they control (Cast Iron Soil Pipe Institute) in a class action alleging that the defendants engaged in a nationwide price-fixing conspiracy and other anticompetitive actions. Mr. Pierson directed the litigation team. In May 2017, the Court granted final approval of a \$30 million settlement.
- Urethanes (Polyether Polyols) Antitrust Litigation (D. Kan.): Cohen Milstein was co-lead counsel for direct purchaser plaintiffs in an antitrust class action alleging a nationwide conspiracy to fix the prices of chemicals used to make polyurethane foam. Four defendants—Bayer, BASF, Huntsman and Lyondell—settled for a total of \$139.5 million, while the case against the fifth manufacturer, Dow Chemical, went to trial. After a four-week jury trial, in which Mr. Pierson was one of the trial lawyers for the class, the jury returned a \$400 million verdict for the plaintiffs, which was trebled under federal antitrust law to more than \$1 billion, the largest verdict in the country in 2013, as reported by The National Law Journal. The U.S. Court of Appeals for the Tenth Circuit affirmed the judgment, and the case against Dow Chemical was settled for \$835 while the matter was pending before the United States Supreme Court (resulting in a total recovery of \$974.5 million in the case).
- Community Health Care System Litigation: Cohen Milstein was co-counsel representing an emergency room doctor and nurse who brought claims against Community Health Care System under the False Claims Act for allegedly defrauding the federal government in connection with health care bills. Mr. Pierson led Cohen Milstein's team in the case which was resolved for \$94 million.
- Electronic Books Antitrust Litigation (S.D.N.Y.): Cohen Milstein was co-lead counsel in a class action lawsuit alleging that Apple and five of the leading U.S. publishers conspired to raise the retail prices of e-books. Mr. Pierson led the Cohen Milstein team, which secured class certification, defeated motions to exclude the class expert, and successfully moved for exclusion of most of Apple's expert testimony. The five publishing defendants settled for \$166 million and a settlement was reached with Apple shortly before trial for an additional \$450 million.
- Guantanamo Litigation (D.D.C.): Mr. Pierson represented Alla Ali Bin Ali Ahmed, a young man who had been arrested with many others while residing in a house in Pakistan and was then incarcerated in Guantanamo without a judicial hearing for more than seven years. After filing a habeas corpus petition, Mr. Pierson represented Mr. Ahmed at a multi-day evidentiary hearing before a United States District Court judge. At the conclusion of the hearing, the District Court ruled that the evidentiary record did not support Mr. Ahmed's detention and ordered that he be released from Guantanamo and returned to his home country.

A champion for civil rights, he is a member of the Board of Trustees for the Lawyers' Committee for Civil Rights Under the Law, a national organization, and a Member of the ACLU of Maryland's Committee on Litigation and Legal Priorities. Mr. Pierson is also a Board member of the Washington Urban Debate League.

Mr. Pierson has taught Complex Litigation as an Adjunct Professor at Georgetown University Law School (a class that focused primarily on legal, ethical and strategic issues presented by class action litigation) and Antitrust Class Actions as a Visiting Lecturer at Yale Law School (a class examining legal, ethical and strategic issues in antitrust class action litigation).

Mr. Pierson attended Macalester College, earning a B.A., magna cum laude, in Economics and Political Science, and graduated from the University of Michigan Law School, magna cum laude, where he was a Note Editor of the Michigan Law Review and a member of the Order of the Coif. Following law school, he served as a Law Clerk for the Honorable Harry T. Edwards, United States Court of Appeals for the District of Columbia Circuit, from 1983-1984 and as a law clerk for the Honorable Chief Judge John Feikens, United States District Court for the Eastern District of Michigan, from 1984-1985.

### **Casey M. Preston**

Casey M. Preston is of counsel at Cohen Milstein and a member of the Whistleblower/False Claims Act practice. He represents whistleblowers across the country in qui tam actions brought under the False Claims Act against individuals and corporations that engage in fraudulent conduct that causes significant economic harm to federal and state government programs as well as taxpayers. He has significant experience in investigating, reporting, and prosecuting Medicare and Medicaid fraud schemes and also has substantial experience with other types of government fraud, including non-compliance with government contracts, Title IV federal student aid fraud, customs and tariff fraud, and sales of defective mortgages. He also represents individuals who report securities fraud, tax fraud, and customs fraud through federal whistleblower programs. In addition, Mr. Preston has significant experience handling complex commercial cases and securities litigation in courts across the U.S.

Some of Mr. Preston's current representations include:

- A sealed qui tam action against a drug manufacturer that allegedly induced physicians to prescribe its drugs by providing kickbacks in the form of free practice management and business advisory services.
- A sealed qui tam action against a drug company that is alleged to have violated the Anti-Kickback Statute by paying physicians to provide sham speaker programs to induce them to prescribe its drug.
- A sealed qui tam action alleging that a medical equipment supplier is selling unnecessary equipment and supplies to Medicare beneficiaries.
- A sealed action against a hospital system for overcharging Medicare for services furnished at its off-campus locations.
- A SEC whistleblower program case reporting that a biotech company is misleading investors about the status of a groundbreaking technology that it claims to be developing.

Mr. Preston has played a key role in a number of successful cases, including:

- United States ex rel. Kieff v. Wyeth: A qui tam action alleging that drug manufacturer Wyeth overcharged the state Medicaid programs by not providing them the statutorily required "best price" for a widely prescribed drug. This action resulted in a recovery of more than \$780 million by the government.
- United States ex rel. O'Connor v. National Spine and Pain Centers, LLC: A qui tam action alleging that pain management practices defrauded the government health care programs by (a) billing for services furnished by physician assistants and nurse practitioners as "incident to" a physician's service when the services did not qualify as such, and (b) referring patients for unnecessary drug tests. The United States intervened in and settled this action for approximately \$3.3 million.
- United States ex rel. Davis v. Southern SNF Management, Inc.: A qui tam action against skilled nursing facilities that were involved in a multi-year scheme of increasing the facilities' Medicare collections by

assigning Medicare patients to levels of therapy far greater than medically appropriate and billing Medicare at the higher amounts associated with this unnecessary therapy. There was a \$10 million recovery by the government.

- United States ex rel. Saidiani v. NextCare, Inc.: A qui tam action against the NextCare chain of urgent care centers that allegedly billed the government for unnecessary medical tests and services performed on beneficiaries of the government health care programs. There was a \$10 million recovery by the government.
- United States ex rel. Rai v. Kool Smiles, P.C.: A qui tam action against the Kool Smiles pediatric dentistry chain for allegedly billing the state Medicaid programs for unnecessary dental procedures. There was a \$23.9 million recovery by the federal government and several states.
- [Sealed] v. [Sealed]: Successfully represented an investor in several commercial real estate LLCs in a fraud and breach of fiduciary duty action against the LLCs' manager.
- In re Fleming Cos. Inc. Securities Litigation: Represented stock and bondholders in a class action against grocery chain and food distributor Fleming Companies and its outside auditor that resulted in a \$94 million recovery for investors.
- In re Carreker Corp. Securities Litigation: Represented stockholders in a securities class action against a software company that resulted in a \$5.25 million recovery for investors.
- Staro Asset Management v. Provell Inc.: Represented a hedge fund in a securities fraud action against a marketing company through which the hedge fund secured a \$4 million recovery.
- In re Cigna Corp. Securities Litigation.: Represented a state pension fund in a securities class action against health insurer Cigna that resulted in a \$93 million recovery for stockholders.

In addition, Mr. Preston has provided pro bono services to the Legal Clinic for the Disabled and the Brady Center to Prevent Gun Violence.

Mr. Preston served as law clerk for the Hon. William J. Nealon, U.S. District Court for the Middle District of Pennsylvania and the Hon. Terrence R. Nealon, Court of Common Pleas, Lackawanna County, Pennsylvania.

Mr. Preston received his B.S. from The Citadel and his J.D. from the Villanova University School of Law.

### **Karina G. Puttieva**

Karina G. Puttieva is an associate at Cohen Milstein and a member of the Consumer Protection practice. Ms. Puttieva's practice focuses on litigating class actions on behalf of consumers who have been misled, deceived or harmed by large corporations.

Prior to joining Cohen Milstein, Ms. Puttieva was a litigation associate at a highly regarded national defense firm, where she focused on consumer data privacy issues, government investigations and criminal litigation, and civil litigation in the areas of antitrust, consumer fraud, and misappropriation of intellectual property.

Ms. Puttieva is currently litigating the following matters:

- DZ Reserve et al. v. Facebook (N.D. Cal.): Cohen Milstein represents a putative class of advertisers who claim that Facebook's key advertising metrics (Potential Reach and Estimated Daily Reach) are inflated and misleading.
- General Motors Litigation (E.D. Mich.): Cohen Milstein is Lead Counsel and Chair of the Plaintiffs' Steering Committee, overseeing this consolidated consumer class action filed against GM in over 30 states. Plaintiffs allege that GM's eight-speed automatic transmissions (GM 8L90 and the 8L45) manufactured between 2015 and 2019 were defective.
- Brooks, et al. v. Thomson Reuters (N.D. Cal.): Cohen Milstein is representing a class of putative plaintiffs who claim that Thomson Reuters's CLEAR platform not only surreptitiously collects vast quantities of Californians' personal data but then sells this information to third parties, including commercial and

government entities.

Ms. Puttieva was involved in the following successful matters:

- Facebook 2018 Data Breach Litigation (N.D. Cal.): On May 6, 2021, the Court granted final approval of an injunctive relief settlement in this data breach class action against Facebook, which requires Facebook to adopt, implement, and/or maintain a detailed set of security commitments for the next five years, which will be independently assessed by a third-party. Cohen Milstein was Co-Interim Class Counsel in this matter.

Ms. Puttieva earned her B.A., magna cum laude, from Haverford College and her J.D. from University of California, Berkeley, School of Law, where she was the Submissions Editor and Associate Editor of the Berkeley Journal of Criminal Law.

While attending law school, Ms. Puttieva was a judicial extern for the Honorable Christina A. Snyder of United States District Court for the Central District of California and she was a law clerk for the United States Attorney's Office for the Northern District of California.

Prior to law school, Ms. Puttieva worked as a victim/witness coordinator at the Family Violence/Sexual Assault Unit of the Philadelphia District Attorney's Office.

#### **Poorad Razavi**

Poorad Razavi is an attorney at Cohen Milstein and a member of the Complex Tort Litigation practice. Mr. Razavi's practice focuses on products liability, vehicle defects, roadway design and maintenance defects, trucking and car accidents, chemical exposure, negligent security, with a specific focus on multimillion dollar wrongful death and catastrophic injury suits.

Mr. Razavi represents clients in state and federal courts across the nation, including in Florida, California, Indiana, Ohio, Georgia, New York, Nevada, Michigan, Alabama, South Carolina, Maryland, Virginia, Washington D.C., and Tennessee. He has litigated claims against all of the major insurance carriers, as well as automobile, tire, and component part manufacturers, including General Motors, Toyota, Honda, Chrysler, Takata, and Continental, as well as highway guardrail manufacturers, installers and other contractors.

Mr. Razavi has also handled a broad range of non-traditional personal injury and wrongful death cases throughout the country, including claims involving chemical and pesticide exposure, chlorine gas exposure, mold exposure, construction defect, boating defect, negligent vehicle repairs, and negligent tractor-trailer operation.

What is particularly unique about Mr. Razavi's experience is his background as a former civil litigation defense attorney and his perspective into the mindset of insurance companies and corporate defendants. This background gives him a unique understanding about how to maximize the value of a claim in order to ensure that clients receive maximum compensation for their injuries.

Mr. Razavi also has extensive experience in claims against the Department of Transportation and private state contractors for roadway design and defects. He has litigated multiple roadway design and maintenance defect claims resulting in multimillion dollar settlements and subsequent installation and remediation of guardrails, re-paving, curbing, and rehabilitation of roadways in multiple counties.

Currently, Mr. Razavi is litigating the following notable matters:

- Bernardo, et al. v. Pfizer, Inc., et al. (S.D. Fla.): On February 20, 2020, Cohen Milstein filed a false advertising, medical monitoring, and personal injury class action against Pfizer, Inc., Boehringer Ingelheim, Sanofi, and

other pharmaceutical companies on behalf of multiple plaintiffs and putative class members across the United States. Mr. Razavi also has extensive experience in claims against the Department of Transportation and private state contractors for roadway design and defects. He has litigated multiple roadway design and maintenance defect claims resulting in multi-million dollar settlements and subsequent installation and remediation of guardrails, re-paving, curbing, and rehabilitation of roadways in multiple counties. States who, as a result of taking Zantac (ranitidine), may have been afflicted with cancer or may now be subject to an increased risk of developing cancer.

- *Ratha, et al v Phatthana Seafood Co.* (C.D. Cal.): Cohen Milstein is representing seven Cambodian plaintiffs in a cross-border human rights lawsuit involving human trafficking, forced labor, involuntary servitude, and peonage by factories in Thailand that produce shrimp and seafood for export to the United States.
- *ExxonMobil - Aceh, Indonesia* (D.D.C.): Cohen Milstein is representing eleven Indonesian citizens in a cross-border human rights lawsuit involving allegations of physical abuse, sexual assault, other forms of torture, and murder committed by Indonesian soldiers who were hired by Exxon Mobil Corporation.

Mr. Razavi has successfully litigated the following matters:

- *Lindsay X-LITE Guardrail Litigation* (State Cts.: Tenn., S.C.): Cohen Milstein successfully represented more than five families of decedents and victims of catastrophic injuries in a series of individual products liability, wrongful death and catastrophic injury lawsuits in Tennessee and South Carolina state courts against the Lindsay Corporation and several related entities for designing, manufacturing, selling, and installing defective, X-Lite guardrails on state roadways.
- *Saori Yamauchi, et al. v. Toyota Motor Corporation, et al.* (Cir. Ct., Dutchess Cty., N.Y.): Cohen Milstein and local New York co-counsel resolved a product liability and personal injury lawsuit against Toyota Motor Corporation, Autoliv, and related entities on behalf of Saori Yamauchi. Mrs. Yamauchi sustained a catastrophic injury during an accident in her Toyota Sienna as a result of the vehicle's airbag system deploying in a dangerous manner.
- *Hand et al., v. Scott et al.* (N.D. Fla.): Cohen Milstein and Fair Elections Legal Network, a national voting rights organization, achieved a major victory on behalf of former felons in Florida, who claimed their constitutional rights had been infringed by Florida's Clemency Board. U.S. District Court Judge Mark E. Walker ruled that the process by which Florida's Clemency Board grants or denies former felons' restoration of voting rights applications is unconstitutionally arbitrary and violates the U.S. Constitution's First Amendment right of free association and free expression, as well as the Fourteenth Amendment.
- *Quinteros, et al v. DynCorp, et al.* (D.D.C.): Cohen Milstein represented over 2,000 Ecuadorian farmers and their families who suffered physical injuries and property damage as a result of aerial spraying of toxic herbicides on or near their land by DynCorp, a U.S. government contractor. A bellwether trial on behalf of the first six Ecuadorian clients came to a conclusion in April 2017, when the ten-person jury unanimously determined that DynCorp was responsible for the conduct of the pilots with whom it had subcontracted to conduct the chemical spraying after April 2003. This resolution allowed for a successful case settlement.
- *Staton v. Elite Auto Logistics, Inc.* (M.D. Fla.): In July 2018, Cohen Milstein successfully settled this personal injury and negligence lawsuit against Elite Auto Logistics, Inc. The complaint alleged that the driver of Elite Auto Logistics tractor trailer truck was driving in an unsafe manner and his negligence caused an accident and the subsequent disabling injuries to our client.

Additionally, Mr. Razavi initiated the investigation and discovery of a major nation-wide vehicle airbag defect resulting in the filing of a subsequent class action against the world's largest automobile manufacturers, in which he was selected to the Interim Plaintiffs' Executive Committee.

Mr. Razavi has been recognized by Best Lawyers in America (2019, 2020, 2021) for Personal Injury Litigation. He is annually distinguished by Florida Super Lawyers (2010, 2011, 2015, 2016, 2021) and Florida Trend Magazine (2013, 2014, 2018, 2020, 2021), and Palm Beach Illustrated. Mr. Razavi is AV rated by Martindale-Hubbell.

Mr. Razavi is also a frequent writer and speaker. His articles have been published in Florida Justice Association's (FJA) Journal and the American Bar Association (ABA) Journal involving a variety of issues, including preservation of evidence, fighting against large corporations, as well as defective guardrail and roadway design. Annually, Mr. Razavi is invited to speak at FJA seminars, including "Identifying and Developing Roadway and Guardrail Defect Claims" at FJA's Advanced Trial Skills seminars, as well as speaking about the Use of Technology in litigation for the Palm Beach County Justice Association. In addition to his private practice, Mr. Razavi proudly serves the legal and local community, holding several prominent Palm Beach County Bar Association roles, including being appointed Co-Chair for the Palm Beach County Bar Association's Annual Bench Bar Conference in 2016 and an elected Board Member for the Palm Beach County Justice Association from 2015 through 2019.

Mr. Razavi graduated from Indiana University with a B.S. in International Business and Business Economics. He received his J.D. from the University of Cincinnati College of Law and was a Merit Scholarship recipient.

### **Nathaniel D. Regenold**

Nathaniel Regenold is an associate in Cohen Milstein's Antitrust practice. He represents a broad range of individuals and businesses in civil litigation, with a focus on multi-district class actions and antitrust litigation.

Prior to joining Cohen Milstein, Mr. Regenold clerked for the Honorable Paul L. Friedman of the United States District Court for the District of Columbia and for the Honorable Jane Kelly of the United States Court of Appeals for the Eighth Circuit. Before that, Mr. Regenold was a litigation associate at a highly regarded global law firm where he focused on antitrust and other civil litigation matters.

Mr. Regenold earned his B.A., with College Honors, from Washington University in St. Louis. He earned his J.D., magna cum laude, from Georgetown University Law Center, where he was the vice president of the Asian Pacific American Law Students Association, an executive editor of the Georgetown Law Journal, and a member of the Order of the Coif.

Prior to law school, Mr. Regenold served as a Peace Corps Volunteer in Liberia, where he taught high school math and science, and worked as a legal assistant with the Florence Immigrant and Refugee Rights Project in his home state of Arizona, providing legal assistance to detained adults facing threat of deportation.

Mr. Regenold is proficient in Spanish.

Mr. Regenold is applying for admission to the District of Columbia bar and is currently working under the close supervision of the partners of the firm's Antitrust practice who are admitted to practice in the District of Columbia.

### **Megan Reif**

Megan Reif is a staff attorney in Cohen Milstein's Civil Rights & Employment practice. She assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to becoming a staff attorney at Cohen Milstein, Ms. Reif was a Civil Rights & Employment Law Fellow at the firm.

Before joining Cohen Milstein, Ms. Reif was a Fair Housing and Community Development Fellow at the Lawyers' Committee for Civil Rights Under Law. During her fellowship, she worked on litigation and fair housing policy work, including authoring Assessments of Fair Housing, which analyze demographic data, local policies, and relevant laws to identify barriers to fair housing and potential solutions. As a Fellow, she also worked side-by-side with Cohen Milstein lawyers on Long Island Housing Services, Inc. v. NPS Holiday Square LLC (E.D.N.Y.).

Ms. Reif speaks frequently on fair housing issues, including on the panel “Gentrification, Affordable Housing and Eviction: Defining the Impacts on Low Income,” as a part of Ecumenical Advocacy Days, 2019.

Ms. Reif received her B.A., summa cum laude, from the University of Iowa, and her J.D., cum laude, from Washington University School of Law, where she was the recipient of the F. Hodge O’Neal Corporate Law Award and the Media and Symposium Editor of Global Studies Law Review.

### **Takisha D. Richardson**

Takisha D. Richardson is of counsel at Cohen Milstein, and a member of the Complex Tort Litigation practice and the Sexual Abuse, Sex Trafficking, and Domestic Violence team. Ms. Richardson focuses on representing child sexual abuse victims and adult survivors of sexual abuse.

Prior to joining Cohen Milstein, Ms. Richardson was an Assistant State Attorney and Chief of the Special Victims Unit of the State Attorney’s Office for Palm Beach County. She brings more than a decade of experience both as an attorney and as a supervisor of a team responsible for the prosecution of crimes against children and the elderly, and sexually motivated offenses. Prior to that role, she prosecuted felony cases at all levels and was an Assistant Public Defender.

In 2023, Ms. Richardson was admitted to practice before the Supreme Court of the United States.

Ms. Richardson has vast trial experience. To date, she has tried over 100 jury and non-jury trials, most of which involved sexual abuse and/or homicide matters.

Currently, Ms. Richardson is litigating the following notable matters:

- Doe, et al. v. Washington Hebrew Congregation, et al. (D.D.C.): On April 15, 2019, Cohen Milstein, on behalf of the families of 11 children between the ages of three and four, filed a lawsuit against Washington Hebrew Congregation Edlavitch Tyser Early Childhood Center and its Director for failing to protect their children from sexual abuse by a preschool teacher over a two-year period.
- Doe v. Scores, et al. (Cir. Ct., Hillsborough Cnty., Fla.): On January 29, 2020, Cohen Milstein filed a lawsuit on behalf of a young woman against Scores Holding Company, Inc. and its affiliates for illegally employing her when she was a minor at one of its Florida locations, subjecting her to be sexual abuse and human trafficking.

Ms. Richardson’s past successes include:

- Jimmy Dac Ho (Cir. Ct., Palm Beach Cnty., Fla.): Ms. Richardson helped prosecute and incarcerate a former law enforcement officer for first-degree murder and kidnapping (with a firearm) of a 29-year-old aspiring law school student from Boynton Beach, Florida.
- Stephen Budd (Cir. Ct., Palm Beach Cnty., Fla.): Ms. Richardson brought to trial a former fourth-grade teacher who was found guilty on five charges of sexual assault and sentenced to serve three consecutive life sentences on the first three charges and 15 years on each of the final two charges.
- Carlos Soto (Cir. Ct., Palm Beach Cnty., Fla.): Ms. Richardson successfully prosecuted this lawsuit involving sexual battery of a child. The bravery of the victim, who testified at trial, aided in the conviction of the defendant on all charges and who is serving 45 years in prison.
- Jorge Gonzalez (Cir. Ct., Palm Beach Cnty., Fla.): Ms. Richardson prosecuted the defendant, who is now serving a life sentence in prison, as a result of the seven-year-old victim bravely telling a family friend about being forced to receive inappropriate, sexual touching.

Ms. Richardson was a Fellow in the Florida Bar's Wm. Reece Smith, Jr. Leadership Academy 2019-2020 class, a program designed to assist a select group of lawyers from across the state in becoming better leaders within the Bar and legal community. She is also the Chair of the Legislation Relations Subcommittee for the Florida Bar and Vice Chair of the Family Law Rules Committee for the Florida Bar

In 2021, Ms. Richardson was recognized as a "Best Lawyer – Personal Injury Litigation - Plaintiffs" by The Best Lawyers in America, and in 2019, Ms. Richardson received the Daily Business Review's "Innovative Practice Areas" award which honors the firm's Sexual Abuse, Sex Trafficking and Domestic Violence team.

Ms. Richardson is a member of the Sex Abuse Response Team (SART), a countywide coalition responsible both for advocacy on behalf of victims of sexual abuse and for maintaining national Law Enforcement protocols.

Ms. Richardson attended Florida Agricultural & Mechanical University in Tallahassee Florida, where she received her B.S. in Political Science. She earned her J.D., from University of Florida's Frederic G. Levin College of Law, where she was the recipient of the Virgil Hawkins Scholarship.

While attending law school, Ms. Richardson was a member of the U.F. Trial Team where she earned the title Vice President of Intramural Competitions and a Final Four Trial Team Competitor. She served as Vice President of the U.F. Black Law Student's Association.

#### **Kai Richter**

Kai Richter is of counsel at Cohen Milstein and a member of the Employee Benefits/ERISA practice.

Mr. Richter has extensive trial and appellate experience in ERISA class action litigation in federal courts across the country. In 2023, Chambers USA named him a "Top Ranked" lawyer in ERISA Litigation: Mainly Plaintiffs USA - Nationwide.

Prior to joining Cohen Milstein, Mr. Richter was a partner and practice leader at a highly regarded national plaintiffs' law firm, where he represented clients in all manner of class actions, including over two dozen ERISA class actions as court-appointed class counsel.

Mr. Richter's experience also includes public service as the Manager of the Complex Litigation Division of the Minnesota Attorney General's Office, and as a litigator in the Office of General Counsel for the Federal Election Commission.

Mr. Richter is currently involved in several high-profile matters:

- AT&T Pension Benefit Plan Litigation (N.D. Cal.): Cohen Milstein represents AT&T pension plan participants a lawsuit, alleging that they were deprived of accrued, vested pension benefits when they received their pension benefit in the form of a Joint and Survivor Annuity, resulting in their receiving less than the actuarial equivalent of their vested accrued benefits.
- Envision Management Holding, Inc. ESOP Litigation (D. Col.): Cohen Milstein represents Envision Management Holding ESOP participants in a lawsuit in connection with the sale of Envision Management Holding, Inc. to the ESOP at an inflated price, which caused a multi-million-dollar loss to the ESOP.
- Luxottica Group Pension Plan Litigation (E.D.N.Y.): Cohen Milstein represents Luxottica pension plan participants in a lawsuit, alleging that the plan used outdated mortality tables to determine the value of participants' joint and survivor annuities, resulting in married retirees receiving less than the actuarial equivalent of the benefit that ERISA protects.
- Nationwide Savings Plan Litigation (S.D. Ohio): Cohen Milstein represents participants in the Nationwide

Savings Plan in a lawsuit, alleging that Nationwide improperly set its own compensation, earned impermissible profits at the expense of its employees, and exposed its employees' retirement savings to undue risk.

- New York Life 401(k) Plan Litigation (S.D.N.Y.): Cohen Milstein represents employees in a lawsuit against New York Life, which alleges corporate self-dealing and the prohibited transfer of employees' retirement assets to defendants at the expense of the retirement savings of New York Life employees and agents.
- Western Milling ESOP Litigation (E.D. Cal.): Cohen Milstein represents participants and beneficiaries of the Western Milling Employee Stock Ownership Plan, who allege that the ESOP's trustees breached their fiduciary duties under ERISA in connection with the purchase of Kruse-Western, Inc. company stock.

A sought-after public speaker, Mr. Richter has spoken frequently on ERISA before the American Law Institute, American Bar Association, Professional Liability Underwriting Society, Retirement Advisor Council, Practising Law Institute, and American Conference Institute.

In addition, Mr. Richter has held teaching roles as the Co-Director of the Robert F. Wagner Labor Law Moot Court Program for the University of Minnesota Law School, and as an adjunct legal writing instructor at Hamline University. He also formerly served as the Co-Chair of the Minnesota State Bar Association Consumer Litigation Section.

Mr. Richter received his B.A., cum laude, from Dartmouth College, and he received his J.D., cum laude, from University of Minnesota Law School.

#### **Raymond M. Sarola**

Raymond M. Sarola is of counsel at Cohen Milstein and a member of the Whistleblower/False Claims Act and the Ethics and Fiduciary Counseling practices. He represents whistleblowers in qui tam cases brought under the federal and state False Claims Act statutes in industries that conduct business with the government, including health care, defense, and financial services. As a member of the firm's Ethics and Fiduciary Counseling practice, Mr. Sarola calls on his experience as a trustee on the New York City pension fund boards in counseling public pension funds fiduciary issues.

Prior to joining Cohen Milstein, Mr. Sarola served as Senior Policy Advisor & Counsel in the Mayor's Office of the City of New York, where he represented the Mayor and Commissioner of Finance on the boards of the City's pension systems and deferred compensation plan and advised on legal issues regarding pension investments, benefit payments, securities litigation and corporate governance initiatives. Previously, Mr. Sarola was a litigation associate at a noted defendants' firm, where he focused on securities, antitrust, and other complex commercial litigation, and internal investigations.

Mr. Sarola's government service and corporate defense litigation experience has been invaluable to his role in counseling clients in their claims against the government and corporate entities.

Mr. Sarola has been involved in high-profile whistleblower cases including:

- United States et al., ex rel. Lauren Kieff, v. Wyeth: Mr. Sarola assisted in this qui tam action against the pharmaceutical company Wyeth, resulting in a \$784.6 million settlement, the seventh-largest False Claims Act recovery on record.
- United States ex rel. Davis, et al. v. Southern SNF Management, Inc. et al.: Mr. Sarola was actively involved in this qui tam case in which the whistleblowers alleged the skilled nursing facilities in which they worked were involved in a multi-year scheme to increase the facilities' Medicare reimbursement by assigning Medicare patients to levels of therapy far greater than medically appropriate and billing Medicare at the higher amounts associated with this unnecessary therapy. The government recovered \$10 million from the

defendants.

Some of Mr. Sarola's current representations include:

- A sealed qui tam action against a healthcare company alleging that it performed medically unnecessary procedures on patients covered by Medicare and Medicaid.
- A sealed qui tam action against healthcare companies alleging that they denied necessary treatment to patients in violation of Medicare regulations.
- Multiple qui tam actions alleging the unnecessary provision of skilled therapy in nursing homes.
- A sealed qui tam action alleging fraud in the bidding for a public contract.
- A sealed qui tam action against a provider of telehealth services alleging overbilling and underprovision of healthcare services.
- A sealed qui tam action against a healthcare company for allegedly defrauding the government's Electronic Health Record Incentive Programs.
- Sealed qui tam actions against pharmaceutical companies alleging that they overcharged the government healthcare programs for brand-name drugs.
- Submissions under the Securities and Exchange Commission Whistleblower Program and the Internal Revenue Service Whistleblower Program alleging securities and tax fraud against major financial services companies and other entities.
- Submissions under the SEC and Commodity Futures Trading Commission Whistleblower Programs alleging violations of the Foreign Corrupt Practices Act and the Commodity Exchange Act.

Mr. Sarola has published articles on whistleblower issues, including the use of statistical sampling to prove large fraud cases. He has also published and spoken at conferences on pension fund fiduciary issues, in particular the SEC's pay-to-play rule. He is a member of Taxpayers Against Fraud, a nonprofit, public interest organization dedicated to combating fraud against the Federal Government through the promotion and use of the False Claims Act.

In addition, Mr. Sarola was part of the Cohen Milstein team that successfully represented the estate of Kirsten Englund in a wrongful death case of first impression in Oregon state court and nationally, addressing the legal liability for federally licensed firearms dealers involved in online straw sales. The landmark settlement (October 2018) establishes important legal precedent at the state and federal levels regarding gun dealer responsibility for online sales of firearms. Given the precedential significance of this lawsuit, Cohen Milstein was named to The National Law Journal's "2019 Pro Bono Hot List" and won Public Justice Foundation's "2019 Trial Lawyer of the Year – Finalist" award. Mr. Sarola was a co-author of "INSIGHT: Holding Firearms Dealers Accountable for Online Straw Sales," Bloomberg Law (December 19, 2018), which discussed this case and won a 2019 Burton Award for Distinguished Legal Writing.

Mr. Sarola received his B.A. from the University of North Carolina at Chapel Hill, and earned his J.D. from the University of Pennsylvania Law School, where he also earned a Certificate of Study in Business and Public Policy from the Wharton School. While in law school, he was a Summer Intern for the Honorable Clarence Newcomer, United States District Court for the Eastern District of Pennsylvania.

### **Brendan Schneiderman**

Brendan Schneiderman is an associate in Cohen Milstein's Securities Litigation & Investor Protection practice, where he represents institutional and individual shareholders in derivative lawsuits and securities class actions.

Prior to becoming an associate at Cohen Milstein, Mr. Schneiderman was a Law Fellow at the firm where he worked across practices and was involved in litigating individual and class action cases at the district and appellate levels.

Mr. Schneiderman is involved in the following high-profile cases:

- *Chahal v. Credit Suisse Grp. AG, et al.* (S.D.N.Y.): Cohen Milstein is Co-Lead Counsel in this putative securities class action alleging fraud and market manipulation of XIV Exchange Traded Note market.
- *Bristol-Myers Squibb CVR Securities Litigation* (S.D.N.Y.): Cohen Milstein is Lead Counsel in this securities class action arising from Bristol Myers' alleged subversion of the FDA approval process for the cancer therapy Liso-cel for the purpose of avoiding a \$6.4 billion payment to holders of contingent value rights (CVRs).

Mr. Schneiderman also has an active pro bono practice. High-profile cases include:

- *Lewis, et al v. Cain, et al.* (M.D. La.): Cohen Milstein represents a certified class of more than 6,000 incarcerated individuals in a lawsuit filed against the Louisiana State Penitentiary in Angola, LA, the largest maximum-security prison in the country, and the Louisiana Department of Public Safety and Corrections for deficient and discriminatory medical care in violation of the Eighth Amendment, the Americans with Disabilities Act, and the Rehabilitation Act.

Mr. Schneiderman received his B.A., magna cum laude, from Pomona College and his J.D. from Harvard Law School, where he was the Executive Technical Editor and Article Selection Editor for Harvard Civil Rights-Civil Liberties Law Review, and a member of the People's Parity Project.

During law school, Mr. Schneiderman participated in several legal internships, including a summer internship at Cohen Milstein.

Prior to pursuing a legal career, Mr. Schneiderman was a consultant at an energy regulatory, economics and advocacy consulting firm.

### **Jacob Schutz**

Jacob Schutz is an associate in Cohen Milstein's Employee Benefits/ERISA practice. In this role, Mr. Schutz represents the interests of employees, retirees, plan participants and beneficiaries in ERISA class-action lawsuits across the country.

Prior to joining Cohen Milstein, Mr. Schutz was an associate for several years at a highly regarded national plaintiffs' law firm, where he represented clients in employee benefits/ERISA class actions.

Mr. Schutz received his B.A., summa cum laude, from the University of Pennsylvania. He received his J.D., magna cum laude, from the University of Minnesota Law School, where he was a notes and articles editor for the ABA Journal of Labor & Employment Law and a member of the Order of the Coif. While at law school, he published the note: *Association Discrimination under the Americans with Disabilities Act: The Case of Dependent Healthcare Costs*, 27 ABA J. Lab. & Emp. L. 485.

### **Aniko R. Schwarcz**

Aniko R. Schwarcz is an attorney in Cohen Milstein's Civil Rights & Employment practice where she serves as director of case development. She investigates and develops new cases involving the antidiscrimination provisions of Title VII, the Equal Pay Act, the Affordable Care Act and the Fair Housing Act, as well as wage theft issues under the Fair Labor Standards Act and state law.

With over a decade of experience in employment law, interviewing and working with clients and witnesses and

assessing the legal claims of prospective class members, Ms. Schwarcz directs and oversees the intake and evaluation of the firm's civil rights-related inquiries and case referrals. She also onboards, educates, and supports clients throughout the class action litigation process, from investigation through resolution.

Ms. Schwarcz's multi-disciplinary training and experience contribute to her unique insight and broad capacity for understanding both the social-emotional and economic effects of workplace discrimination on her clients.

Representative Clients, Investigations, and Litigation:

- Female Retail Employees – Investigation of pregnancy and gender-based discrimination in violation of the Equal Pay Act and Title VII.
- LGBTQ+ Employees – Investigation into denial of coverage for gender affirming healthcare.
- Detained Immigrants – Investigation into wage theft at Federal administrative detention facility.
- Individuals Seeking Treatment for Substance Use Disorder – Investigation into wage theft at adult rehabilitation centers.

She also represents others including non-profit organizations, in conducting internal workplace investigations.

Ms. Schwarcz played a key role in *Jock, et al. v. Sterling Jewelers Inc.* (A.A.A.; S.D.N.Y.), a nationwide Title VII gender discrimination and Equal Pay Act case, which parties agreed to settle in 2022. Ms. Schwarcz interviewed and collected affidavits from hundreds of the company's retail workers, which were produced in support of the team's successful motion for class certification. Ms. Schwarcz also interviewed and filed hundreds of EEOC charges on behalf of former class members in *Dukes v. Wal-Mart Stores, Inc.*

Prior to joining Cohen Milstein, Ms. Schwarcz was a Social Work Fellow in Advocacy Programs at the Alliance for Justice.

Ms. Schwarcz attended Vanderbilt University, graduating with honors and earned her J.D. from the University of Maryland Francis King Carey School of Law. She also holds a Masters of Social Work from the University of Maryland.

### **Richard A. Speirs**

Richard A. Speirs is of counsel at Cohen Milstein and a member of the Securities Litigation & Investor Protection practice. Mr. Speirs is principally responsible for developing and litigating the firm's derivative and merger-related lawsuits. He has also worked on many of the mortgage-backed securities fraud cases that were successfully litigated by the firm.

Mr. Speirs has been involved in the following notable settlements:

- FirstEnergy Shareholder Derivative Litigation (S.D. Ohio; N.D. Ohio): Cohen Milstein represented the Massachusetts Laborers Pension Fund in two shareholder derivative actions against certain current and former officers and directors and nominal defendant FirstEnergy related to the Company's involvement in Ohio's largest public bribery schemes. On August 23, 2022, the Court granted final approval of a \$180 million global settlement of all shareholder derivative cases.
- Boeing Derivative Litigation (N.D. Ill.; Del. Ch.): Cohen Milstein served as sole lead counsel in a federal derivative case brought by the Seafarers Pension Plan against The Boeing Company's directors and officers arising out of the 737 MAX crashes and alleging federal proxy statement violations in connection with director elections. After the case was dismissed on forum non conveniens grounds, Plaintiffs successfully argued before the U.S. Court of Appeals for the Seventh Circuit, obtaining a 2-to1, precedent-setting decision reversing the district court's dismissal of the case based on enforcement of Boeing's forum selection

bylaw. The derivative action ultimately settled, along with a companion class action filed by the Seafarers in Delaware Chancery Court after the district court's dismissal and challenging the bylaw under Delaware law, for corporate governance reforms valued in excess of \$100 million and a \$6.25 million payment by the Directors' insurers to the Company.

- In re Alphabet Shareholder Derivative Litigation (Sup. Ct. Cal., Santa Clara Cnty.): Cohen Milstein, as Co-Lead Counsel, represented Northern California Pipe Trades Pension Plan and Teamsters Local 272 Labor Management Pension Fund in a shareholder derivative lawsuit against the Board of Directors of Alphabet, Inc. Shareholders alleged that the tech giant's Board violated its fiduciary duty by enabling a double standard at Alphabet that allowed powerful executives to sexually harass and discriminate against women without consequence. On November 30, 2020, the Court granted final approval of a historic settlement, including a \$310 million commitment to fund diversity, equity, and inclusion initiatives at Alphabet-owned companies, and workplace and corporate governance reforms including limiting non-disclosure agreements and ending mandatory arbitration in sexual harassment, gender discrimination, and retaliation-related disputes.
- Wynn Resorts, Ltd. Derivative Litigation (Eighth Jud. Dist. Ct., Clark Cnty., Nev.): Cohen Milstein represented New York State Common Retirement Fund and the New York City Pension Funds as Lead Counsel in a derivative shareholder lawsuit against certain officers and directors of Wynn Resorts, Ltd., arising out of their failure to hold Mr. Wynn, the former CEO and Chairman of the Board, accountable for his longstanding pattern of sexual abuse and harassment of company employees. In March 2020, the Court granted final approval of a \$90 million settlement in the form of cash payments and landmark corporate governance reforms, placing it among the largest, most comprehensive derivative settlements in history.
- Intuitive Surgical Inc. Derivative Litigation (Sup. Ct., Cal.): Cohen Milstein was co-lead counsel in a now settled derivative action against the company's directors and officers, asserting breaches of fiduciary duties and insider trading claims in connection with concealing regulatory compliance problems and safety defects in the company's flagship product, the da Vinci robotic surgery system.
- Ocwen Financial Corp. Derivative Litigation (D.V.I.): Cohen Milstein was co-lead counsel in a derivative action alleging that Ocwen's board of directors breached their fiduciary duties by permitting a pervasive scheme of wrongdoing in violation of applicable federal and state consumer financial protection laws. The defendants had exposed Ocwen to substantial harm by concealing failures with respect to the Company's compliance with regulations governing the servicing of mortgage loans, failing to establish adequate internal controls, permitting former Chairman and Chief Executive Officer to be involved in a series of improper self-dealing transactions and allowing insiders to trade on material adverse information. The litigation resulted in a settlement involving the adoption of significant corporate governance measures.
- Bear Stearns Mortgage Pass-Through Certificates Litigation (S.D.N.Y.): \$505 million settlement by JPMorgan Chase & Co. to settle a class action litigation arising from Bear Stearns' sale of \$27.2 billion of mortgage-backed securities that proved defective during the U.S. housing and financial crises.
- RALI MBS Litigation (S.D.N.Y.): \$335 million settlement with Citigroup, Goldman Sachs and UBS. Cohen Milstein was lead counsel in a class action litigation alleging RALI and its affiliates sold shoddy MBS securities that did not meet the standards of their underwriters. Mr. Speirs was a critical member of the team of litigators, conducting fact discovery, deposing economic experts and preparing witnesses.
- Harborview MBS Litigation (S.D.N.Y.): \$275 million settlement with Royal Bank of Scotland. Cohen Milstein was lead counsel in a complex case, in which presiding Judge Loretta A. Preska, of the U.S. District Court, Southern District of New York, commented on the "job well done" by the Cohen Milstein team.
- NovaStar Mortgage Backed Securities Litigation (S.D.N.Y.): \$165 million settlement on behalf of investors in a Securities Act litigation involving billions of dollars of mortgage-backed securities underwritten by the Royal Bank of Scotland, Wachovia and Deutsche Bank.
- HEMT MBS Litigation (S.D.N.Y.): \$110 million settlement on behalf of investors in mortgage-backed securities issued and underwritten by Credit Suisse after more than seven years of litigation, which included the first written decision certifying a Securities Act class of mortgage-backed securities in the country.
- Sino-Forest Corp. Securities Litigation (Sup. Ct., New York Cnty., N.Y.): Cohen Milstein served as lead counsel for U.S. investors in securities fraud class action brought on behalf of investors in Sino-Forest Corp., a

Canadian corporation, which achieved \$150 million in settlements from numerous defendants.

He is currently litigating the following cases:

- XL Fleet (Pivotal) Stockholder Litigation (Del. Ch.): Cohen Milstein is co-lead counsel in a stockholder action against XL Fleet and certain current and former officers and directors. The action alleges that XL Fleet and Pivotal entered into a de-SPAC transaction harmful to stockholders.
- Nikola Corporation Derivative Litigation (Del. Ch.): Cohen Milstein is co-lead counsel in a shareholder derivative action against Trevor Milton, the founder and former CEO and Executive Chairman of Nikola Corporation, a zero-emissions vehicle startup company, and certain other current and former directors and officers of Nikola. The action alleges that Milton engaged in an ongoing criminal fraud involving the dissemination of materially false and misleading statements regarding Nikola's business, technology and expected financial performance to Nikola stockholders and the public. The action further alleges that Nikola and VectoIQ entered into a de-SPAC transaction harmful to stockholders.
- Virgin Galactic Holdings, Inc. Derivative Litigation (E.D.N.Y.): Cohen Milstein filed a shareholder derivative action against Richard Branson, the founder and controlling stockholder of Virgin Galactic, a commercial space start-up company, and certain other current and former officers and directors of Virgin Galactic. The action alleges insider trading against Branson and others based on sales of stock while in possession of negative information concerning the safety of the company's commercial space vehicles and the success of test flights.
- Zucker, et al. v. Bowl America, Inc., et al. (D. Md.): Cohen Milstein represents shareholders of Bowl America, Inc., who allege that the board of directors of Bowlero Corp., orchestrated a merger that was unfair, misleading and grossly inadequate, forcing the sale of Bowl America at a fire sale price. On October 11, 2022, the court denied in part defendants' motion to dismiss and the case is currently in discovery.

In a career spanning more than 35 years, Mr. Speirs has been lead or co-lead attorney in a number of securities class actions where the court has issued an important decision under the federal securities laws. Among the issues decided were the improper grouping of unaffiliated investors in a lead plaintiff motion (In re Telxon Corp. Securities Litigation (N.D. Ohio 1999)); recommendation of default sanction against auditing firm for discovery misconduct involving electronic audit work papers (Hayman v. PriceWaterhouseCoopers (N.D. Ohio 2004)); and liability under Section 10(b) of a non-issuer for disclosures made by the issuer (In re BP Prudhoe Bay Royalty Trust Securities Litigation (W.D. Wash. 2007)).

Mr. Speirs has appeared on numerous panels and legal events to discuss securities fraud and investor protection. He attended Brooklyn College of the City University of New York, where he received a B.A., cum laude, and earned his J.D. at Brooklyn Law School, where he earned the Order of the Coif.

### **Harini Srinivasan**

Harini Srinivasan is an associate in Cohen Milstein's Civil Rights & Employment Litigation practice.

Prior to joining Cohen Milstein, Ms. Srinivasan was an associate at a highly respected plaintiff-focused employment litigation firm, where she represented clients in employment discrimination cases involving claims under Title VII, the Age Discrimination Act, the Americans with Disabilities Act, the Fair Labor Standards Act, and state and federal wage theft statutes.

Prior to working in private practice, Ms. Srinivasan was a Georgetown Law Center Women's Law and Public Policy Fellow and worked at the National Partnership for Women & Families.

Ms. Srinivasan is working on the following notable cases:

- Harris, et al. v. Medical Transportation Management, Inc. (D.D.C.): Cohen Milstein represents non-emergency medical transportation (NEMT) drivers in a certified class action alleging that their employer, Medical Transportation Management, Inc. (MTM), knowingly and willfully failed to pay proper wages to its NEMT drivers across Washington, D.C. This lawsuit seeks to hold MTM liable as a joint employer of the drivers.
- Talarico, et al. v. Public Partnerships, LLC (E.D. Pa.): Cohen Milstein is leading a conditionally certified collective action of more than 4,900 past and present “direct care” workers, who provide home care for individuals with disabilities, for denied overtime wages. The case involves novel joint employer issues.
- Allen, et al. v. AT&T Mobility Services LLC (N.D. Ga.): Cohen Milstein and the ACLU Women’s Rights Project represent former AT&T Mobility sales representatives in a novel pregnancy discrimination class action alleging that AT&T Mobility’s “point” system for tardiness or absenteeism violates the Pregnancy Discrimination Act, Americans with Disabilities Act, and Family and Medical Leave Act, among others.
- Temporary Employment Staffing Agency Litigation (N.D. Ill.): Cohen Milstein is involved in a series of race-based discrimination class actions in Chicago, representing African-American laborers who allege that their temporary staffing agencies and their factory-clients engaged in a repeated and collusive practice of excluding African Americans from temporary laborer positions.

Ms. Srinivasan was involved in the following high-profile cases:

- Jock, et al. v. Sterling Jewelers Inc. (A.A.A.; S.D.N.Y.): Cohen Milstein represented a certified class of more than 69,000 female employees of Sterling Jewelers, one of the nation's largest jewelry chains, in a nationwide Title VII gender discrimination and Equal Pay Act class arbitration. Claimants alleged that they were subjected to a pattern of gender-based pay and promotions discrimination. On November 15, 2022, the Arbitrator granted final approval of a \$175 million settlement.
- Alvarez et al. v. Chipotle Mexican Grill Inc. et al. (D.N.J.): Cohen Milstein represented a class of managerial apprentices at Chipotle Mexican Grill restaurants in New Jersey who were denied the overtime pay to which they were entitled under federal and state law, including the newly enacted 2016 Overtime Rule, which was slated to take effect in December 2016 and would have doubled the salary threshold for executive, administrative and professional workers to be exempt from overtime pay requirements. On September 20, 2021, the Court approved a \$15 million settlement against Chipotle to resolve the class claims and end the lawsuit.

Ms. Srinivasan has authored and co-authored several articles for Law360 and Corporate Compliance Insight.

Ms. Srinivasan received her B.A., with honors, from the University of Chicago, and she received her J.D., cum laude, from American University Washington College of Law, where she was on the editorial staff of the American University Journal of Gender, Social Policy.

### **Nada S. Sulaiman**

Nada S. Sulaiman is a staff attorney at Cohen Milstein and a member of the Antitrust practice where she assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to joining Cohen Milstein, Ms. Sulaiman was an associate and staff attorney at two highly regarded defense law firms in the area of antitrust litigation.

Ms. Sulaiman’s case work includes the following high-profile matters:

- In re Interest Rate Swaps Market Manipulation Litigation (S.D.N.Y.): Cohen Milstein is court appointed Co-Lead Counsel in this groundbreaking putative class action, charging 12 Wall Street banks with conspiring to

engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world’s biggest financial markets.

- Stock Lending Antitrust Litigation (S.D.N.Y.): Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.
- Sutter Health Antitrust Litigation (Sup. Ct., San Fran. Cnty., Cal.): On August 27, 2021, the Court granted final approval of a \$575 million eve-of-trial settlement, which includes significant injunctive relief, in this closely watched antitrust class action against Sutter Health, one of the largest healthcare providers in California, for restraining hospital competition through anticompetitive contracting practices with insurance companies. Cohen Milstein was one of five firms that litigated this case since 2014 on behalf of a certified class of self-insured employers and union trust funds. California’s Attorney General joined the suit in March 2018.

Outside of the practice of law, Ms. Sulaiman is a regular volunteer at Earth Sanga, a not-for profit native plant nursery.

Ms. Sulaiman is a graduate of George Washington University, where she received a B.A., magna cum laude, in International Affairs. She earned her J.D., cum laude, from Villanova University.

#### **Daniel R. Sutter**

Daniel R. Sutter is an associate in Cohen Milstein's Employee Benefits/ERISA practice. He represents the interests of employees, retirees, plan participants and beneficiaries in ERISA cases across the country. Since 2022, Chambers USA has named Mr. Sutter an "Associate to Watch" in ERISA Litigation - Mainly Plaintiffs. In 2023, The National Law Journal named him a "Rising Star."

Prior to becoming an associate at Cohen Milstein, Mr. Sutter served as a Legal Fellow in the firm’s Employee Benefits practice, where he investigated, developed, and drafted complaints against major financial institutions for ERISA violations. Before that, Mr. Sutter worked at Cohen Milstein as a law clerk (2013-2016) and as an analyst (2010-2016), where he researched and aided in the development potential cases for a number of practices.

Mr. Sutter is currently litigating the following high-profile matters:

- AT&T Pension Benefit Plan Litigation (N.D. Cal.): Cohen Milstein represents participants and beneficiaries in the AT&T Pension Benefit Plan who allege that AT&T failed comply with ERISA’s actuarial equivalence requirements when providing married participants joint and survivor annuities.
- Triad Manufacturing, Inc. ESOP Litigation (N.D. Ill.): Cohen Milstein represents participants and beneficiaries in the Triad Manufacturing ESOP who allege that the ESOP trustees breached their fiduciary duties in connection with the sale of Triad Manufacturing to the ESOP. In September 2021, the Seventh Circuit, in a precedent-setting decision, cited an exception to the Federal Arbitration Act that permits a court to overrule an arbitration agreement if it blocks a party from being able to bring claims under federal law. As a result of this decision, Cohen Milstein and co-counsel were recognized in The American Lawyer as “Litigators of the Week.”
- Western Global Airlines ESOP Litigation (D. Del.): Cohen Milstein represents employees in connection challenging the valuation of Western Global Airlines at approximately \$1.3 billion based on the sale of 37.5% of the Company to the ESOP for \$510 million. The lawsuit seeks to restore substantial losses to the ESOP and to disgorge all ill-gotten gains received by the Neff family.
- New York Life 401(k) Plan Litigation (S.D.N.Y.): Cohen Milstein represents employees in a lawsuit against New York Life which alleges corporate self-dealing and the prohibited transfer of employees’ retirement

assets to Defendants at the expense of the retirement savings of New York Life employees and agents.

- Nationwide Savings Plan Litigation (S.D. Oh.): Cohen Milstein represents employees in a lawsuit against Nationwide Mutual Insurance Company for its prohibited transfer of employees' retirement assets into its general account.

Mr. Sutter was also significantly involved in the following high-profile successes:

- Becker v. Wells Fargo & Co. et al. (D. Minn.): Cohen Milstein recently achieved a \$32.5 million settlement prior to class certification and expert discovery. If approved, the settlement will recover 40% of estimated damages.
- BlackRock 401(k) Plan Litigation (N.D.Cal.): Cohen Milstein represented participants in the BlackRock 401(k) Plan, who allege that the Plan fiduciaries violated their duties under ERISA by investing employees' 401(k) savings almost exclusively in BlackRock proprietary funds and by using BlackRock subsidiaries to broker securities lending deals using the Plan's assets. In November 2021, the court granted final approval of a \$9.65 million settlement.

Mr. Sutter attended George Washington University, graduating with a B.A. in Finance in 2010. He earned his J.D. from the George Washington University Law School in 2016. During law school, he was a member of the Federal Circuit Bar Journal, and he also worked as a law clerk at the Consumer Financial Protection Bureau, Legal Division, over the summer of 2015. He also studied at the London School of Economics.

### **Steven J. Toll**

Steven J. Toll is a partner at Cohen Milstein and co-chair of the Securities Litigation & Investor Protection practice. He guides the firm's mediation efforts and strategy and has been lead or principal counsel on some of the most high-profile stock fraud lawsuits in the past 30 years, arguing important matters before the highest courts in the country.

Mr. Toll has built a distinguished career and reputation as a fierce advocate of the rights of shareholders and has guided mediation efforts on the firm's largest and most important matters (both securities fraud and other consumer type cases), a role in which he has earned the trust of mediators, as well as the respect of defense counsel. Mr. Toll has been involved in settling some of the most important mortgage-backed securities (MBS) class-action lawsuits in the aftermath of the financial crisis, including: Countrywide Financial Corp., which settled for \$500 million in 2013; Residential Accredited Loans Inc. (RALI), which settled for \$335 million in 2014; Harborview MBS, which settled for \$275 million, also in 2014; and Novastar MBS, which settled for \$165 million in 2019. He also negotiated a \$90 million settlement of a suit against MF Global.

Among Mr. Toll's important cases is the Harman class action suit, where Mr. Toll argued and won an important ruling from the U.S. Court of Appeals for the District of Columbia Circuit. The Circuit Court reinstated the suit against electronics maker Harman International Industries; the ruling is significant in that it places limits on the protection allowed by the safe harbor rule for forward-looking statements. A \$28.25 million settlement was achieved in this action in 2017.

Mr. Toll was also co-lead counsel in the BP Securities class action securities fraud lawsuit that arose from the devastating Deepwater oil spill in the Gulf of Mexico. The Fifth Circuit Court of Appeals affirmed the certification of the class of investors alleged to have been injured by BP's misrepresenting the amount of oil spilling into the Gulf of Mexico, and thus minimizing the extent of the cost and financial impact to BP of the clean-up and resulting damages. In February 2017, the court granted final approval to a \$175 million settlement reached between BP and lead plaintiffs for the "post-explosion" class.

Mr. Toll was co-lead counsel in the consumer class action suit against Lumber Liquidators, a lawsuit that alleges the

nationwide retailer sold Chinese-made laminate flooring containing hazardous levels of the carcinogen formaldehyde while falsely labeling their products as meeting or exceeding California emissions standards, a story that was profiled twice on 60 Minutes in 2015. In October 2018, the court granted final approval to a settlement of \$36 million between Lumber Liquidators and plaintiffs.

Over the course of his career, Mr. Toll has received numerous industry recognitions for his work. Most recently, in 2019, The National Law Journal and The Trial Lawyer named him one of “America’s 50 Most Influential Trial Lawyers.” In 2018 and 2019, Mr. Toll was named a Legal 500 “Leading Lawyer – Securities Litigation.” In 2018, he was named Law360’s “Titan of the Plaintiffs Bar.” In 2017, he was named Law360’s “MVP – Class Actions,” in 2015, he was named Law360’s “MVP – Securities,” and since 2014, he has been perennially named to the Lawdragon 500, which recognizes the 500 leading lawyers in America. He is also annually recognized as a Super Lawyer in Securities Litigation and Class Action/Mass Torts.

Mr. Toll writes and speaks extensively on securities litigation and investor protection issues. His articles have appeared in Harvard Law School Forum on Corporate Governance and Financial Regulation and Cohen Milstein’s Shareholder Advocate.

Mr. Toll has provided a great deal of pro bono legal work during a career at Cohen Milstein that spans more than three decades. In addition, he has been an active supporter of Children’s Hospital National Medical Center for decades, setting up an endowment in his daughter’s name to help the Hospital’s leukemia patients and their families (his daughter passed away from leukemia in 1987), plus more recently establishing regular programs for music and laughter for the children during their hospital stays.

Mr. Toll is a graduate of the Wharton School of the University of Pennsylvania, earning a B.S., cum laude, and received his J.D. from Georgetown University Law Center, where he was Special Project Editor of The Tax Lawyer.

#### **Claire L. Torchiana**

Claire Torchiana is an associate in Cohen Milstein’s Consumer Protection practice. Ms. Torchiana’s practice focuses on litigating class actions on behalf of consumers who have been misled, deceived or harmed by large corporations.

Prior to joining Cohen Milstein, Ms. Torchiana was an attorney focused on student loan debt at the Student Borrower Protection Center and Housing and Economic Rights Advocates, two of the country’s leading consumer protection advocacy organizations.

Ms. Torchiana earned her B.A. with Distinction from Stanford University and her J.D., with High Pro Bono Distinction from Stanford Law School. While at law school, she was a senior and executive editor of the Stanford Journal of Civil Rights and Civil Liberties.

During law school, Ms. Torchiana participated in several legal internships, including the San Francisco City Attorney’s Office, the National Housing Law Project, and the California Department of Justice, Office of Attorney General.

Ms. Torchiana is fluent In French.

Ms. Torchiana is admitted only in California. She is currently working under the close supervision of partners of the firm who are admitted to practice in New York.

#### **Catherine A. Torell**

Catherine A. Torell is the director of securities research and analysis at Cohen Milstein and a member of the

Securities Litigation & Investor Protection practice. She has the exclusive role of analyzing every securities case that is brought to the firm.

Ms. Torell is also responsible for thoroughly researching the factual and legal merits of all of the federal securities fraud class actions filed in the United States. Based on her research, she generates written analyses to evaluate the merits of each case for the firm's Case Evaluation Committee and assesses the potential importance of the case to the firm's clients. As a result, she has played an integral role in helping to cultivate and significantly expand Cohen Milstein's investor client base.

Ms. Torell also prepares the written analyses that are sent to the firm's institutional clients. Those analyses describe and evaluate the merits of the cases in which those clients have sustained substantial losses and include a recommendation as to whether the firm believes the client should pursue a lead plaintiff role in the case.

Prior to focusing exclusively on her current role, Ms. Torell also actively participated in many of the firm's notable securities class actions, including *In re Parmalat Securities Litigation* 376 F. Supp. 2d 472 (S.D.N.Y. 2005).

Ms. Torell has been practicing law for more than 25 years. Prior to joining Cohen Milstein, Ms. Torell was counsel at a number of prominent plaintiffs' class action firms, serving in co-lead and leadership positions in numerous successful class action cases that resulted in settlements collectively totaling hundreds of millions of dollars for the clients she represented. She served as a co-lead counsel in *In re Providian Financial Securities Litigation*, which resulted in a \$38 million settlement. In approving the settlement, the Court remarked on the "extremely high quality" and "skill and efficiency" of plaintiffs' counsel's work throughout the litigation.

Ms. Torell attended Stony Brook University, receiving a B.A., magna cum laude, in Political Science, and earned her J.D. from St. John's University School of Law, where she was the recipient of the Federal Jurisprudence Award.

#### **Lyzette M. Wallace**

Lyzette Wallace is discovery counsel at Cohen Milstein and a member of the Securities Litigation & Investor Protection practice. She assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Ms. Wallace has extensive discovery experience related to government investigations and litigation involving securities, antitrust, and False Claims Act violations, across a range of industries, including financial services, pharmaceuticals, medical devices, healthcare, and involving the U.S. Securities and Exchange Commission, the U.S. Department of Justice, Federal Communications Commission, Federal Trade Commission, Food and Drug Administration, and numerous state attorney general offices.

Prior to joining Cohen Milstein, Ms. Wallace was as an associate at a highly regarded plaintiffs' firm and a senior associate at a highly regarded defense firm. As a plaintiffs' attorney, Ms. Wallace represented health care insurers against brand pharmaceutical manufacturers in large, antitrust class actions involving False Claims Act violations, kickbacks, Hatch-Waxman abuses and Whistleblower claims. Ms. Wallace was a member of the team that represented a whistleblower against a brand pharmaceutical manufacturer, leading to what was at the time the largest health care fraud settlement in the U.S. Department of Justice's history. As a defense attorney, Ms. Wallace defended clients in internal and external investigations in deferred prosecution agreements, False Claims Act; Food, Drug and Cosmetics Act violations; kickbacks and qui tam matters involving the U.S. Department of Justice, the House Ways and Means Committee, the Senate Finance Committee, Food and Drug Administration, and various state attorney general offices.

Ms. Wallace is currently involved in the following high-profile matters:

- PBM State Investigations: Cohen Milstein serves as Special Counsel to state attorneys general throughout the United States in their investigation into the billing practices and fee structures of managed care organizations (MCOs) and PBMs in their delivery of services to state-funded health plans.
- Pharmacy Benefit Manager (PBM) Ohio Litigation (Franklin C.P., Ohio): Cohen Milstein serves as Special Counsel to the Ohio Attorney General's Office in breach of contract litigation against PBMs Express Scripts, Inc. and OptumRx Administrative Services, LLC for allegedly overcharging certain of Ohio's state-funded health plans on millions of prescription drug claims.

Some of Ms. Wallace's recent successes include:

- In re Pinterest Derivative Litigation (N.D. Cal.): Cohen Milstein, as Interim Lead Counsel, represented the Employees Retirement System of Rhode Island and other Pinterest shareholders in a consolidated shareholder derivative complaint against certain current officers and directors of Pinterest, including its Board Chairman and CEO, for breaches of fiduciary duty and other violations of Section 14(a) of the Exchange Act, relating to their alleged personal engagement in and facilitation of a systematic practice of illegal discrimination of employees on the basis of race and sex. As a result of this illegal misconduct, the Company's financial position, goodwill, and reputation among users had been harmed. On June 9, 2022, the Court granted final approval of a \$50 million settlement.
- Eric Weiner v. Tivity Health, Inc. (M.D. Tenn.): Cohen Milstein was Class Counsel, representing Class Representative Oklahoma Firefighters' Pension and Retirement System and other purchasers of Tivity Health stock in a putative securities class action for Exchange Act violations related to Tivity's misleading the public about its relationship with United Healthcare, Inc. On October 7, 2021, the Court granted final approval of a \$7.5 million settlement.
- Ohio Department of Medicaid v. Centene, Corp. (Franklin C.P., Ohio): On June 14, 2021, the Ohio Attorney General announced a \$88.3 million settlement with Centene Corporation and its wholly owned subsidiaries for their alleged role in not only breaching contractual and fiduciary obligations to the Ohio Department of Medicaid (ODM), but also defrauding ODM out of millions of dollars through an elaborate scheme with pharmacy benefit subcontractors to maximize company profits at the expense of the ODM and millions of Ohioans who rely on Medicaid. Cohen Milstein served as Special Counsel to the Ohio Attorney General's Office in breach of contract litigation.
- In re Alphabet Shareholder Derivative Litigation (Sup. Ct. Cal., Santa Clara Cnty.): Cohen Milstein, as Co-Lead Counsel, represented Northern California Pipe Trades Pension Plan and Teamsters Local 272 Labor Management Pension Fund in a shareholder derivative lawsuit against the Board of Directors of Alphabet, Inc. Shareholders alleged that the tech giant's Board violated its fiduciary duty by enabling a double standard at Alphabet that allowed powerful executives to sexually harass and discriminate against women without consequence. On November 30, 2020, the court granted final approval of a historic settlement, including a \$310 million commitment to fund diversity, equity, and inclusion initiatives at Alphabet-owned companies, and workplace and corporate governance reforms including limiting non-disclosure agreements and ending mandatory arbitration in sexual harassment, gender discrimination, and retaliation-related disputes.

Ms. Wallace is a certified coach through the Coach Training Alliance and founded C3 Coaching, Inc. She is also an accomplished facilitator and speaker and has had the opportunity to give a presentation to a State Department audience that provided successful strategies for managing difficult client relationships and communications.

Ms. Wallace earned her B.A. from Stanford University, and she received her J.D. from Howard University School of Law, where she was the Founder & President of the Intellectual Property Student Association.

### **Ryan Wheeler**

Ryan Wheeler is an associate at Cohen Milstein and a member of the Employee Benefits practice. He represents the interests of employees, retirees, plan participants and beneficiaries in ERISA cases across the country.

Prior to joining Cohen Milstein as an associate, Mr. Wheeler was a Fellow in the firm's Fellowship program, where he worked on litigation matters spanning the firm's antitrust, consumer protection, civil rights and employment litigation, human rights, and securities litigation practices.

Before that, Mr. Wheeler was a law clerk to the Honorable Michael H. Simon of the United States District Court for the District of Oregon.

Mr. Wheeler received his B.A. from Pomona College and his J.D. from Harvard Law School, where he was the Solicited Content Editor for Harvard Civil Rights-Civil Liberties Law Review, a founding member of the Pipeline Parity Project (now known as the People's Parity Project), and the co-president of Project No One Leaves.

### **Kamilah Williams**

Kamilah Williams is a staff attorney at Cohen Milstein and a member of the Antitrust practice. She assists in discovery and evidentiary-related aspects of litigation and deposition preparation.

Prior to joining Cohen Milstein, Ms. Williams was a staff attorney at a highly regarded global defense law firm, where she organized and analyzed, among other things, custodial documents regarding antitrust violations, second requests, state and federal investigations, fraud, and various class actions, as well as conducted deposition, trial, hearing, merger and settlement preparations.

Ms. Williams is currently involved in these high-profile matters:

- In re Interest Rate Swaps Market Manipulation Litigation (S.D.N.Y.): Cohen Milstein is court appointed Co-Lead Counsel in this groundbreaking putative class action, charging 12 Wall Street banks with conspiring to engineer and maintain a collusive and anti-competitive stranglehold over the interest rate swaps market – one of the world's biggest financial markets.
- Stock Lending Antitrust Litigation (S.D.N.Y.): Cohen Milstein is co-leading an antitrust class action alleging that major investment banks conspired to prevent the stock lending market from evolving by boycotting and interfering with various platforms and services designed to increase transparency and reduce costs in the stock lending market.

Ms. Williams earned her B.A. from Salisbury State University and her J.D. from Catholic University of America-Columbus School of Law.

While attending law school, Ms. Williams was a student attorney at Catholic University's Columbus Community Legal Services, where she provided legal advice and counsel to disadvantaged individuals and families regarding domestic violence, adoption, special education issues, child support, disabilities and veteran claims.

### **Phoebe Wolfe**

Phoebe Wolfe is an associate at Cohen Milstein and a member of the firm's Civil Rights & Employment Litigation practice.

Prior to joining Cohen Milstein, Ms. Wolfe was the Litigation Fellow at the National Women's Law Center, where she

worked on litigation and amicus briefs aimed at advancing the Center's mission across intersecting legal issues that affect women, particularly in the workplace.

Before the National Women's Law Center, Ms. Wolfe was a Public Interest Fellow at Tycko & Zavareei LLP, a class action plaintiffs law firm. As part of her fellowship, Ms. Wolfe also spent several months at Public Justice, one of the nation's foremost plaintiff advocacy and litigation organizations.

Ms. Wolfe received her B.A. from the Macaulay Honors College at Hunter College. She received her J.D. from Columbia Law School, where she was a Harlan Fiske Stone Scholar and senior editor of the Columbia Law Review.

Ms. Wolfe has applied for admission to the District of Columbia Bar and is currently working under the close supervision of the partners of the firm who are admitted to practice in the District of Columbia.

# EXHIBIT 1-F

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et al.*  
Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

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**DECLARATION OF BRETT S. KRANTZ ON BEHALF OF  
KOHRLMAN JACKSON & KRANTZ LLP IN SUPPORT OF APPLICATION FOR  
AN AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES**

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I, Brett S. Krantz, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am a partner of the law firm Kohrman Jackson & Krantz LLP (“KJK”). I am submitting this declaration in support of my firm’s application for an award of attorneys’ fees and expenses in connection with services rendered in the above-entitled action (the “Action”) from inception through November 20, 2024 (the “Time Period”).

2. My firm is Co-Lead Counsel in the Action and was involved throughout the course of the litigation as described in the accompanying Declaration of Richard A. Speirs and Brett S. Krantz in Support of (i) Class Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (ii) Co-Lead Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses, filed herewith.

3. The information in this declaration regarding my firm’s time and expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. These records (and backup documentation where necessary) were reviewed by me and

others at my firm, under my direction, to confirm both the accuracy of the entries as well as the necessity for and reasonableness of the time and expenses committed to the Action. As a result of this review, I believe that the time reflected in the firm's lodestar calculation and the unpaid expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the unreimbursed expenses are all of a type that would normally be paid by a fee-paying client in the private legal marketplace.

4. The number of hours spent on the litigation for which my firm has not received any payment is 1,452.8. The lodestar amount for that attorney/professional support staff time based on the individual's current hourly rates is \$744,726.00. A summary of the lodestar is provided in Exhibit A. The hourly rates shown in Exhibit A are consistent with the hourly rates charged to our non-contingency clients. The firm's rates are set based on periodic analysis of rates used by firms performing comparable work. For personnel who are no longer employed by the firm, the "current rate" used for the lodestar calculation is the rate for that person in his or her final year of employment with the firm. Time expended in preparing this application for fees and payment of expenses has not been included.

5. This firm has already received \$102,135.00 in fees and expenses from the original Lead Plaintiffs who are members of the class in this Action.<sup>1</sup> That amount consists of \$98,877.22 in fees and \$3,257.78 in expenses. In accordance with the retainer agreement with the Trusts, if the Court awards KJK \$98,877.22 or more in fees in this matter, that amount will go to the Trusts.

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<sup>1</sup> The original Lead Plaintiffs in this Action were Anita G. Zucker, Trustee of the Anita G. Zucker Trust Dated April 4, 2007, as Subsequently Amended or Restated, and Anita G. Zucker, Trustee of the Article 6 Marital Trust, Under the First Amended and Restated Jerry Zucker Revocable Trust dated April 2, 2007 (the "Trusts").

6. As noted above, KJK has already received \$3,257.78 in reimbursement for incurred expenses. That amount is not included in Para. 8. However, the Trusts are entitled to reimbursement of those \$3,257.78 in expenses.

7. The following is additional information regarding certain of these expenses already paid by the Trusts:

- (a) Overnight Delivery Services and Administrative Costs: \$407.35. These include federal express costs, copying costs, costs of a litigation document management program for the Action.
- (b) Online Legal & Factual Research: \$2,850.43. These are PACER and Lexis Nexis charges.

8. As detailed in Exhibit B, my firm has incurred an additional \$96,520.33<sup>2</sup> in unreimbursed expenses in connection with the prosecution of the Action. The expenses are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

9. The following is additional information regarding certain of these expenses:

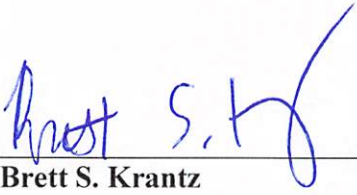
- (a) Overnight Delivery Services and Administrative Costs: \$5,942.07. These include federal express costs, copying costs, costs of a litigation document management program for the Action.
- (b) Online Legal & Factual Research: \$1,961.04. These are PACER and Lexis Nexis charges.
- (c) Travel Expenses: \$4,601.22. These include costs of travel, including airfare, accommodation and food for work performed directly related to this matter including depositions and appearances before the Court.
- (d) Expert Expenses: \$84,016.00 – This includes costs incurred from the retention and use of experts in this Action.

10. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm.

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<sup>2</sup> For purposes of clarity, the total amount of expenses KJK is seeking through this application is \$99,778.11. Of that amount, \$3257.78 will be forwarded by KJK to the original Lead Plaintiffs.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of November 2024.

  
\_\_\_\_\_  
**Brett S. Krantz**

*Bowl America, Inc. Securities Settlement***EXHIBIT A****LODESTAR REPORT**

FIRM: Kohrman Jackson &amp; Krantz, LLP.

REPORTING PERIOD: INCEPTION THROUGH November 21, 2024

<b>PROFESSIONAL</b>	<b>STATUS</b>	<b>CURRENT RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
Antonio F. Dempsey	A	\$285.00	2.2	\$627.00
Ankita Patel	PL	\$220.00	0.7	\$154.00
Brett S. Krantz	P	\$600.00	899.5	\$539,700.00
Carol L. Builder	PL	\$180.00	0.5	\$90.00
Christopher G. Herrel	A	\$300.00	14.4	\$4,320.00
Christopher J. Hubbert	P	\$575.00	28.2	\$16,215.00
Derek P. Hartman	A	\$400.00	362.4	\$144,960.00
Krista P. Wagner	PL	\$220.00	98.5	\$21,670.00
Nathan F. Studeny	P	\$425.00	28.2	\$11,985.00
Thomas J. Hunt	A	\$275.00	18.2	\$5,005.00
<b>TOTALS</b>				<b>\$744,726.00</b>

Partner (P)  
Associate (A)  
Paralegal (PL)

*Bowl America, Inc. Securities Settlement*

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: Kohrman Jackson and Krantz, LLP

REPORTING PERIOD: INCEPTION THROUGH FILING DATE

<b>CATEG ORY</b>		<b>TOTAL AMOUNT</b>
Travel Expense		\$4,601.22
Other Administrative Costs		\$5,942.07
Online Legal & Factual Research		\$1,961.04
Expert Fees		\$84,016.00
<b>TOTAL</b>		<b>\$96,520.33</b>

***Bowl America, Inc. Securities Settlement***

**EXHIBIT C**

**KJK Firm Resume**



## OVERVIEW & **EXPERIENCE**

November 14, 2024

### **COLUMBUS OFFICE**

10 West Broad Street  
One Columbus Center + Suite 2500  
Columbus, OH 43125

614.427.5731

### **CLEVELAND OFFICE**

1375 East Ninth Street  
One Cleveland Center + 29th Floor  
Cleveland, OH 44114

216.696.8700

**KJK.com**

A LAW FIRM  
**BUILT FOR BUSINESS.**

## ABOUT KJK

With offices in Cleveland and Columbus, KJK serves companies of all sizes and sectors, including Fortune 500 corporations, nonprofits, mid-market companies, small businesses, start-ups and other entrepreneurs.

We are a full-service law firm built for business – and beyond. Our robust practice areas serve clients locally and nationally, with the combined experience of our skilled team of 50+ attorneys.

KJK maintains a substantial litigation practice with a strong regional and national reputation. We litigate in state and federal courts and in arbitration tribunals throughout the United States and advise clients worldwide. Our attorneys have tried cases to judges and juries, and routinely handle complex commercial lawsuits. We are also experienced in representing national broker-dealers, clearing firms and individual brokers in securities arbitration work.

KJK's litigators have successfully resolved a broad range of commercial and regulatory matters, including construction defects, breaches of contracts, creditor disputes, employment issues, fraud allegations and securities and shareholder litigation.

# REPRESENTATIVE EXPERIENCE

November 14, 2024

## **KJK'S SECURITIES EXPERIENCE**

### **Litigation**

- Served as lead trial counsel for plaintiffs in a case involving three large nonprofits in an eight-figure FINRA arbitration in one of the first collateralized debt obligation cases to go to trial
- Served as trial counsel in two related trials involving disputes between owners of a broker-dealer; obtained injunctive relief against majority owners, a finding of defamation against them and a total dismissal of all claims against the firm's clients
- Defended a privately held manufacturing business in a shareholder derivative lawsuit
- Represented Broker Dealer and Registered Investment Advisors in over 50 securities and customer claims and trials before courts, the NASD and FINRA
- Represented Broker Dealers, Public Companies and Registered Investment Advisors in regulatory proceedings before state securities agencies, FINRA and the SEC

### **Publicly Traded Securities Experience**

- Represented a retail eyewear company in its initial public offering, subsequent secondary offering and acquisition by public tender offer
- Counseled a publicly traded pet products company through an auction process and ultimate sale to a strategic buyer
- Represented a dissident shareholder in his successful proxy campaign to reject a merger proposal and his subsequent replacement of the board
- Served as counsel to a publicly traded utility company in connection with its offering of rights to its shareholders to acquire additional shares of stock
- Represented a OTC Markets listed company in connection with a reverse stock split and "going private" transaction
- Worked with a group of investors in their acquisition of a controlling interest in a publicly traded "shell" company
- Represented a shareholder group in its successful bid for representation on the board of directors of a publicly traded provider of medical services and in its ouster of the chairman of the board

## **KJK'S COMMERCIAL LITIGATION EXPERIENCE**

### **Trial Experience**

- Served as lead trial counsel in a month-long, multi-party AAA dispute involving the sale by a Fortune 100 company of its federally regulated subsidiary
- Served as one of the lead trial attorneys in the prosecution of a high-profile malpractice claim against a class action defendant's former "big four" auditor that resulted in a multi-million dollar out-of-court settlement covered by the Wall Street Journal and other major publications
- Prevailed in bench trial in \$3.8 million breach of settlement agreement action against national bank, and was awarded legal fees
- Prevailed at week-long jury trial on behalf of business, obtaining jury award in breach of contract action, while obtaining directed verdict on adversary's fraud and conversion

claims and a verdict throwing out adversary's six figure breach of contract and trade secret misappropriation claims

- Lead counsel in two-week jury trial defending family business and its CEO against sexual harassment claims by six plaintiffs, facing liability of more than \$3 million; obtained an outcome essentially awarding a single plaintiff just \$16,000
- Defended a European automotive parts manufacturer in a UCC/contract dispute as first-chair trial counsel, obtaining a complete dismissal of plaintiff's claims and an award of sanctions

### **Other Litigation Experience**

- Representing companies and individuals in numerous state and federal regulatory investigations involving consumer protection and securities laws
- Obtained substantial settlement in a suit brought by former minority owner against majority owner alleging self-dealing and breach of fiduciary duty
- Obtained preliminary injunction in a \$20+ million real estate partnership dispute pending in multiple jurisdictions, which facilitated a favorable resolution, providing stability and security and allowing the partnership's operations to thrive free and clear of outside interference
- Successfully resolved \$6.3 million combined breach of sales representative agreement and construction dispute pending in U.S., Canadian and Mexican federal courts
- Settled \$2.6 million lawsuit filed in federal court by one of the largest law firms in the Midwest for violations of trade secret, non-compete, and tortious interference laws
- Achieved successful resolution of \$2.4 million joint venture dispute pending in multiple jurisdictions
- Obtained \$5.6 million for squeezed-out partner who did not even have a written partnership agreement in an alleged un-named entity and who had provided prior sworn statements that he was not a partner with defendants
- Prevailed in bet-the-company litigation by obtaining complete defense verdict following preliminary injunction in Federal Court on behalf of small business accused of trademark, trade dress, and copyright infringement, breach of contract, misappropriation of trade secrets, Ohio Deceptive Trade Practices Act, unfair competition, tortious interference with business, and unjust enrichment
- Obtained summary judgment and complete dismissal of all plaintiff's claims on behalf of a publicly traded national retailer
- Prosecuted claims on behalf of alternative investment funds against fraudulent transferee investors who wrongfully obtained funds through a Ponzi scheme
- Represented a national mortgage servicing company in multiple federal litigation matters, obtaining the dismissal of all plaintiffs' claims prior to trial
- Manage outside litigation and perform duties as "outsourced in-house counsel" to publicly traded manufacturer headquartered in Ohio
- Successfully defended a global manufacturer and distributor of concrete tunnel and sewer pipes; defeating an injunction and enabling the company and its new employee to commence operations in the Ohio market
- Represented original equipment manufacturer (OEM) in CERCLA litigation involving E-Waste facility in Ohio with potential liabilities in the tens of millions of dollars
- Represented numerous businesses in commercial litigation with claims involving breach of contract, product liability, and breach of express and implied warranties
- Represented a prominent foreign real estate investor in litigation which arose from a real estate broker's failure to properly maintain funds in a trust account

- Represented one of the “big four” automobile manufacturers in defending claims for lemon law, breach of warranty (state and federal) and violations of the Consumer Sales Practices Act in courts throughout the entire State of Ohio
- Represented one of the major petroleum corporations in defending premises liability claims

#### **KJK'S CLASS ACTION EXPERIENCE**

- Served as appointed local counsel on behalf of class in securities class action suit brought in the Northern District of Ohio. The class brought fraud claims against a publicly traded electronics manufacturer following allegations of channel stuffing that resulted in millions in alleged damages. Discovery sanction led to settlement in favor of the class in the amount of their entire loss
- Defended catalog companies in a variety of state-level class action claims brought by consumers for violations of numerous state statutes
- Represented a manufacturing client in defending a federal FLSA collective action which resulted in a favorable settlement prior to class certification
- Defended a New York-based public company in a securities class action that presented hundreds of millions of dollars in exposure after the company restated three years of earnings that erased more than \$300M in net income
- Successfully settled putative class action claim brought under the TCPA for allegations that automated text messages sent to customers violated autodialer provisions

# AWARDS & RECOGNITION

## 2025

- KJK Receives 12 Regional Rankings in 2025 Edition of Best Law Firms®
- 13 attorneys recognized by Best Lawyers in America®
- 3 attorneys recognized by Best Lawyers in America®: Ones to Watch
- KJK Attorney Susan Stone named Best Lawyers® Lawyer of the Year in Education Law

## 2024

- 10 attorneys recognized by Best Lawyers in America®
- 3 attorneys recognized by Best Lawyers in America®: Ones to Watch
- 15 KJK attorneys recognized by Ohio Super Lawyers®
- 10 KJK attorneys recognized by Ohio Super Lawyers Rising Stars®
- KJK Attorney John Ramsey named Best Lawyers® Lawyer of the Year in Family Law
- KJK Partner Brett Krantz Appointed to Western Reserve Historical Society Board of Directors
- 4 KJK Attorneys Recognized in 2024 JD Supra Readers' Choice Awards
- KJK Partners Susan Stone and Kristina Supler Named to Crain's 2024 Notable Women in Law

## 2023

- 9 attorneys recognized by Best Lawyers in America®
- 3 attorneys recognized by Best Lawyers in America®: Ones to Watch
- 13 KJK attorneys recognized by Ohio Super Lawyers®
- 6 KJK attorneys recognized by Ohio Super Lawyers Rising
- KJK Attorney Maribeth Meluch named Best Lawyers® Lawyer of the Year in Litigation - Intellectual Property
- KJK Partner Rob Gilmore Named to Crain's 2023 Notable Leaders in Employment and Labor Law
- KJK Receives Regional Rankings in 2023 U.S. News "Best Law Firms"

## 2022

- 9 KJK attorneys recognized by Best Lawyers®
- KJK attorney Alex Jones named among Best Lawyers®: Ones to Watch
- 13 KJK attorneys recognized by Ohio Super Lawyers®
- 3 KJK attorneys recognized by Ohio Super Lawyers Rising
- KJK attorney Susan Stone named Best Lawyers® Lawyer of the Year in Education
- KJK Managing Partner Jon Pinney Named to 2022 Crain's Power 150 List

## **2021**

- Lex Machina names KJK most active plaintiff's law firm in U.S. for contracts litigation
- Lex Machina names KJK second most active plaintiff's law firm in U.S. for trademark litigation
- 12 KJK attorneys recognized by Best Lawyers®
- 12 KJK attorneys recognized by Ohio Super Lawyers
- 6 KJK attorneys recognized by Ohio Rising Stars
- U.S. News "Best Law Firms" recognizes KJK in regional rankings for Commercial Litigation, Litigation: Labor & Employment, Criminal Defense: White Collar, Employment Law: Management, Education Law, Real Estate Law, Family Law and Health Care Law
- KJK attorney Brett Krantz named Chair of Meritas global legal alliance

## **2020**

- 11 KJK attorneys recognized by Best Lawyers®
- 12 KJK attorneys recognized by Ohio Super Lawyers
- 3 KJK attorneys recognized by Ohio Rising Stars
- U.S. News "Best Law Firms" recognizes KJK in regional rankings for Commercial Litigation, Criminal Defense: White Collar, Employment Law: Management, Education Law, Real Estate Law, Family Law and Health Care Law
- KJK Managing Partner Jon Pinney received Smart Business "Smart 50 Award"
- KJK's Max Kohrman selected to Cleveland-Marshall Law Hall of Fame
- KJK attorney Demetrius Robinson appointed Chair of Ohio State Bar Association's Advisory Council on Diversity Initiatives
- KJK Managing Partner Jon Pinney elected Chair of Destination Cleveland Board of Directors

# EXHIBIT 1-G

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et. al.*,

Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et. al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

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**DECLARATION OF SHERYL COHEN FINE IN SUPPORT OF PLAINTIFFS'  
MOTIONS FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT  
AND APPROVAL OF PLAN OF ALLOCATION, AND MOTION FOR AN  
AWARD OF ATTORNEYS' FEES AND EXPENSES**

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I, Sheryl Cohen Fine, hereby declare as follows:

1. I respectfully submit this declaration in support of final approval of the proposed settlement of the Action for \$2,175,000, approval of the proposed Plan of Allocation for distributing the proceeds of the Settlement, and approval of Co-Lead Counsel's request for attorneys' fees and expenses. I also respectfully submit this declaration in support of my request for an award, pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u- 4(a)(4), in recognition of the time that I dedicated to the litigation on behalf of the proposed Settlement Class. I have personal knowledge of the statements herein and, if called as a witness, could competently testify about them.

2. I served as a Court-appointed Class Representative in this Action pursuant to the Court's June 15, 2022 order. *See* ECF No. 86.

3. Shortly after the filing of this Action, I reached out to Co-Lead Counsel about staying informed about its status, and about potentially serving as class representative in the Action. After a number of phone calls regarding the status of the case and a discussion of Co-Lead Counsel's intention to file a class certification motion, I decided to participate in the litigation and move to become a class representative in the Action.

4. Since that time, as a proposed class representative and subsequently as a class representative, I have been in regular contact with my counsel, Co-Lead Counsel Cohen Milstein Sellers & Toll, PLLC ("Cohen Milstein"), through various phone calls, Zoom meetings, in person meetings, and emails. In my capacity as a plaintiff and Class Representative, I searched for and produced relevant documents, assisted with responding to discovery requests, prepared for, travelled across several states, and then sat for a deposition, and received and reviewed material court filings. I have requested and received regular

updates as to the progress of the litigation and issues of strategy and approach, and I was consulted before and during settlement discussions and mediation, during which I was in communication with my counsel, articulated my settlement authority, and evaluated and approved the Settlement before it was finalized.

5. I support the proposed Settlement for \$2,175,000 in cash. I believe this is a fair and reasonable result achieved by Plaintiffs' Counsel in light of the benefits it provides to the Class and the risks and uncertainties of continued litigation.

6. I understand that reimbursement of a plaintiff's costs and expenses in connection with the representation of a class, including lost wages, is authorized under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4). For this reason, in connection with Co-Lead Counsel's request for litigation expenses, I am seeking reimbursement for the time I dedicated to the prosecution of the Action which was time that ordinarily would have been dedicated to my business and investment activities. I am currently a non-practicing attorney and spent numerous hours working on this matter.

7. In my capacity as a Class Representative, I spent considerable time in connection with the Action to achieve the greatest benefit to the Class. Given my participation in this litigation, I respectfully request reimbursement of \$7,500 for these efforts that led to the Settlement.

8. I support the requested award of attorneys' fees in the amount of 28% of the Settlement Amount, or \$609,000. I believe this amount is fair and reasonable under the circumstances of this case and in light of the effort required by Plaintiffs' Counsel to pursue the case to date, the risks and challenges in the litigation, as well as the recovery obtained for the Class. I understand that Co-Lead Counsel will also devote additional time in the

future to administering the Settlement.

9. I further believe that the litigation expenses to be requested, of no more than \$360,000 are reasonable and represent the costs and expenses that were necessary for the successful prosecution and resolution of this case. Based on the foregoing, I fully support Co-Lead Counsel's motion for attorneys' fees and payment of litigation expenses.

10. In sum, I was closely involved throughout the prosecution and settlement of the claims in the Action and I respectfully request that the Court approve the Settlement as fair, reasonable, and adequate; grant a compensatory award of \$7,500 to me in light of my time and effort expended in pursuing this Action; and approve the attorneys' fee request of 28% of the Settlement Amount and full reimbursement of litigation expenses.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November<sup>20</sup>, 2024.

  
SHERYL COHEN FINE

# EXHIBIT 1-H

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

SHERYL COHEN FINE, *et. al.*,

Individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BOWL AMERICA, INC., *et. al.*,

Defendants.

Case No. 1:21-cv-01967-SAG

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**DECLARATION OF JOHN RISNER IN SUPPORT OF PLAINTIFFS'  
MOTIONS FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT  
AND APPROVAL OF PLAN OF ALLOCATION, AND MOTION FOR AN  
AWARD OF ATTORNEYS' FEES AND EXPENSES**

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I, John Risner, hereby declare as follows:

1. I respectfully submit this declaration in support of final approval of the proposed settlement of the Action for \$2,175,000, approval of the proposed Plan of Allocation for distributing the proceeds of the Settlement, and approval of Co-Lead Counsel's request for attorneys' fees and expenses. I also respectfully submit this declaration in support of my request for an award, pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4), in recognition of the time that I dedicated to the litigation on behalf of the proposed Settlement Class. I have personal knowledge of the statements herein and, if called as a witness, could competently testify about them.

2. I served as a Court-appointed Class Representative in this Action pursuant to the Court's June 15, 2022 order. *See* ECF No. 86.

3. Shortly after the filing of this Action, I reached out to Co-Lead Counsel about staying informed about its status, and about potentially serving as class representative in the Action. After a number of phone calls regarding the status of the case and a discussion of Co-Lead Counsel's intention to file a class certification motion, I decided to participate in the litigation and move to become a class representative in the Action.

4. Since that time, as a proposed class representative and subsequently as a class representative, I have been in regular contact with my counsel, Co-Lead Counsel Cohen Milstein Sellers & Toll, PLLC ("Cohen Milstein"), through various phone calls, Zoom meetings, in person meetings, and emails. In my capacity as a plaintiff and Class Representative, I searched for and produced relevant documents, assisted with responding to discovery requests, prepared for, travelled across several states, and then sat for a deposition, and received and reviewed material court filings. I have requested and received regular

updates as to the progress of the litigation and issues of strategy and approach, and I was consulted before and during settlement discussions and mediation, during which I was in communication with my counsel, articulated my settlement authority, and evaluated and approved the Settlement before it was finalized.

5. I support the proposed Settlement for \$2,175,000 in cash. I believe this is a fair and reasonable result achieved by Plaintiffs' Counsel in light of the benefits it provides to the Class and the risks and uncertainties of continued litigation.

6. I understand that reimbursement of a plaintiff's costs and expenses in connection with the representation of a class, including lost wages, is authorized under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4). For this reason, in connection with Co-Lead Counsel's request for litigation expenses, I am seeking reimbursement for the time I dedicated to the prosecution of the Action which was time that ordinarily would have been dedicated to my business and investment activities. I am currently a farmer and spent numerous hours working on this matter.

7. In my capacity as a Class Representative, I spent considerable time in connection with the Action to achieve the greatest benefit to the Class. Given my participation in this litigation, I respectfully request reimbursement of \$7,500 for these efforts that led to the Settlement.

8. I support the requested award of attorneys' fees in the amount of 28% of the Settlement Amount, or \$609,000. I believe this amount is fair and reasonable under the circumstances of this case and in light of the effort required by Plaintiffs' Counsel to pursue the case to date, the risks and challenges in the litigation, as well as the recovery obtained for the Class. I understand that Co-Lead Counsel will also devote additional time in the

future to administering the Settlement.

9. I further believe that the litigation expenses to be requested, of no more than \$360,000 are reasonable and represent the costs and expenses that were necessary for the successful prosecution and resolution of this case. Based on the foregoing, I fully support Co-Lead Counsel's motion for attorneys' fees and payment of litigation expenses.

10. In sum, I was closely involved throughout the prosecution and settlement of the claims in the Action and I respectfully request that the Court approve the Settlement as fair, reasonable, and adequate; grant a compensatory award of \$7,500 to me in light of my time and effort expended in pursuing this Action; and approve the attorneys' fee request of 28% of the Settlement Amount and full reimbursement of litigation expenses.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 20, 2024.



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JOHN RISNER

# EXHIBIT 1-I

## Compendium of Unreported Cases

<i>In re Constellation Energy Grp. Inc. Sec. Litig.</i> , No. 1:08-cv-02854-CCB, slip op. (D. Md. Nov. 4, 2013).....	1
<i>In re NQ Mobile Inc. Sec. Litig.</i> , No. 1:13-cv-07608-WHP, slip op. (S.D.N.Y. Mar.11, 2016).....	2
<i>The Penn. Ave. Funds v. INYX Inc.</i> , No. 08-CV-6857-PKC, slip op. (S.D.N.Y. May 4, 2012) .....	3
<i>In re Sundial Growers Inc. Sec. Litig.</i> , No. 19-cv-008913-ALC, slip op. (S.D.N.Y. Oct. 6, 2022).....	4

Tab 1

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

2013 NOV -4 P 4: 08

CLERK'S OFFICE  
AT BALTIMORE

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
(NORTHERN DIVISION)

BY \_\_\_\_\_ DEPUTY

In re CONSTELLATION ENERGY GROUP, ) No. 1:08-cv-02854-CCB  
INC. SECURITIES LITIGATION )  
\_\_\_\_\_ ) CLASS ACTION

This Document Relates To: )  
ALL ACTIONS (CCB-09-408, CCB-09-409) )  
\_\_\_\_\_ )

ORDER AWARDING LEAD COUNSEL'S ATTORNEYS' FEES AND EXPENSES

This matter having come before the Court on November 1, 2013, on the application of Lead Counsel for an award of attorneys' fees and expenses incurred in the above-captioned action, the Court, having considered all papers filed and proceedings conducted herein, having found the settlement of this action to be fair, reasonable and adequate and otherwise being fully informed in the premises and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation of Settlement dated as of March 21, 2013 (the "Stipulation"), and filed with the Court.
2. This Court has jurisdiction over the subject matter of this application and all matters relating thereto, including all members of the Class who have not timely and validly requested exclusion.
3. The Court hereby awards Lead Counsel attorneys' fees of 33-1/3% of the Settlement Fund, plus expenses in the amount of \$148,751.52, together with the interest earned thereon for the same time period and at the same rate as that earned on the Settlement Fund until paid. The Court finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and reasonable under the "percentage-of-recovery" method given the substantial risks of non-recovery, the time and effort involved, and the result obtained for the Class.
4. The fees shall be allocated among other Plaintiffs' Counsel by Lead Counsel in a manner that reflects each such counsel's contribution to the institution, prosecution and resolution of the above-captioned action.

5. The awarded attorneys' fees and expenses and interest earned thereon shall immediately be paid to Lead Counsel subject to the terms, conditions and obligations of the Stipulation, and in particular ¶6.2 thereof which terms, conditions and obligations are incorporated.

IT IS SO ORDERED.

DATED: November 4, 2013



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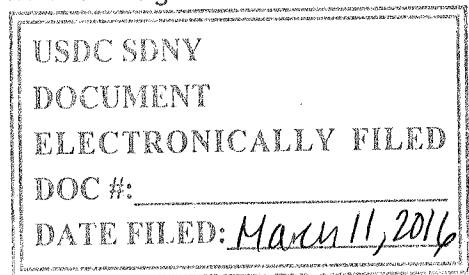
THE HONORABLE CATHERINE C. BLAKE  
UNITED STATES DISTRICT JUDGE

Tab 2

Case 1:13-cv-07608-WHP Document 162-1 Filed 01/27/16 Page 2 of 10

[EXHIBIT A]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



IN RE NQ MOBILE, INC.  
SECURITIES LITIGATION

This Document Relates to: All Actions

No. 1:13-cv-07608-WHP

~~[PROPOSED]~~ FINAL ORDER AND JUDGMENT

WHEREAS, on October 8, 2015, Lead Plaintiffs (the members of the Volin Group), on behalf of themselves and the Class, entered into a Stipulation and Agreement of Settlement (the “Stipulation”) with the Settling Defendants (collectively, with Lead Plaintiffs, the “Settling Parties”), which has been filed with the Court;

WHEREAS, on November 17, 2015, the Court entered its Order for Notice and Hearing, which conditionally certified the Class for settlement purposes only, and approved the issuance of notice to the Class (which included, *inter alia*, notice of the proposed Settlement and notice of the time, date and location of the Settlement Fairness Hearing to be held before this Court on March 11, 2016, as well as notice of each putative Class Member’s rights to object to the Settlement or to seek exclusion from the Class);

WHEREAS, said Notice was duly issued, Lead Plaintiffs have moved for final approval of the Settlement, and the Court has conducted the Settlement Fairness Hearing, all in accordance with the Court’s prior Order for Notice and Hearing;

Case 1:13-cv-07608-WHP Document 162-1 Filed 01/27/16 Page 3 of 10

WHEREAS, all interested Persons have been afforded the opportunity to be heard at the Settlement Fairness Hearing and/or in writing, as provided for in the Notice; and

WHEREAS, this Court has duly considered Lead Plaintiffs' motion for final approval of the Settlement, the affidavits, declarations and memoranda of law submitted in support thereof, and all of the submissions and arguments presented with respect to the proposed Settlement (including those presented at the Settlement Fairness Hearing) to determine if the Settlement and the terms and provisions of the Stipulation are fair, reasonable and adequate, and whether a Final Judgment should be entered in this Action based upon the Stipulation;

NOW THEREFORE, after due deliberation, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used in this Judgment that are not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. This Court has jurisdiction of the subject matter of this Action and over all of the Settling Parties and all Class Members.
3. All the requirements of settlement class certification under Rule 23 of the Federal Rules of Civil Procedure are met, and therefore this Action is properly maintained as a class action for purposes of settlement only and the Class is properly certified. The Class is defined as:

[A]ll persons or entities that purchased or otherwise acquired NQ ADS shares between March 6, 2013 and July 3, 2014, inclusive, and that were allegedly damaged thereby. Excluded from the Class are: all Defendants; all current or former officers, directors or partners of NQ, its affiliates, parents or subsidiaries; any corporation, trust or other entity in which any Defendant has or had a controlling interest; the members of the immediate families of the Individual Defendants; the parents, subsidiaries and affiliates of

Case 1:13-cv-07608-WHP Document 162-1 Filed 01/27/16 Page 4 of 10

NQ; and the legal representatives, heirs, successors, or assigns of any excluded Person. Also excluded from the Class will be any Person who timely and validly seeks exclusion from the Class in accordance with the requirements of the Notice.

4. With respect to the Class, for purposes of the Settlement only, the Court affirms its earlier preliminary findings in the Order for Notice and Hearing, and hereby finally finds and determines that: (a) the Class Members are so numerous that their joinder in the Action is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Lead Plaintiffs are typical of the claims of the Class Members; (d) Lead Plaintiffs and Lead Counsel have fairly and adequately represented and protected the interests of the Class Members; (e) the questions of law or fact, common to the members of the Class, predominate over any questions affecting only individual members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. The form, content, and method of dissemination of notice given to the Class was adequate and reasonable and constituted the best notice practicable under the circumstances, and included giving individual notice to all Class Members who could be identified through reasonable effort.

6. Notice, as given, (a) complied with the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934 as amended (15 U.S.C. §78u-4(a)(7)), and the provisions of this Court's Order for Notice and Hearing, and (b) satisfied the requirements of due process, and (c) otherwise constituted due and sufficient notice to the Class of the matters set forth herein.

7. The proposed Settlement of the Action as to the Settling Parties on the terms and conditions set forth in the Stipulation is fair, reasonable and adequate, and in the best interests of the Class, and they shall be consummated in accordance with the terms and

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provisions of the Stipulation. In making this determination, the Court has considered both the process by which the Settlement was negotiated and the substantive fairness of the agreed-upon terms in light of the circumstances of the litigation. More specifically:

(a) The Court finds that the Settlement was negotiated vigorously and at arm's length by the Settling Parties and their experienced counsel under the auspices of a well-respected, nationally recognized mediator, and that the Stipulation has been entered into in good faith and is not collusive.

(b) The Court has evaluated the Settlement under the factors set forth by the Second Circuit in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds*, *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 48 (2d Cir. 2000): (1) “the complexity, expense and likely duration of the litigation”; (2) “the reaction of the class to the settlement”; (3) “the stage of the proceedings and the amount of discovery completed”; (4) “the risks of establishing liability”; (5) “the risks of establishing damages; (6) the risks of maintaining the class action through the trial”; (7) “the ability of the defendants to withstand a greater judgment”; (8) “the range of reasonableness of the settlement fund in light of the best possible recovery”; and (9) “the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.” Based on its analysis of these factors, both individually and in the aggregate, the Court finds that the Settlement is substantively fair, reasonable, and adequate and in the best interests of the Class. The Court takes no position on the merits of either Lead Plaintiffs’ claims or Settling Defendants’ asserted defenses to liability, but notes that their respective arguments on such matters provide further evidence in support of the fairness, reasonableness and adequacy of the Settlement.

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8. The Consolidated Class Action Complaint, filed on July 21, 2014, ECF No. 86, is hereby dismissed with prejudice as to all Settling Defendants, and without costs to any Settling Party, except as otherwise provided in the Stipulation.

9. The Court further finds that, during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

10. Upon the Effective Date of the Settlement, Lead Plaintiffs and all Class Members, on behalf of themselves and each of the Releasing Parties: (a) shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever waived, released, relinquished, and discharged all Settled Claims, regardless of whether such Class Member executes and delivers a Proof of Claim; (b) shall forever be enjoined from instituting, commencing, assisting, maintaining or prosecuting any Settled Claim; and (c) agree and covenant not to sue any of the Released Parties on the basis of any Settled Claims or to assist any third party in commencing or maintaining any suit related to any Settled Claims.

11. Upon the Effective Date of the Settlement, each of the Settling Defendants and the Released Parties: (a) shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever released and discharged each and all of the Released Plaintiff Parties from each and every one of the Settled Defendants' Claims; (b) shall forever be enjoined from instituting, commencing, assisting, maintaining or prosecuting the Settled Defendants' Claims; and (c) agree and covenant not to sue any of the Released Plaintiff Parties on the basis of any Settled Defendants' Claims or to assist any third party in commencing or maintaining any suit against the Released Plaintiff Parties related to any Settled Defendants' Claims.

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12. All Class Members who have not made their objections to the Settlement in the manner provided in the Notice are deemed to have waived any objections by appeal, collateral attack, or otherwise.

13. All Class Members who have failed to properly file a Request for Exclusion (a/k/a a request to opt out) from the Class are bound by the terms and conditions of the Stipulation and this Final Judgment and release and forever discharge the Released Parties from all Settled Claims as provided in the Stipulation and herein. A list of all Persons, if any, who have validly and timely filed a Request for Exclusion is attached hereto as [Exhibit 1].

14. Upon the Effective Date of the Settlement, all Releasing Parties shall be forever barred and permanently enjoined from instituting, commencing, assisting, maintaining, or prosecuting in any court or tribunal any of the Settled Claims.

15. Upon the Effective Date of the Settlement, all Released Parties are hereby barred and permanently enjoined from instituting, commencing, assisting, maintaining, or prosecuting in any court or tribunal any of the Settled Defendants' Claims against any of the Released Plaintiff Parties.

16. Each Class Member, whether or not such Class Member executed and delivered a Proof of Claim, is bound by this Judgment, including, without limitation, the release of claims as set forth in the Stipulation.

17. Pursuant to 15 U.S.C. §78u-4(f)(7)(A) of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), each of the Settling Defendants (and, to the extent required by the PSLRA, the Released Parties), by virtue of this Final Judgment, is hereby discharged from all claims for contribution, by any person or entity, arising out of the Action or the Settled Claims. Accordingly, to the full extent provided by the PSLRA, the Court hereby bars all claims for

Case 1:13-cv-07608-WHP Document 162-1 Filed 01/27/16 Page 8 of 10

contribution arising out of the Action: (a) against any Settling Defendant (and, to the extent required by the PSLRA, the Released Persons) by any Person or entity; and (b) by any Settling Defendant (and, to the extent required by the PSLRA, the Released Parties) against any Person or entity. However, nothing herein shall release, discharge or waive in any respect any rights or claims of any Settling Defendant or the Released Parties against their insurers (or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives), and nothing herein constitutes or reflects a waiver or release of any rights or claims relating to indemnification, advancement, or any undertakings by an indemnified Party to repay amounts advanced or paid by way of indemnification or otherwise.

18. The Plan of Allocation set forth in the Notice is approved as fair and reasonable, and Lead Counsel is directed to arrange for the administration of the Settlement in accordance with its terms and provisions. Any modification or change in the Plan of Allocation that may hereafter be approved shall in no way disturb or affect this Final Judgment or the releases provided hereunder and shall be considered separate from this Final Judgment.

19. The administration of the Settlement, and the decision of all disputed questions of law and fact with respect to the validity of any claim or right of any Person to participate in the distribution of the Net Settlement Fund, shall remain under the authority and jurisdiction of this Court.

20. Without any further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

21. The Court shall enter a separate order regarding the Fee and Expense Application. Such order shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

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22. The Court hereby decrees that neither the Stipulation nor this Final Judgment nor the fact of the Settlement is an admission or concession by the Released Parties, or any of them, of any liability or wrongdoing. This Final Judgment is not a finding of the validity or invalidity of any of the claims asserted, or defenses raised in the Action. Neither the Stipulation nor this Final Judgment nor the fact of Settlement, nor the settlement proceedings, nor the settlement negotiations, nor any related documents shall be offered or received in evidence as an admission, concession, presumption, or inference against any of the Released Parties in any proceeding, other than such proceedings as may be necessary to consummate or enforce the Stipulation, or in an action or proceeding to determine the availability, scope, or extent of insurance coverage (or reinsurance related to such coverage) for the sums expended for the Settlement and defense of this Action.

23. In the event the Settlement is terminated in accordance with its terms, is vacated, is not approved, or the Effective Date fails to occur for any reason: (a) this Final Judgment shall be rendered null and void and shall be vacated *nunc pro tunc* to the extent provided by and in accordance with the Stipulation; (b) all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation; and (c) this Action shall proceed as provided in the Stipulation.

24. Without affecting the finality of this Judgment in any way, the Court hereby retains continuing jurisdiction over: (a) implementation of the Stipulation and this Final Judgment; (b) the allowance, disallowance or adjustment of any Class Member's claim on equitable grounds, and any award or distribution of the Settlement Fund; (c) disposition of the Settlement Fund; (d) hearing and determination of applications for attorneys' fees, costs, interest and reimbursement of expenses in the Action; (e) all Settling Parties for the purpose of

construing, enforcing and administering the Settlement and this Judgment; and (f) other matters related or ancillary to the foregoing.

25. There is no just reason for delay in the entry of this Judgment, and immediate entry thereof by the Clerk of the Court is expressly directed.

Dated: MARCH 11, 2016

  
HON. WILLIAM H. PAULEY III  
UNITED STATES DISTRICT COURT JUDGE

WHP  
§ 24A. Any cy pres award pursuant to § 4(b) of the Stipulation made at the end of the distribution process shall be made to the New York Bar Foundation ("NYBF"), and § 4(b) of the Stipulation is hereby amended, with the consent of the parties, to substitute the NYBF for the Legal Aid Society.

Case 1:13-cv-07608-WHP Document 169-1 Filed 03/04/16 Page 1 of 2

## Exhibit A

# Exclusions Report

OptOutNo	FirstName	LastName	Name1	Date Submitted
NQMOBILE-EXCL00001	JOHN	BLOCK		1/29/2016
NQMOBILE-EXCL00002	ROBERT H	SPARKS		2/3/2016
NQMOBILE-EXCL00003	ARMAND	TINKERIAN		2/8/2016
NQMOBILE-EXCL00004	BELLE	MALONE		2/8/2016
NQMOBILE-EXCL00005	RICHARD W	SELBY	SVETLANA S SELBY	2/11/2016
NQMOBILE-EXCL00008	THOMAS J	PACIL		2/12/2016
NQMOBILE-EXCL00006	ILGAZ	SUNGUR		2/12/2016
NQMOBILE-EXCL00007	SANDY A	LIEBHARD		2/16/2016

Tab 3

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5-4-12

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>THE PENNSYLVANIA AVENUE FUNDS, Individually And On Behalf of All Others Similarly Situated,</p> <p>INYX INC., JACK KACHKAR, STEVEN HANDLEY, RIMA GOLDSHMIDT, JAY M. GREEN and BERKOVITS &amp; COMPANY, LLP,</p> <p>Defendants.</p>	<p>Civil Action No. 08-cv-06857-PKC</p>
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**[PROPOSED]**  PKC  
**FINAL ORDER AND JUDGMENT**

This matter came before the Court for hearing pursuant to an Order of this Court dated February 9, 2012 (the "Preliminary Approval Order"), on the application of the Settling Parties for approval of the settlement (the "Settlement") on the terms and conditions set forth in the Stipulation and Agreement of Settlement dated as of February 9, 2012 (the "Stipulation") entered into by Plaintiff David S. Lenington, through Class Counsel, Brower Piven, A Professional Corporation, on behalf of himself and the Class, and defendants Inyx, Inc. ("Inyx"), appearing without counsel through its Chairman and CEO Dr. Jack Kachkar, and Jack Kachkar, Rima Goldshmidt, and Jay M. Green, appearing *pro se* (the "Defendants" and together with Lead Plaintiff, the "Settling Parties"), and, following a hearing on May 4, 2012 before this Court to consider the applications of the Settling Parties, the Court having considered all papers filed and proceedings held herein and otherwise being fully informed in the premises and good cause appearing therefore,

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

1. Unless otherwise indicated, all terms used herein shall have the same meanings as those terms have in the Stipulation.

2. For purposes of this Class Judgment, the Class, as certified by Order of this Court dated July 5, 2011, is defined as all purchasers of Inyx common stock between April 1, 2005 and July 2, 2007, inclusive. Excluded from the Class are Defendants, any entity in which Defendants or any excluded person has or had a controlling ownership interest, the officers and directors of Inyx, members of any such excluded person's families, and the legal affiliates, representatives, heirs, controlling persons, successors, and predecessors in interest or assigns of any such excluded party. The Class shall also exclude those Persons listed in Exhibit 1 hereto who requested exclusion from the Class.

3. This Court finds that due and adequate notice was given of the Settlement, the Plan of Allocation of the Settlement proceeds and Class Counsel's application for an award of attorneys' fees and reimbursement of expenses, as directed by this Court's Preliminary Approval Order, and that the forms and methods for providing such notice to Class Members constituted the best notice practicable under the circumstances, including individual notice to all members of the Class who could be identified through reasonable effort, and satisfied all of the requirements of Fed. R. Civ. P. 23, the Private Securities Litigation Reform Act of 1995, due process, and all other applicable laws.

4. All Class Members who did not request to exclude themselves by written communication postmarked or delivered on or before April 27, 2012 are bound by this Judgment.

5. This Court has jurisdiction over the subject matter of this Action and over all parties to this Action, including all Class Members.

6. Pursuant to Fed. R. Civ. P. 23(e), this Court hereby approves the Settlement set forth in the Stipulation and finds that said Settlement, and all transactions preparatory and incident thereto, is, in all respects, fair, reasonable, and adequate to, and is in the best interests of, Lead Plaintiff and all Class Members based on, among other things: the Settlement resulted from arm's-length negotiations between the Settling Parties and/or their counsel; the amount of the recovery for Class Members being within the range of reasonableness given the strengths and weaknesses of the claims and defenses thereto and the risks of non-recovery and/or recovery of a lesser amount than is represented through the Settlement by continued litigation through all pretrial, trial and appellate procedures; the recommendation of the Settling Parties, in particular experienced Class Counsel, and the absence of objections from any Class Member to the Settlement. Accordingly, the Settlement embodied in the Stipulation is hereby approved in all respects and shall be consummated in accordance with its terms and conditions. The Settling Parties are hereby directed to perform the terms of the Stipulation, and the Clerk of the Court is directed to enter and docket this Class Judgment in this Action.

7. Upon the Effective Date, Lead Plaintiff and each of the Class Members shall be deemed to have, and by operation of this Class Judgment shall have fully, finally, and forever released, relinquished and discharged, and shall forever be enjoined from prosecution of each and all of the Released Claims against the Released Parties, provided, however, that nothing herein is meant to bar any claim relating solely to performance or enforcement of the Stipulation or the Settlement. All members of the Class shall be bound by the releases set forth in the Stipulation whether or not they submit a valid and timely Proof of Claim.

8. Upon the Effective Date, each of the Released Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged and shall forever be enjoined from prosecution against Plaintiff, each and all of the Class Members and Class Counsel from all claims arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of this Action, provided, however, that nothing herein is meant to bar any claim relating solely to performance or enforcement of the Stipulation, the Settlement or this Judgment.

9. The adequacy of the representation of the Class by Lead Plaintiff and Class Counsel is hereby determined to, at all times, have been consistent with the requirements of Fed. R. Civ. P. 23, the Private Securities Litigation Reform Act of 1995, and due process.

10. The Action is hereby dismissed without costs to any Settling Party except as provided in the Stipulation, and with prejudice.

11. Class Members, the successors and assigns of any of them, and anyone claiming through or on behalf of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any Released Claims against any of the Released Parties, except that nothing herein is meant to bar any claim relating solely to performance or enforcement of the Stipulation, the Settlement or this Class Judgment.

12. The Court finds that during the course of this Action, the Settling Parties and/or their counsel at all times complied with the requirements of Fed. R. Civ. P. 11 and 26, and that Class Counsel has, at all times, complied with all of the rules and canons of professional conduct.

13. This Court hereby approves the Plan of Allocation as set forth in the Notice, and directs Class Counsel to proceed with the processing of Proofs of Claim and the administration of the Settlement pursuant to the terms of the Settlement and Plan of Allocation and, upon completion of the claims processing procedure, to present to this Court a proposed final distribution order for the distribution of the Net Settlement Fund to members of the Class as provided in the Stipulation and Plan of Allocation.

14. No Authorized Claimant shall have any claim against Class Counsel, the Claims Administrator, or other agent designated by Class Counsel based on the distributions made substantially in accordance with the Settlement and Plan of Allocation as approved by the Court and further orders of the Court. No Authorized Claimant shall have any claim against Defendants or any of the Released Parties with respect to the investment or distribution of the Net Settlement Fund, the determination, administration, calculation or payment of claims, the administration of the escrow account, or any losses incurred in connection therewith, the Plan of Allocation, or the giving of notice to Class Members.

15. This Court hereby awards Class Counsel attorneys' fees in the amount of 33 1/3% of the Settlement Fund, <sup>^ less out-of-pocket expenses PKC</sup> and reimbursement of their out-of-pocket expenses incurred in the prosecution of this Action on behalf of the Class in the amount of \$105,594.24, with interest at the same rate earned by the Settlement Fund on such amounts from the date of this Class Judgment until such amounts are actually paid to Class Counsel. The Court finds that the amount of attorneys' fees awarded herein is fair and reasonable based on: the work performed and costs incurred by Class Counsel; the complexity of the case; the risks undertaken by Class Counsel and the contingent nature of their employment; the quality of the work performed by Class Counsel in this Action and their standing and experience in prosecuting similar class action

securities litigation; awards to successful plaintiffs' counsel in other, similar litigation; the benefits achieved for members of the Class through the Settlement; and the absence of objections from Class Members to either the application for an award of attorneys' fees or reimbursement of expenses to Class Counsel. The Court also finds that the requested reimbursement of expenses is proper as the expenses incurred by Class Counsel, including the costs of experts, were reasonable and necessary in the prosecution of this Action on behalf of Class Members.

16. All payments of attorneys' fees and reimbursement of expenses to Class Counsel in this Action shall be made from the Settlement Fund, when and to the extent funds are available in the Settlement Fund to make such payments. Class Counsel may deduct all or part of their ~~attorneys' fees and~~ expenses immediately upon the Settlement Fund receiving any Installment, Discount, Balloon or Alternate Balloon Payments until the award <sup>of</sup> ~~of attorneys' fees and~~ expenses herein, with interest thereon, has been fully paid. No distributions to Class members will be made until Class Counsel has been paid the full amount of their award of ~~attorneys' fees and~~ expenses, all Notice and Settlement administration expenses have been paid and all taxes due and owing have been paid. The Released Parties shall have no liability or responsibility for the payment of any of Plaintiff's or Class Counsel's attorneys' fees or expenses except as expressly provided in the Stipulation with respect to the cost of Notice and administration of the Settlement.

17. Neither appellate review nor modification of the Plan of Allocation set forth in the Notice or the award to Class Counsel of attorneys' fees and/or reimbursement of expenses shall disturb or affect the final approval of the Settlement as provided in this Class Judgment and each shall be considered separate for the purposes of appellate review of this Class Judgment.

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Thereafter Class Counsel may receive a proportionate payment from each payment made into the Settlement Fund.

18. Pursuant to the Private Securities Litigation Reform Act of 1995 and as may be provided by applicable federal or state statutes or common law, all actions and claims for contribution are permanently barred, enjoined and finally discharged (a) against the Released Parties and (b) by the Released Parties against any person or entity other than any person or entity whose liability to the Class Members has been extinguished pursuant to the Stipulation or this Class Judgment.


19. In the event that the Settlement does not become Final in accordance with the terms of the Stipulation, or the Effective Date does not occur, the Settlement Fund shall be returned to Defendants, and this Class Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

20. In the event of a material breach of the Stipulation by Inyx, and Inyx is notified of such default as provided by the Stipulation, Class Counsel shall enforce the terms of the Stipulation as provided therein and, pursuant to the terms of the Stipulation, Class Counsel may enter or apply to this Court for entry, as necessary to assure its enforceability, of the Kachkar Judgment substantially in the form annexed hereto as Exhibit 2 upon submission by Class Counsel of evidence that Class Counsel has complied with the terms of the Stipulation for entry of such judgment.

21. Without affecting the finality of this Class Judgment in any way, this Court hereby retains continuing jurisdiction over this Action, Class Members and the Released Parties for the purposes of: (a) supervising the implementation, enforcement, construction and interpretation of the Stipulation, the Plan of Allocation and this Judgment; (b) hearing and

determining any application by Class Counsel for an award of attorneys' fees and expenses if determination is not made at the Settlement Hearing; (c) supervising the distribution of the Settlement Fund; and (d) supervising any other matters related to finalizing the Settlement and distribution of the proceeds of the Settlement.

Dated: May 4, 2012

  
HON. P. KEVIN CASTEL  
UNITED STATES DISTRICT JUDGE

*The case is closed. All motions are terminated.*

Exhibit 1

**Persons Who Requested Exclusion From The Class**

Name	Address	Shares Held at the Close of the Market on July 1, 2007
Quaker Funds, Inc.	309 Technology Drive, Malvern, PA 19355	13,000 shares
James P. Acosta	235 E. 57 <sup>th</sup> St. Apt. 2D, New York, NY 10022	10,565 shares

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>THE PENNSYLVANIA AVENUE FUNDS, Individually And On Behalf of All Others Similarly Situated,</p> <p>INXX INC., JACK KACHKAR, STEVEN HANDLEY, RIMA GOLDSHMIDT, JAY M. GREEN and BERKOVITS &amp; COMPANY, LLP,</p> <p>Defendants.</p>	<p>Civil Action No. 08-cv-06857-PKC</p>
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**[PROPOSED]  
CONSENT JUDGMENT**

This matter came before the Court for hearing pursuant to the Final Judgment (the “Class Judgment”) entered by this Court on \_\_\_\_\_, 2012, approving the settlement (the “Settlement”) on the terms and conditions set forth in a Stipulation and Agreement of Settlement dated as of February 9, 2012 (the “Stipulation”) entered into by Plaintiff David S. Lenington, through Class Counsel, Brower Piven, A Professional Corporation (“Class Counsel”) on behalf of himself and the Class, and defendants Inyx, Inc. (“Inyx”), appearing without counsel through its Chairman and CEO Dr. Jack Kachkar, and Dr. Jack Kachkar, Rima Goldshmidt and Jay M. Green, appearing *pro se* (the “Defendants” and together with Lead Plaintiff, the “Settling Parties”).

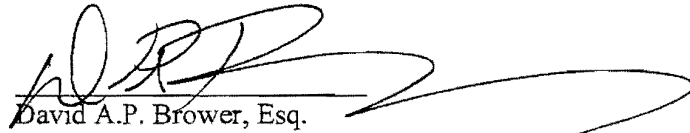
In connection with the Stipulation and Class Judgment, defendant Dr. Jack Kachkar agreed that, if Inyx defaulted on its obligations under the Stipulation to make certain periodic cash payments and/or failed to convey certain intellectual property to Class Counsel as provided for in the Stipulation, that such obligations would be accelerated and that, after notice and

For Defendant Dr. Jack Kachkar, *Pro Se*:



Dr. Jack Kachkar, M.D.  
445 Grand Bay Drive, Apt. 1210  
Key Biscayne, FL 33149

For Lead Plaintiff David S. Lenington and the Class:



David A.P. Brower, Esq.  
Brower Piven  
A Professional Corporation  
488 Madison Avenue  
Eighth Floor  
New York, New York 10022  
Telephone: 212-501-9000  
Facsimile: 212-501-0300

Tab 4

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FOR THE SOUTHERN DISTRICT OF NEW YORK

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~~PROPOSED~~ ORDER AWARDING ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND AWARDS TO PLAINTIFFS

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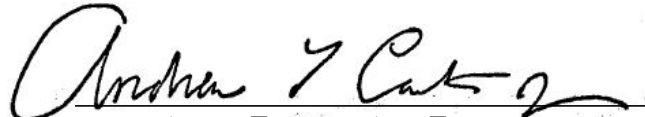
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**IT IS SO ORDERED.**

t October 6

  
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