

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC.,  
CHIHHSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

**DECLARATION OF SHANNON L. HOPKINS IN SUPPORT OF:  
(I) PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND PLAN OF ALLOCATION OF SETTLEMENT  
PROCEEDS; AND (II) LEAD COUNSEL'S UNOPPOSED MOTION FOR AN AWARD  
OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

I, Shannon, L. Hopkins, Esq., pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. I am admitted to practice law before all courts of the State of Connecticut and am admitted *pro hac vice* in the above-captioned Action (the “Action”). I am a partner at the law firm of Levi & Korsinsky, LLP (“L&K”), counsel of record for Lead Plaintiff Lawrence Rougier (“Lead Plaintiff”) and additional Plaintiffs Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel (together with Lead Plaintiff Rougier, “Plaintiffs”), Court-appointed Lead Counsel and Class Counsel for the Class.<sup>1</sup> I respectfully submit this declaration in support of: (a) Lead Plaintiff’s unopposed motion for final approval of the settlement of this action, which provides for an immediate cash payment of \$15,500,000 (the “Settlement”), and the Plan of Allocation of the Settlement proceeds; and (b) Lead Counsel’s unopposed application for attorneys’ fees in the amount of one-third of the Settlement, and reimbursement of Plaintiffs’ Counsel’s out-of-pocket expenses in the amount of \$167,289.09,<sup>2</sup> plus \$15,000 to Lead Plaintiff Rougier and \$10,000 to each additional Plaintiff (Hamilton, Luthy, Cetlin, and Kugel) pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”) for their costs and expenses incurred in connection with their representation of the Class. On October 20, 2020, counsel for Defendants, Robert P. Ritchie, Esq., confirmed Defendants do not oppose Plaintiffs’ motion for approval of the Settlement and motion for an award of fees and reimbursement of expenses.

2. I have personally participated in, overseen, and monitored the prosecution of this Action, and have otherwise been kept informed of developments in this litigation by attorneys working with me and under my supervision. Thus, if called upon, I can testify to the matters set forth herein.

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<sup>1</sup> Unless otherwise noted, capitalized terms have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated August 3, 2020, (ECF No. 143-2) (the “Stipulation”).

<sup>2</sup> As used herein, “Plaintiffs’ Counsel” refers to Lead Counsel L&K, together with (i) liaison counsel The Kendall Law Group, PLLC, and (ii) additional counsel for Plaintiff Kugel Bragar Egel & Squire, P.C.

## I. PRELIMINARY STATEMENT

3. After three years of adversarial litigation which included a full-day mediation before a highly-experienced mediator, Michelle Yoshida, Esq., and subsequent vigorous negotiations facilitated by Ms. Yoshida resulting in her personal recommendation of the Settlement, Plaintiffs reached an agreement with Defendants Applied Optoelectronics, Inc. (“AOI” or the “Company”), Chih-Hsiang (Thompson) Lin and Stefan J. Murry (collectively “Defendants”), to settle the Action for a total of \$15,500,000 in cash, which the Court preliminarily approved on August 25, 2020, and which order was entered August 26, 2020 (the “Preliminary Approval Order”). ECF 144. For the reasons set forth below, Lead Counsel believes that final approval of the Settlement and Plan of Allocation is warranted and that the application of an award of attorneys’ fees and expenses should be granted.

4. The Settlement is the result of hard-fought litigation and an extensive investigation by Lead Counsel. This investigation included, among other things, review and analysis of: (i) documents filed publicly by the Company with the SEC; (ii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company; (iii) research reports issued by financial and industry analysts concerning the Company; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AOI’s customers; (v) interviews conducted with former employees of AOI; (vi) reports and exhibits prepared by Plaintiffs’ expert relating to the efficiency of the market for AOI’s securities and a damages model for class certification purposes (vii) over 54,000 documents (over 300,000 pages) produced by Defendants in response to eighty-nine (89) Rule 34 requests for production served by Plaintiffs over the course of four sets of requests; (viii) Defendants’ responses to Rule 33 interrogatories and Rule 36 requests for admission served by

Plaintiffs; (ix) Defendants' privilege logs; (x) over 34,000 documents (over 100,000 pages) produced by third parties in response to twenty-six (26) Rule 45 subpoenas; and (xi) the applicable law governing the claims and potential defenses in this action, and the law as it relates to third party discovery in different jurisdictions (including enforcement proceedings in District Courts in the Northern District of California and the Western District of Washington). Lead Counsel used the information gathered from this investigation to draft a sufficiently pleaded amended complaint, achieve class certification, present a strong and compelling case at the mediation, and to vigorously litigate the claims throughout this Action.

5. Further, Lead Counsel consulted with industry and damages experts and researched and drafted an extensive mediation statement that addressed liability, damages, Defendants' pending 23(f) petition and all other legal and factual considerations pertinent to the case. After mediation statements were exchanged, Lead Counsel thoroughly reviewed and analyzed the assertions and authorities within Defendants' statement and participated in a full-day mediation with Defendants and Ms. Yoshida on May 21, 2020. The mediation ended without an agreement to settle, yet Lead Counsel and Defendants persisted with negotiations in the following weeks. The parties agreed to a mediator's proposal to resolve all claims in the Action on June 2, 2020. The proposed Settlement is the result of arm's length negotiations between and among well-informed, highly experienced counsel, and mitigates the serious risks posed by further litigation, including the very real risk that sources of settlement funding would be depleted.

6. In view of the foregoing, there is no question that the Settlement is the result of negotiations by counsel who possessed a full understanding of both the strengths and weaknesses of their respective cases and takes into consideration the significant risks specific to this Action. When balanced against the significant risks Plaintiffs faced in bringing the Action to trial, the

overall amount of potential damages involved and defending a favorable verdict against appeals, the Settlement of \$15,500,000 represents an excellent result for the Class, especially considering the circumstances of this case as discussed herein. Substantial investigation, legal research and litigation to date informed Lead Counsel that, while they believe the case is meritorious, there are also weaknesses that had to be carefully evaluated in determining what course of action was in the best interests of the Class (*i.e.*, whether to settle and on what terms, or to continue to litigate through summary judgment and a trial on the merits). As set forth in further detail below, despite the fact that Plaintiffs' allegations and claims were supported by legal authority, expert opinion, and information discovered during extensive pre-trial investigation and discovery, the specific circumstances involved here presented uncertainties with respect to Plaintiffs' ability to prevail through summary judgment and trial, and, even in the event of success at trial, to defend a successful verdict against appeal.

7. Indeed, at the time the proposed Settlement was reached, Defendants' had filed a petition for leave to file an interlocutory appeal of the Court's class certification order under Fed. R. Civ. P. 23(f). ECF No. 131. If the petition was granted, the interlocutory appeal process would have involved substantial briefing, time, and risk that the Court's order granting class certification would be reversed in whole or in part. Moreover, even if the Fifth Circuit upheld class certification, the parties would then continue any remaining fact or expert discovery, brief summary judgment, and prepare for trial. The costs and risks associated with litigating this Action to a verdict, not to mention through the inevitable appeals, would have been high, and the process would require hundreds of hours of the Parties' and this Court's time and resources. If Defendants' interlocutory appeal moved forward, and even if Defendants were unsuccessful, and this case were taken to trial, this Action would easily require an additional two to three years before a recovery, if any, was

obtained for the Class.

8. Additional evidence that the Settlement represents an excellent result for the Class is the fact that, as of the filing of this Declaration, to date, no Class Members have objected to the Settlement or to opted out of the Class.

9. Likewise, the Plan of Allocation of the Settlement (“POA”), which was developed with the assistance of Plaintiffs’ expert on loss causation and damages, should be approved as it equitably distributes the proceeds of the Settlement among Class Members. The POA was developed based on financial analyses, including an event study, which calculated the estimated amount of artificial inflation in the per share closing prices of AOI stock as a result of Defendants’ alleged materially false and misleading statements and omissions. In calculating this estimated alleged artificial inflation, Plaintiffs’ damages expert considered price changes in AOI common stock in reaction to the alleged corrective disclosures, adjusting for market or industry factors. The Plan of Allocation will ensure that each Authorized Claimant will receive his, her, or its *pro rata* share of the net Settlement funds. Because the Plan of Allocation does not provide preferential treatment to any Class member, segment of the Class, or to Lead Plaintiff, each Authorized Claimant will be treated fairly and equally. To date, no objections to the Plan of Allocation have been filed.

10. Finally, the requested attorneys’ fees of 33⅓% of the Settlement and reimbursement of Plaintiffs’ Counsel’s litigation expenses in the amount of \$167,289.09, as well as awards to Plaintiffs as compensation for their time and costs, are reasonable and appropriate. Lead Counsel’s fee request is within the range of fee percentages frequently awarded in this type of action and, under the particular facts of this case, is fully justified in light of the substantial benefits that Plaintiffs’ Counsel conferred on the Class, the risks they undertook, the quality of their

representation, the nature and extent of their legal services, and the fact that they pursued the case, even though this considerable all-cash Settlement was far from guaranteed at its outset. Plaintiffs' Counsel expended considerable time and effort prosecuting the Action on a fully contingent basis and have advanced litigation and investigative expenses in the expectation that, as is customary, they will be paid a percentage of the common fund created by their efforts as attorneys' fees and receive payment for their expenses. Further, Plaintiffs expended significant time and effort associated with representing the Class. As with the Settlement, no Class Member has objected to Lead Counsel's request for attorneys' fees and reimbursement of litigation expenses.

11. Because this Declaration is submitted in support of a Settlement, it is inadmissible in any subsequent proceeding, other than in connection with the Settlement. In the event that the Settlement is not approved by the Court, this Declaration and the statements contained herein are without prejudice to Plaintiffs' positions on the merits of this Action.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

12. AOI designs and manufactures fiber-optic networking products to sell to large internet data center customers, including optical transceivers, a device which uses lasers to transmit data between computer servers. ¶¶43,44.<sup>3</sup> During the Class Period, AOI's largest data center customers included Amazon.com, Inc. ("Amazon"), which represented more than 50% of the Company's Class Period revenue. ¶42.

13. On August 5, 2017, the Action was filed in the United States District Court for the Southern District of Texas on behalf of all investors who purchased or otherwise acquired the publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the period from July 13, 2017 through August 3, 2017, inclusive. On August 16, 2017, a similar action

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<sup>3</sup> Unless otherwise specified, all "¶" citations refer to the Second Amended Complaint (the "SAC"), the operative complaint in this Action. ECF 103.

captioned *Ludwig v. Applied Optoelectronics, Inc.*, et al., No. 4:17-cv-2512 (the “*Ludwig* Action”) was also filed in this Court seeking damages on behalf of all investors other than defendants who purchased or otherwise acquired AOI securities during the same period. On September 11, 2017, a similar action captioned *Rizzo v. Applied Optoelectronics, Inc. et al.*, No. 1:17-cv-5313 (the “*Rizzo* Action”) was filed in the Eastern District of New York.

14. Pursuant to the notice requirements under the PSLRA (see 15 U.S.C. § 78u-4), notice of this Action was published on August 5, 2017. At this time, Lead Counsel began analyzing and researching the claims at issue in this litigation.

15. On October 18, 2017, the *Rizzo* Action was voluntarily dismissed.

16. On January 22, 2018, the Court issued an Order: (i) appointing Lawrence Rougier as Lead Plaintiff for the proposed Class, investing in Rougier the power to litigate all of the consolidated claims on behalf of a putative class of AOI investors; and (ii) appointing Levi & Korsinsky, LLP as Lead Counsel, and Kendall Law Group, PLLC as Liaison Counsel.

17. Following this Court’s January 22, 2018 Order, Lead Plaintiff and Lead Counsel continued their extensive investigation into the claims and potential claims against AOI which, as noted, had begun immediately after the PSLRA notice. Lead Counsel worked assiduously to discover key facts and develop the most salient and persuasive elements of this case.

18. Lead Counsel reviewed a substantial volume of materials authored, issued, or presented by AOI. These included AOI’s periodic financial reports, numerous filings with the SEC, conference call transcripts, registration statements, prospectuses, press releases, investor presentations, and other public communications issued during the Class Period and beyond.

19. Lead Counsel further reviewed hundreds of news articles, trade publications, securities analyst reports, and market commentary reports concerning AOI that were issued before,

during, and beyond the Class Period in order to gauge the impact of AOI's statements on the marketplace and assess the dynamics of the market for optical transceivers, more generally. Given that AOI was followed by multiple analysts and that the data center transceiver market garnered significant analyst and media attention prior to and during the Class Period, the volume of these materials was substantial.

20. Lead Counsel also conducted interviews with confidential witnesses, who were primarily former AOI employees. These efforts directly benefitted the Class. For example, the Complaint recited statements from a former AOI employee who recalled specific meetings and reports that were known by individuals who reported directly to the Individual Defendants. ¶¶54-55, 62. This witness further recalled specific events where AOI shipped defective products to its largest customer, Amazon. ¶75. The information supplied by this former AOI employee helped Plaintiffs plead falsity and scienter with respect to Defendants' statements.

21. In addition to this factual research, Lead Counsel thoroughly researched Fifth Circuit law applicable to the claims asserted and Defendants' potential defenses thereto.

22. On March 6, 2018, Lead Plaintiff filed the First Consolidated Amended Class Action Complaint ("FAC"), alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and United States Securities and Exchange Commission Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities similarly situated who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI between February 23, 2017 through February 21, 2018, inclusive.

23. As a result of Lead Counsel's investigation, and as discussed below, Plaintiffs and Lead Counsel significantly expanded the theory of liability alleged in previously filed complaints.

While those earlier-filed complaints asserted a three-week class period and relied entirely on one false pre-earnings statement that AOI issued on July 13, 2017, Lead Plaintiff advanced several new theories of false statements, and two newly-alleged corrective disclosures that expanded the class period to stretch an entire year.

24. The FAC, which was substantively identical to the operative SAC (except the SAC named additional Plaintiffs Hamilton, Luthy, Cetlin, and Kugel as parties), alleged Defendants materially misrepresented AOI's financial and operational performance, including information regarding: the quality of AOI's "core" transceiver product; the demand for transceivers from its largest customer Amazon, which unbeknownst to investors, had been significantly declining due to major defects; Defendants' visibility into AOI's most important customers' purchasing; and AOI's ability to quickly and adequately meet demand for newer and faster "100G" transceivers using AOI's touted vertical integration model.

25. Plaintiffs allege that the truth was revealed by three partially-corrective disclosures on August 3, 2017, October 12, 2017, and February 21, 2018. ¶¶170-77. Plaintiffs allege that the market began to learn of Defendants' alleged misrepresentations and omissions when, on August 3, 2017, Defendants stated that AOI saw "softer than expected demand for our 40G [transceivers] with" Amazon in the third quarter of 2017. ¶¶129-30. On October 12, 2017, Defendants stated that "preliminary results for the third quarter fell short of prior estimates" and that AOI "saw lower demand overall [*i.e.*, 40G **and**, for the first time, 100G] from" Amazon. ¶140. Finally, on February 21, 2018, Defendants stated that its fourth quarter revenue was lower than expected due to "customer-specific" [*i.e.*, Amazon-specific] issues. ¶176.

26. Defendants filed a motion to dismiss the FAC on April 4, 2018, including voluminous briefing and exhibits in excess of 350 pages. Defendants challenged the sufficiency of

the FAC's allegations concerning nearly every element of Lead Plaintiff's claim. Defendants argued, among other things, that the FAC failed to allege: their statements were false or misleading, they acted with scienter, or that their conduct caused Lead Plaintiff's losses. Among other things, Defendants argued that:

- a. none of their statements were false or misleading. For example, Defendants argued that their July 13, 2017 pre-earnings statement was not misleading because it solely contained historical facts concerning the second quarter of 2017, rather than guidance about future performance. ECF 53 at 12. Defendants also contended in the motion to dismiss that their statements purporting that AOI's manufacturing process was a competitive advantage (*e.g.*, that their "vertical integration model" could provide them a "faster" ability to "scale" to "quickly" meet anticipated demand) were not actually false or misleading, but rather, that these were simply inactionable opinion statements. ECF 53 at 21.
- b. many of their statements were protected by the PSLRA's safe harbor for forward-looking statements. ECF 53 at 20-21. Specifically, Defendants contended that they warned investors of risks from: AOI generating its revenue from a limited number of customers, difficulties in accurately forecasting customer demand, AOI's significant competition, damage to customer relationships from manufacturing problems, and variation in AOI's quarter-to-quarter results leading to volatility in AOI's stock price.
- c. a significant majority of the alleged false statements were vague statements of optimism amounting to no more than inactionable puffery. ECF 53 at 17.
- d. the FAC failed to plead scienter, especially with regard to any well-pled motive for committing fraud on investors. In particular, Defendants asserted that their stock sales did not raise an inference of scienter because they were neither suspicious in timing nor amount. ECF 53 at 25-26.
- e. none of Lead Plaintiff's alleged disclosures were corrective of any particular alleged false statement. ECF 53 at 28-30. Defendants took particular exception to Plaintiffs' alleged corrective disclosures on October 12, 2017 and February 21, 2018, claiming that there is no "information in these disclosures that reveals the falsity of AOI's alleged misstatements or the supposedly true nature of AOI's allegedly fraudulent scheme." *Id.* at 29.

27. Defendants' asserted these and similar arguments vigorously, and would do so again on numerous occasions including in their motion for interlocutory appeal, their opposition

to Plaintiffs' motion for class certification, their briefing in connection with the mediation, and undoubtedly would have done so in further proceedings such as summary judgment, trial, and any appeals.

28. Lead Plaintiff opposed the motion to dismiss on May 4, 2018. Because Defendants' arguments were wide-ranging and fact-intensive, Lead Counsel had to devote substantial time and resources to researching and drafting Lead Plaintiff's opposition. For example, Lead Counsel had to research the law on every disputed element of their claims, as well as scour the materials referenced in both the FAC and Defendants' appendix in order to marshal evidence to counter Defendants' factual assertions. Lead Counsel's extensive research of the public record, including AOI's SEC filings, other public statements and the market commentary concerning all of these matters, was essential in responding to Defendants' voluminous motions to dismiss. On May 21, 2018, Defendants filed a reply brief in further support of their motion.

29. On September 27, 2018, while Defendants' motion to dismiss was fully-briefed and pending, Loop Capital Markets reported that "AAOI is having product quality issues in 100G CWDM4 transceivers" and on September 28, 2018, AOI admitted that "we identified an issue with a small percentage of 25G lasers within a specific customer [later identified as Facebook] environment" and slashed its expected third quarter 2018 revenue guidance to \$55-58 million from \$82-92 million, or about 37%. All told, from September 26, 2018 to October 1, 2018, the value of AOI's stock plummeted from \$31.34 to \$24.00, on heavy trading volume.

30. On November 8, 2018, Lead Plaintiff moved to amend the complaint to allege these additional dates as partially-corrective disclosures. ECF 68. On November 28, 2018, Defendants objected to Lead Plaintiff's motion and advanced an argument that "given that [Lead] Plaintiff purchased and sold all of his AOI shares prior to" the asserted September 2018 disclosures, "[Lead]

Plaintiff may not be an adequate representative for the shareholders” whose holdings were affected thereby. ECF 70 at 7, n.7.

31. On December 3, 2018, Lead Plaintiff replied to Defendants’ arguments as well as to the arguments of plaintiffs in related actions (ECF 72-73), and vigorously contested challenges to his representation of the putative class for periods of time after he sold his holdings in AOI common stock. *See* ECF 73 at 8-10. Although Lead Plaintiff’s thoroughly-briefed reply demonstrated that Defendants’ arguments were baseless, Lead Plaintiff and Lead Counsel agreed, as prudent fiduciaries, that it was in the best interests of the Class to preemptively avoid arguments that Defendants may have potentially asserted regarding Lead Plaintiff’s representation with respect to the alleged October 12, 2017 and February 21, 2018 corrective disclosures in this Action. Accordingly, Lead Plaintiff authorized Lead Counsel to include as parties to the Action, additional named Class Members who held AOI securities through those disclosures and who would be well-suited to serve as a class representative.

32. On March 27, 2019 the Court denied Defendants’ motion to dismiss in its entirety. Following the issuance of the Court’s order denying Defendants’ motions to dismiss, Plaintiffs immediately initiated an aggressive and comprehensive discovery campaign.

33. To start, Lead Plaintiff worked diligently to produce his documents at the very outset of discovery on May 8, 2019—even before Defendants’ document requests were served. Lead Plaintiff also immediately began pressing Defendants to respond to interrogatories and produce all documents concerning the allegations of the FAC.

34. Lead Plaintiff, through counsel, negotiated an amended scheduling order (ECF 84-84), prepared and served initial disclosures under Fed. R. Civ. P. 26(a), and participated in hard-fought negotiations concerning a stipulated protective order, that included protracted discussions

with both Defendants and counsel for Amazon. *See* ECF 116, 118. Finalizing the terms of this stipulation and protective order was a substantial undertaking.

35. On May 8, 2019, Defendants filed a motion to certify the Court's order on their motion to dismiss for interlocutory appeal pursuant to 28 U.S.C. §1292(b), and further requested that the Action be stayed pending interlocutory appellate review. ECF 92. Defendants reasserted that the FAC did not adequately allege a strong inference of scienter, including their argument that Defendants' transactions in AOI stock were not suspicious or probative of scienter as a matter of law. ECF 92 at 11-13.

36. After Defendants' Section 1292(b) motion was filed, and while Plaintiffs were simultaneously aggressively pursuing discovery to comply with the Court's then-operative scheduling order, Plaintiffs concurrently researched and prepared: (i) an unopposed motion for leave to amend the complaint to add Plaintiffs Hamilton, Luthy, Cetlin, and Kugel as parties (ECF 94), that was filed on May 15, 2019; (ii) an opposed motion to certify the Action as a class action, appoint Plaintiffs as class representatives, and appoint L&K as Class Counsel (ECF 105), that was filed on May 28, 2019; and (iii) a memorandum in opposition to Defendants' Section 1292(b) motion (ECF 107), that was filed on May 29, 2019.

37. The Court granted Plaintiffs' motion for leave to amend on May 16, 2019. ECF 97. Plaintiffs filed the SAC on May 24, 2019, and Defendants answered the SAC on May 8, 2019. ECF 103, 109. On June 5, 2019, Defendants filed a reply in support of their Section 1292(b) motion (ECF 112), and the Court denied that motion on June 10, 2019 (ECF 113).

38. Class certification in this case was hotly contested. Indeed, proceedings in the Court of Appeals for the Fifth Circuit concerning Plaintiffs' motion for class certification were still pending when the Parties reached the Settlement. Plaintiffs and Lead Counsel filed, and responded

to, copious briefing; spent weeks preparing for, traveling to, attending, and defending Plaintiffs' depositions; and filed two substantial expert reports in support of their motion. Given Defendants' vigorous opposition to class certification, Lead Counsel had to devote significant resources (including time and money) and skill to preparing and defending their motion for class certification.

39. Plaintiffs included numerous exhibits to their motion for class certification, including, declarations swearing that they stood ready and willing to represent the Class, and a 74-page report prepared by their expert financial economist, Dr. Michael Hartzmark, Ph.D, that provided opinions that the market for AOI's common stock and stock options traded efficiently, and that also provided a common out-of-pocket methodology to calculate damages in this action. ECF No. 106-1. Defendants issued broad document requests to Plaintiffs in connection with their motion for class certification. Plaintiffs, with Lead Counsel's assistance, responded to these document requests by: preparing and serving responses and objections to those requests; exchanging discovery correspondence with Defendants; and producing many documents, which Lead Counsel reviewed for privilege and relevance.

40. In June 2019, each Plaintiff sat for deposition noticed by Defendants. Lead Counsel's litigation team was critical in assisting with the extensive preparation required for these depositions.

41. On July 12, 2019, Defendants submitted a brief in opposition to Plaintiffs' motion for class certification. ECF 115. In particular, Defendants pressed their argument that, *inter alia*, Plaintiffs could not establish a class-wide theory of damages under a common methodology, and therefore, that the Action should not be maintained as a class action, because Plaintiffs' alleged misstatements were actually, according to Defendants, better conceptualized as concealed risks.

According to Defendants, a materialization-of-the-risk theory of liability does not comport with Plaintiffs' expert's out-of-pocket damages methodology. Thus, Defendants claimed that because there was supposedly an incongruence between Plaintiffs' theory of liability and their theory of damages, that Plaintiffs' class certification motion must fail as a matter of law under the Supreme Court's opinion in *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013).

42. On August 26, 2019, Plaintiffs filed a detailed, thoroughly researched reply (ECF 123-24), supported by, among other things, a survey of representative case law from across the country rejecting Defendants' arguments as premature loss-causation arguments that are never appropriate to consider at class certification, and a supplemental expert report prepared by Dr. Hartzmark.

43. On November 27, 2019, Magistrate Judge Bryan issued a Memorandum and Recommendation recommending that the Class be certified, that Plaintiffs be named class representatives, and that L&K be named Class Counsel. ECF 126. However, Defendants continued to press forward with their "materialization-of-the-risk" argument through every procedural avenue available to them. Pursuant to Fed. R. Civ. P. 72(b), Defendants filed objections to Judge Bryan's Memorandum and Recommendation, which Plaintiffs opposed, and which Defendants further replied to. ECF Nos. 126, 129-30. Thereafter, the Court adopted Judge Bryan's Memorandum and Recommendation over Defendants' objections and certified the Class. ECF 131.

44. On January 3, 2020, Defendants took steps to obtain interlocutory appellate review of the Court's certification decision by filing a petition in the Fifth Circuit pursuant to Fed. R. Civ. P. 23(f). *See Rougier, et al. v. Applied Optoelectronics, Inc., et al.*, Case No. 20-90002 (5th Cir.). This petition was pending at the time the Parties reached the Settlement.

45. Shortly after the Court denied Defendants' motion to dismiss, Plaintiffs also began

immediately pursuing comprehensive written discovery to obtain information regarding every claim and defense asserted in the Action. Plaintiffs served eighty-nine (89) Rule 34 requests for production—served over the course of four sets of requests as new information became known about AOI’s operations and performance, in addition to Rule 36 requests for admission and numerous Rule 33 interrogatories. The scope of this discovery was contentious and hard-fought, as ostensibly each and every request for production and interrogatory was vigorously contested between the parties.

46. To defend the Action, Defendants hired a top-tier law firm to defend them in Vinson & Elkins, LLP (“V&E”). V&E assembled a virtual army of partners, counsel, and associates to defend the Action, and those were only the most visible members of Defendants’ legal team. Defendants plainly had untold numbers of additional attorneys working behind the scenes. V&E litigated this case aggressively, employing a “scorched earth” litigation strategy that left no stone unturned in defending their clients.

47. To match defense counsel of such caliber required significant effort and skill by Lead Counsel. Lead Counsel had to assemble a legal team that could match Defendants’ well-funded and formidable defense teams, while still litigating efficiently and economically. As noted in the accompanying firm-specific declarations, the primary team members involved in prosecuting the Action from Plaintiffs’ Counsel included Shannon L. Hopkins, Gregory M. Potrepka, and Andrew W. Rocco from L&K; Joe Kendall from The Kendall Law Group, PLLC; and Melissa Fortunato and Marion Passmore from Bragar Eigel & Squire, P.C.

48. In addition, Lead Counsel assembled a team of staff attorneys for the extremely time-intensive and critical tasks of reviewing, analyzing, and digesting the large volume of complex documents produced in the case as well as preparing for depositions. Lead Counsel’s staff

attorneys mainly focused on assisting the primary litigation team's fact discovery by reviewing and analyzing electronically-produced documents. To be clear, Lead Counsel's staff attorneys did far more than merely code documents or engage in rote word searches. For example, one of Lead Counsel's staff attorneys' chief contributions was to assist Lead Counsel in identifying every purchase order from AOI's major datacenter customers that Defendants produced and identifying patterns in the purchase orders as it related to Plaintiffs' theories of liability. Lead Counsel's primary team also held regular weekly meetings with staff attorneys to discuss documents of particular significance as a group, and to learn about patterns and trends in Defendants' productions.

49. Lead Counsel's internal document review protocol required the primary litigation team and staff attorneys alike to have detailed familiarity with the issues in the case and the federal securities laws, so that the most important documents (whether helpful or not to Plaintiffs' case) were quickly identified and available to be used by Lead Counsel in concurrent negotiations with Defendants. By assembling a team of well-credentialed, experienced, and trusted attorneys, Lead Counsel ensured that they could accomplish the critical tasks of analyzing documents and preparing for the mediation and potential depositions (as well as other tasks) while minimizing eventual lodestar.

50. Lead Counsel's review protocol further assisted the litigation team in analyzing whether Defendants had fully complied with their discovery obligations. This process required Lead Counsel to participate in many meet-and-confer conference calls with Defense counsel and prepare numerous lengthy deficiency letters that were sent to Defendants when missing documents or information was required to be produced. Yet, through frequent and fruitful negotiation Plaintiffs and Defendants achieved resolution on an overwhelming majority of their discovery

disputes without the Court's involvement, and in accordance with the Court's Individual Practice 4.D. By the time the Parties reached the Settlement, Plaintiffs' had reviewed and analyzed 54,000 documents (over 300,000 pages) produced by Defendants.

51. After the motion to dismiss was denied, Plaintiffs also quickly issued subpoenas for documents from third parties located across the country, including Amazon. At the time the Settlement was reached, Plaintiffs had served twenty-six (26) document subpoenas on third parties, and collected, reviewed, and analyzed over 34,000 documents. This work was no simple task. Even the simplest subpoenas required Lead Counsel to meet and confer with counsel for each of the third parties to explain the Action, describe the information that was being sought, and participate in extensive negotiations to secure the information needed to pursue this Action on behalf of Plaintiffs and the Class.

52. Some third parties were so uncooperative that Plaintiffs were required to pursue their documents through legal action. For example, after months of negotiations with Plaintiffs that involved inserting language preferred by Amazon into the Parties' stipulated protective order to protect Amazon's privacy, Amazon decided it would not willingly produce *any* documents to Plaintiffs. Pursuant to Federal Rule of Civil Procedure 45, Plaintiffs were required to obtain local counsel in the Western District of Washington where Amazon is located, and institute motion to compel proceedings. Lead Counsel fully briefed, and won, a motion to transfer the proceedings to this Court. *In re Subpoena to Amazon.com, Inc.*, 2019 U.S. Dist. LEXIS 200628 (W.D. Wash. Nov. 19, 2019). When the *Amazon.com* case was transferred, Lead Counsel argued Plaintiffs' fully briefed motion to compel before Judge Bryan who granted the motion, and compelled Amazon to produce documents that were extremely valuable to Plaintiffs in connection with the Parties' mediation. *See Rougier, et al. v. Applied Optoelectronics, Inc., et al.*, Case No.: 4:19-cv-4721-

VGB-CAB, ECF No. 31 (S.D. Tex.).

53. Plaintiffs' efforts in the *Amazon.com* case set precedent that was dispositive of additional disputes in this Action. Shortly, after Plaintiffs moved to compel Amazon, negotiations with Hyve Solutions Corporation ("Hyve") (AOI's distributor to Amazon), which is located in the Northern District of California, similarly broke down. After filing a motion to compel and a motion to transfer against Hyve, Plaintiffs' motion to compel against Amazon was granted. Rather than wasting further time and resources opposing Plaintiffs' motions to compel and transfer, Hyve stipulated to transfer of the pending motion to compel, and resumed negotiations with Plaintiffs to produce documents. *See In re Subpoena Dispute*, Case No.: 4:20-mc-750-VDG, ECF No. 13 (S.D. Tex. Mar. 4, 2020).

54. As discovery progressed, in addition to monitoring Defendants' compliance with outstanding discovery requests, Lead Counsel needed to analyze Defendants' lengthy privilege logs, which asserted many novel claims of privilege and protection. Lead Counsel met and conferred with Defendants' counsel regarding their claims of privilege, and prepared numerous letters regarding same which successfully resulted in the additional productions of documents. By way of one example, Defendants claimed privilege over documents produced by its external public relations consultant The Blueshirt Group. *See* ECF 138. On the eve of a hearing on Plaintiffs' motion to compel set by the Court, and after the Parties had written opposing position letters concerning the applicability of any privilege to the documents, the parties resolved their dispute and Defendants produced additional documents from The Blueshirt Group.

55. In sum, Lead Counsel's investigation of this Action from its inception, and Lead Counsel's prosecution of this Action through the pleadings stage, class certification, and written discovery, allowed it to be fully aware of all of the strengths and significant weaknesses of

Plaintiffs' case.

### **III. THE SETTLEMENT NEGOTIATIONS**

56. After Defendants' Rule 23(f) petition for interlocutory appeal was fully briefed in the Fifth Circuit, the Parties engaged in discussions regarding a potential resolution of the case and agreed to attend a mediation before Ms. Michelle Yoshida of Phillips ADR on April 20, 2020. Because of the COVID-19 pandemic, the full-day mediation was rescheduled to, and occurred via Zoom videoconferencing on, May 21, 2020. In advance of that session, Lead Counsel prepared and submitted a detailed mediation statement outlining the strengths of Plaintiffs' claims, accompanied by an extensive record of documentary evidence adduced in discovery. Defendants likewise submitted a mediation statement highlighting their views of the weaknesses of Plaintiffs' claims and underscoring the significant risk inherent in the Action. The Parties were unable to resolve the Action at this full-day mediation.

57. Over the ensuing weeks, with the assistance of Ms. Yoshida, Plaintiffs continued vigorous settlement negotiations with Defendants while simultaneously continuing discovery.

58. On June 2, 2020, the Parties agreed to Ms. Yoshida's personal mediator's recommendation, which was derived from her independent and considered opinion regarding the strengths of Plaintiffs' claims weighed against the considerable risks posed by continued litigation.

59. Thereafter, the Parties worked diligently to negotiate the full settlement terms set forth in the Stipulation and its exhibits, which was executed and filed with the Court on August 3, 2020.

### **IV. SUMMARY OF THE SETTLEMENT, PLAN OF ALLOCATION & NOTICE PROGRAM**

60. The Settlement consists of \$15,500,000 in cash, plus interest earned thereon. The "Class" is defined as all investors who purchased or otherwise acquired publicly-traded common

stock and/or call options of AOI, or sold put options of AOI from February 23, 2017 through February 21, 2018, inclusive (the “Class Period”), and who were damaged thereby. Excluded from the Class are: (i) Defendants; (ii) their immediate family members; (iii) any officers or directors of AOI during the Class Period; (iii) any firm, trust, corporation, or other entity in which a Defendant has or had a controlling interest; and (iv) the legal representatives, affiliates, heirs, successors in-interest, or assigns of any such excluded person or entity. Also excluded will be any person that timely and validly seeks exclusion from the Class.

61. The Plan of Allocation is designed to fairly and rationally allocate the Settlement proceeds among Class Members. Under the Plan of Allocation, each Authorized Claimant will receive his, her, or its *pro rata* share of the net Settlement fund. The Plan of Allocation does not provide preferential treatment to any Class Member, segment of the Class, or to Plaintiffs and is thus fair, reasonable, and adequate.

62. Pursuant to the Court’s Preliminary Approval Order, Lead Counsel, through the Claims Administrator, implemented a comprehensive notice program whereby the Notice (ECF 143-4) was mailed to members of the Class, which contains: information regarding the Settlement; a Claim Form; instructions on how to submit a Claim Form or objection or request exclusion from the Settlement; as well as directions for potential Class Members to visit the Claims Administrator’s website that has been specifically created for the administration of this Settlement, and that contains all of the documents related to this Settlement, including the Preliminary Approval Order, the Stipulation, and all exhibits. *See generally* Declaration of Tina Chiango Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of Summary Notice; and (C) Report on Requests for Exclusions Received to Date, (attached hereto as Exhibit 1).

63. As of October 20, 2020, the Claims Administrator mailed 70,072 copies of the Notice to potential Class Members and nominees and had arranged for the mailing of an additional 15,566 to be disseminated by that date. *Id.* at ¶¶6-10. Pursuant to the Court’s Preliminary Approval Order, Summary Notice was also published on the internet on *Globe Newswire* and in *Investor’s Business Daily*. *Id.* at ¶14.

64. The Notice disclosed, among other things, the following information necessary to evaluate the benefits of the Settlement to Class Members: (i) the rights of Class Members, including the right to accept, object, or opt out of the Settlement; (ii) the nature, history, and progress of the litigation; (iii) the details of the proposed Settlement; (iv) the process for filing a proof of claim; (v) a description of the Plan of Allocation; (vi) the maximum attorneys’ fees and out-of-pocket expenses to be sought by Lead Counsel; (vii) reimbursement for Plaintiffs’ costs and expenses; and (viii) the necessary information for any Class Member to examine the Court records should they desire to do so.

65. The Notice also sets forth instructions to securities brokers and other nominee holders for forwarding the Notice to those persons for whom the nominees held shares in street name. Additionally, the Notice explains procedures and deadlines for opting out of the Settlement or submitting comments or objections.

66. As a result of the Court’s entry of the Preliminary Approval Order and Order Setting Date for Hearing on Final Approval of Settlement (ECF Nos. 144, 146), the deadline for Class Members to object to the Settlement, the Plan of Allocation, or to the application for attorneys’ fees and Litigation Expenses—or to exclude themselves from the Class—is currently November 3, 2020. On October 19, 2020, Plaintiffs filed an unopposed motion to extend the deadlines for Class Members to request exclusion from the Settlement and/or to object to the

Settlement, the Plan of Allocation of the Settlement Fund, and/or Lead Counsel's request for an award of fees and expenses, up to and including November 17, 2020, which motion was pending and under advisement as of the date of this Declaration. While the original deadline and the proposed extended deadline have not yet passed, to date, not a single Class Member has objected to, or requested exclusion from, the Settlement. Ex.1, ¶¶16-17.

## **V. THE STRENGTHS AND WEAKNESSES OF THE CASE**

67. Plaintiffs believe they developed substantial evidence during Lead Counsel's independent case investigation, and from discovery that supports their claims. This is evident from the Court's order denying dismissal of the FAC and certification of the class. Lead Plaintiff also realized, however, that continued litigation would have been costly, risky, and drawn out.

68. Although Plaintiffs succeeded in obtaining class certification, they faced the immediate concern of prevailing on Defendants' attempted interlocutory appeal of that decision, which, under Defendants' "materialization of the risk" theory described above, not only could have defeated class certification but could have acted as a decision on the merits that it was impossible for any class member to prove damages against Defendants. Thus, an adverse ruling in the Fifth Circuit could have barred any Class member from bringing an individual claim, given that damages are a necessary element of any securities action.

69. Plaintiffs also faced the burden of demonstrating liability and damages at trial (and on any subsequent appeal). Moreover, Defendants had already raised vigorous arguments regarding loss causation—specifically, calling into question two of Plaintiffs' alleged corrective disclosures dated October 12, 2017 and February 21, 2018. If Defendants had been successful at any of these stages, the amount of any potential recovery would have been sharply limited, or even foreclosed altogether.

70. Plaintiffs also faced considerable risks collecting any future settlement or judgment from alternative sources. The Settlement represented approximately 80% of the nearly \$20 million in remaining insurance coverage at the time of the mediation. The insurance would no doubt have eroded to well below the Settlement amount (or to potentially nothing at all) if this case had proceeded with continued litigation. Further, AOI's long-term viability is highly uncertain as it is significantly indebted and has suffered considerable net losses in the last 8 quarters through 2Q2020—the most recently reported quarter which was announced after Plaintiffs' moved for preliminary approval—erasing approximately \$1.7 billion in market capitalization, and 91.3% of the stock's value, from a Class Period high of \$99.61 to \$8.66 as of the mediation. *See* Exs.4, 14, hereto (excerpts of AOI financial data from S&P Capital IQ).

71. Plaintiffs and Lead Counsel recognize the significant risk, time, and expense involved in prosecuting the claims against Defendants through the 23(f) petition on class certification, completion of fact and expert discovery, summary judgment, *Daubert* motions, trial, post-trial motions, and subsequent appeals, as well as the inherent difficulties and delays complex litigation like this entails.

72. In summary, there were multiple procedural hurdles, as well as significant merit-based and collectability risks involved in proceeding with the litigation, each of which was carefully considered by Lead Counsel and Plaintiffs in making the determination to settle with Defendants on the agreed terms.

## **VI. THE SETTLEMENT IS IN THE BEST INTERESTS OF THE CLASS AND WARRANTS APPROVAL**

73. Having considered the foregoing strengths and weaknesses of the claims, and evaluating Defendants' defenses, it is the informed judgment of Lead Counsel, based upon all proceedings to date and their extensive experience in litigating class actions under the federal

securities laws, that the Settlement of this matter before this Court and the Plan of Allocation are fair, reasonable, adequate, and in the best interests of the Class.

## **VII. THE CLASS HAS BEEN CERTIFIED**

74. The Court's Preliminary Approval Order certified the Class for settlement purposes only under Fed. R. Civ. P. 23(a) and (b)(3). ECF 144 at ¶2.

## **VIII. LEAD COUNSEL'S APPLICATION FOR ATTORNEYS' FEES IS REASONABLE**

### **A. A Reasonable Percentage of the Fund Recovered is the Appropriate Method to Use in Awarding Attorneys' Fees in Common Fund Cases**

75. For their extensive efforts on behalf of the Class, Lead Counsel are applying for compensation from the Settlement on a percentage basis. Courts have recognized that the percentage method is the appropriate method of fee recovery because, among other things, it aligns the lawyers' interest in being paid a fair fee with the interest of the Class in achieving the maximum recovery.

### **B. Consideration of Relevant Factors Justify an Award of 33⅓% Fee in This Case**

76. The Notice provides that Lead Counsel would apply for a fee award in an amount up to one-third (33⅓%) of the Settlement and that Lead Counsel would request reimbursement of Plaintiffs' Counsel's Litigation Expenses in an amount not to exceed \$630,000 (inclusive of notice costs), which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Class. Lead Counsel submits that such an award is reasonable and appropriate under the circumstances. Numerous factors are present here that justify this Court's award of this fee.

#### **1. The Settlement Benefit Achieved**

77. Courts have consistently recognized that the result achieved is a major factor to be

considered in making a fee award. Here, the \$15,500,000 Settlement is a very good result, particularly when considered in view of the substantial risks and obstacles to recovery if the Action was to continue to trial and likely through post-trial motions and appeals. Plaintiffs' damages expert estimates that if Lead Plaintiff overcame *all* obstacles to establishing liability, and prevailed on all his loss causation and damages theories, the \$15,500,000 million settlement would equate to approximately 3% of the approximately \$535 million *maximum* damages *potentially* available in this Action.

78. However, Defendants raised credible arguments that Plaintiffs could not prove their loss causation allegations with respect to the October 12, 2017, and February 21, 2018 corrective disclosures. If Defendants had prevailed on these arguments, the total maximum damages available would be approximately \$269 million, in which case, the Settlement represents a recovery of approximately 6% of the Class's maximum total damages. A recovery within the range of 3-6% is well above the average recovery in similar situations. *See* Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Plan of Allocation of Settlement Proceeds and Memorandum of Law in Support Thereof, §IV.A.1.b.i.; Lead Counsel's Unopposed Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses and Memorandum of Law in Support Thereof ("Motion for Fees and Expenses"), §III.C.7.

79. Had Defendants prevailed on any motion(s) for summary judgment—or had the Court or a jury later accepted Defendants' loss causation arguments or had Plaintiffs been required to disaggregate what Defendants asserted was confounding information from their damages—recoverable damages would have been substantially diminished or completely eliminated. These were not hypothetical risks. Multiple securities class actions also have been dismissed at the summary judgment stage. *See, e.g., In re Omnicom Grp., Inc. Sec. Litig.*, 541 F. Supp. 2d 546,

554-55 (S.D.N.Y. 2008), *aff'd* 597 F.3d 501 (2d Cir. 2010); *see also In re Xerox Corp. Sec. Litig.*, 935 F. Supp. 2d 448, 496 (D. Conn. 2013), *aff'd* 766 F.3d 172 (2d Cir. 2014); *see also* Motion for Fees and Expenses, §III.C.6. at n.10 (citing cases dismissing case after trial or on appeal).

80. Thus, this favorable Settlement achieved by Plaintiffs and Lead Counsel avoided these risks, and was only possible as the result of extensive investigative efforts, contentious and complicated motion practice, extensive review of documents produced in discovery, and vigorous, arm's-length settlement negotiations with the assistance of a respected and skilled mediator. Moreover, there is not any evidence that the Settlement was tainted by fraud. As a result of this Settlement, hundreds, if not thousands, of Class Members will benefit and receive compensation for their losses and avoid the real, and substantial risk of no recovery in the absence of settlement.

## **2. The Risk of Contingent Class Action Litigation**

81. This Declaration and the memoranda in support of the Settlement and the fee request described the substantial risks of the litigation. Those same difficulties also constituted risks that Lead Counsel might never be paid for their efforts. Indeed, courts in this Circuit have consistently recognized that risk is an important factor in determining an important fee award. There are numerous cases where class counsel in contingent fee cases such as this, after expenditures of thousands of hours and significant out-of-pocket expenditures, have received no compensation whatsoever. Because the fee to be awarded in this matter is entirely contingent, the only certainty from the outset was that there would be no fee without a successful result, and that such a result would be realized only after a lengthy and difficult effort against Defendants who were represented by one of the most pre-eminent law firms in Texas (and the country).

82. Moreover, courts have repeatedly recognized that it is in the public interest to have experienced and able counsel enforce the securities laws and regulations pertaining to the duties

of officers and directors of public companies. Vigorous private enforcement of the federal securities laws can only occur if private plaintiffs take an active role in protecting the interests of shareholders.

83. As discussed in greater detail above, this case was fraught with significant risk factors concerning liability and damages. Plaintiffs' success was by no means assured. Defendants disputed whether Plaintiffs could even establish liability and raised substantial arguments concerning loss causation and damages.

84. Indeed, were this Settlement not achieved, and even if Plaintiffs prevailed at the Fifth Circuit, on summary judgment, and at trial, Plaintiffs and Lead Counsel faced potentially years of costly and risky appellate litigation against Defendants, with ultimate success far from certain and the prospect of no recovery a substantial possibility. It is also possible that a jury could have found no liability or no damages. Lead Counsel therefore believe that based upon the substantial risk factors present, that an award of attorneys' fees of 33⅓% of the Settlement Fund is reasonable.

### **3. The Diligent Prosecution of This Case**

85. The requested fee is also warranted in light of the extensive efforts on the part of Lead Counsel, as outlined above, required to produce this result. Plaintiffs' Counsel spent approximately 9,784.76 hours of time on this case performing, among other tasks, the review and analysis of: (i) documents filed publicly by the Company with the SEC; (ii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company; (iii) research reports issued by financial and industry analysts concerning the Company; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AOI's customers; (v) interviews

conducted with former employees of AOI; (vi) reports and exhibits prepared by Plaintiffs' expert relating to the efficiency of the market for AOI's securities and a damages model for class certification purposes (vii) over 54,000 documents (over 300,000 pages) produced by Defendants in response to eighty-nine (89) Rule 34 requests for production served by Plaintiffs over the course of four sets of requests; (viii) Defendants' responses to Rule 33 interrogatories and Rule 36 requests for admission served by Plaintiffs; (ix) Defendants' privilege logs (x) over 34,000 documents produced by third parties in response to twenty-six (26) Rule 45 subpoenas; and (xi) the applicable law governing the claims and potential defenses in this action, and the law as it relates to third party discovery in different jurisdictions (including enforcement proceedings in District Courts in the Northern District of California and the Western District of Washington). *See* Exs.5-7, hereto.

86. Moreover, Lead Counsel will continue to work towards effectuating the Settlement in the event the Court grants final approval. No additional compensation will be sought for this work.

87. As set forth below, Plaintiffs' Counsel's expended a total of 9,784.76 hours prosecuting this Action, equating to a lodestar of \$5,301,199, using prevailing market rates.

<b>LAW FIRM</b>	<b>HOURS</b>	<b>LODESTAR</b>
Levi & Korsinsky, LLP	9,547.36	\$5,122,159
Bragar Eigel Squire, P.C.	187.5	\$139,025
The Kendall Law Group, PLLC	49.9	\$40,015
<b>TOTAL</b>	<b>9,784.76</b>	<b>\$5,301,199</b>

88. The requested fee results in a negative multiplier of **.98**, a figure demonstrating how vigorously Plaintiffs' Counsel fought to achieve the result on behalf of the Class.

89. Plaintiffs' Counsel's lodestar also demonstrates diligent and efficient representation of Plaintiffs and the Class when adjusted to the rates approved by Judge Harmon

over thirteen years ago in this District. *See In re Enron Corp. Sec., Deriv., & “ERISA” Litig.*, 586 F. Supp. 2d 732, 779 (S.D. Tex. 2008) (Houston/Dallas salary survey in 2007 found highest partner rate was \$900 per hour and the highest associate rate was \$460 per hour) (“*Enron*”). As set forth below, when applying a \$900 cap on partners’ hourly rates, a \$700 cap on hourly rates for attorneys who are of counsel, and a \$460 cap on associates’ hourly rates, as was approved in *Enron*,<sup>4</sup> Plaintiffs lodestar equates to \$4,695,545.75.

<b>LAW FIRM</b>	<b>HOURS</b>	<b>LODESTAR</b>
Levi & Korsinsky, LLP	9,547.36	\$4,528,805.75
Bragar Eigel Squire, P.C.	187.5	\$126,725
The Kendall Law Group, PLLC	49.9	\$40,015
<b>TOTAL</b>	<b>9,784.76</b>	<b>\$4,695,545.75</b>

90. Applying the rate caps described above results in a multiplier of 1.100, further demonstrating that, even when reducing Plaintiffs’ Counsel’s hourly rates to those approved nearly thirteen years ago, Plaintiffs’ Counsel requested fee is reasonable and by no means a “windfall”.

#### **4. The Complexity of This Action’s Factual and Legal Questions**

91. Numerous courts recognize that risk, as well as the novelty and difficulty of the issues presented, are important factors in determining a fee award. There is no question that from its outset, this Action presented a number of sharply-contested issues of both fact and law and that Plaintiffs faced formidable defenses to liability and damages. The substantial risks and uncertainties in this case made it far from certain that any recovery, let alone \$15.5 million, would ultimately be obtained.

92. From the outset, this Action was an especially difficult and highly uncertain securities case, with no assurance whatsoever that the Action would survive Defendants’ attacks on the pleadings, motion for class certification, multiple attempted interlocutory appeals, motions

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<sup>4</sup> Of counsel hourly rates were not discussed in *Enron*, so for the purposes of this exercise, they were capped at \$700, which is roughly split between the \$900 rate for partners and the \$460 rate for associates.

for summary judgment, trial, and appeal. Defendants' arguments regarding loss causation and damages posed a significant threat that Class members investing in AOI securities after the August 3, 2017 corrective disclosure would be unable to recover anything for their losses. Even if Plaintiffs prevailed at the Fifth Circuit on the 23(f) petition, very difficult issues of proof remained at summary judgment and trial as to the key elements of materiality, falsity, scienter, loss causation, and damages. Continued litigation would have involved substantial briefing, extensive and costly expert involvement, and the taking of numerous depositions. The costs and risks associated with litigating this Action to a verdict, not to mention the inevitable appeals, would have been high, and the process would require hundreds of hours of this Court's time and resources, and the remaining insurance coverage would have likely wasted away entirely. Furthermore, this Action would easily require an additional 2-3 years before a recovery, if any, was obtained for the Class.

#### **5. Plaintiffs' Counsel's Work and Experience**

93. As evidenced by its firm resume, L&K has significant experience litigating federal securities fraud class actions throughout the country. *See* Ex.5. The same is true of additional counsel for Plaintiff Kugel. *See* Ex.6. Moreover, Liaison Counsel's firm resume demonstrates that The Kendall Law Group, PLLC is also highly experienced. *See* Ex.7.

94. The record in this case, along with the matters described in this Declaration, demonstrate the enormous effort and expense that went into successfully resolving this Action. Lead Counsel's declarations outline the amount of time spent by each attorney and paralegal employed by Plaintiffs' Counsel, and the lodestar calculation based on current billing rates, demonstrating that a 33 $\frac{1}{3}$ % fee is reasonable for the extraordinary efforts expended to achieve the result in this case.

## 6. Standing and Caliber of Opposing Counsel

95. The quality of work performed by Lead Counsel in attaining the Settlement should also be evaluated in light of the quality of the opposition. Here, Defendants were represented by Vinson & Elkins LLP, a firm with a national reputation for the tenacious defense of class actions and other complex civil matters. In the face of this experienced and formidable opposition, Plaintiffs' Counsel were nonetheless able to persuade Defendants to settle the case on terms that I believe are favorable to the Class.

## IX. PAYMENT OF THE REQUESTED EXPENSES AND COSTS IS FAIR AND REASONABLE

96. Plaintiffs' Counsel are also moving for payment of \$167,289.09 in Litigation Expenses reasonably and actually incurred in connection with commencing and prosecuting the claims against Defendants, as outlined in the accompanying declarations. Plaintiffs' Counsel advanced all of the litigation expenses. *See* Exs.5-7. Pursuant to the Preliminary Approval Order, Plaintiffs notified Class Members that they would seek a maximum of \$630,000 in expenses, including \$300,000 related to notice and claims administration. Thus, Plaintiffs' requested expenses—including \$300,000 for notice and claims processing, \$167,289.09 for out-of-pocket expenses, and \$55,000 for Plaintiffs' expenses—is over \$107,000 *less* than what was included in the Notice.

97. As detailed below, Plaintiffs' Counsel is seeking reimbursement of a total of \$167,289.09 in out-of-pocket costs and expenses:

<b>LAW FIRM</b>	<b>EXPENSES</b>
Levi & Korsinsky, LLP	\$165,855.33
Bragar Egel Squire, P.C.	\$810.50
The Kendall Law Group, PLLC	\$623.26
<b>TOTAL EXPENSES</b>	<b>\$167,289.09</b>

98. From the beginning of the case, Plaintiffs' Counsel were aware that they might never recover any of their expenses, and, at the very least, would not recover anything until the Action was successfully resolved. Plaintiffs' Counsel also understood that, even assuming the case was ultimately successful, reimbursement for expenses would not compensate them for the lost use of funds advanced by them to prosecute this Action. Thus, Plaintiffs' Counsel were motivated to, and did, take steps to assure that only necessary expenses were incurred for the vigorous and efficient prosecution of the case.

99. Of the total amount of litigation expenses, approximately \$108,315 or 65% was expended on Plaintiffs' experts and consultants. Plaintiffs retained and consulted with experts in the fields of market efficiency, loss causation and damages to assist in the prosecution of the Action. Plaintiffs' experts on market efficiency, loss causation, and damages also assisted Lead Counsel during the mediation and settlement negotiations with the Defendants and with the development of the proposed Plan of Allocation.

100. Another substantial component of Plaintiffs' Counsel's out-of-pocket litigation expenses was for the services of a private investigator, which included conducting numerous fact interviews with former AOI employees and other relevant third parties in preparation of the FAC. The charges for the private investigator's services amounted to \$13,437.50, or 8% of the total amount of out-of-pocket litigation expenses.

101. Additionally, Lead Counsel paid \$10,500 for their share of the mediation fees charged by Ms. Michelle Yoshida of Phillips ADR, which is 6.3% of Plaintiffs' Counsel's total expenses.

102. Other substantial expenses included \$966.36 for the combined costs of on-line legal and factual research that was crucial to researching the claims and opposing Defendants' motions

to dismiss; and \$3,622.50 for costs related to the document review and litigation support, including costs for an outside vendor to create and maintain the electronic database through which the large volume of documents produced in the Action could be maintained and reviewed.

103. The other out-of-pocket litigation expenses for which Plaintiff's Counsel seeks reimbursement are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. Those expenses include, among others, courts fees, process serving fees, costs of out-of-town travel, and copying costs.

104. In view of the complex nature of the Action, the litigation expenses incurred were reasonable and necessary to pursue the interests of the Class. Accordingly, Lead Counsel respectfully submit that the request for expenses be granted.

**X. THE REQUESTED COMPENSATION FOR PLAINTIFFS IS FAIR AND REASONABLE**

105. Lead Plaintiff Lawrence Rougier and additional Plaintiffs Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel seek modest reimbursements for the time they expended on behalf of the Class. Reimbursement of a class representative's reasonable costs and expenses is authorized under the PSLRA, 15 U.S.C. § 78u-4(a)(4), and I believe, based on my knowledge of Plaintiffs' activity in this case, that the following requested amounts are reasonable and should be approved by the Court: \$15,000 for Lead Plaintiff Lawrence Rougier, \$10,000 for Plaintiff Richard Hamilton, \$10,000 for Plaintiff Kenneth X. Luthy, \$10,000 for Plaintiff Roy H. Cetlin, and \$10,000 for Plaintiff John Kugel.

106. Throughout this litigation, Plaintiffs received status reports from Plaintiffs' Counsel on case developments and participated in regular discussions concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. In particular, throughout the course of this Action, Plaintiffs fulfilled their duties as fiduciaries by: (a) regularly

communicating with attorneys at Plaintiffs' Counsel regarding the posture and progress of the case; (b) reviewing pleadings, briefs, and court orders filed in the Action and discussing them with counsel; (c) producing documents and responding to Defendants' discovery (d) taking time to prepare for, travel to, and attend their depositions taken by Defendants; (e) consulting with his attorneys regarding the settlement negotiations; and (f) evaluating and approving the proposed Settlement. *See* Exs.9-13. Moreover, the Notice stated that Lead Counsel would request reimbursement of litigation costs and expenses in an amount not to exceed \$630,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Class, including the cost of Notice and to administer the claims process. To date, there have been no objections to such a request. Thus, Lead Counsel believes that the requested awards of \$15,000 for Lead Plaintiff Lawrence Rougier and \$10,000 each for Plaintiffs Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel for their time spent on behalf of the Class would be fair and reasonable.

## **XI. EXHIBITS**

107. Attached hereto as Exhibit 1 is a true and correct copy of the Declaration of Tina Chiango Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of Summary Notice; and (C) Report on Requests for Exclusions Received to Date.

108. Attached hereto as Exhibit 2 is a true and correct copy of Laarni T. Bulan & Laura E. Simmons, *Securities Class Action Settlements 2019 Review and Analysis*, Cornerstone Research.

109. Attached hereto as Exhibit 3 is a true and correct copy of Stefan Boettrich & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review*, NERA Economic Consulting, January 29, 2019.

110. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of financial data retrieved from S&P Capital IQ demonstrating AOI's net losses for the past eight quarters, working capital for the most recent quarter ending June 30, 2020, and cash from operations for the most recent quarter ended June 30, 2020.

111. Attached hereto as Exhibit 5 is a true and correct copy of the Declaration of Shannon L. Hopkins on Behalf of Levi & Korsinsky, LLP in Support of Application for an Award of Attorneys' Fees and Expenses.

112. Attached hereto as Exhibit 6 is a true and correct copy of the Declaration of Melissa A. Fortunato on Behalf of Bragar Eigel & Squire, P.C. in Support of Application for an Award of Attorneys' Fees and Expenses.

113. Attached hereto as Exhibit 7 is a true and correct copy of Declaration of Joe Kendall on Behalf of Kendall Law Group, PLLC in Support of Lead Counsel's Application for an Award of Attorneys' Fees and Expenses.

114. Attached hereto as Exhibit 8 is a true and correct copy of *2014 NLJ Billing Survey*, ALM Legal Intelligence, 2014.

115. Attached hereto as Exhibit 9 is a true and correct copy of the Declaration of Lawrence Rougier in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

116. Attached hereto as Exhibit 10 is a true and correct copy of Declaration of Richard Hamilton in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

117. Attached hereto as Exhibit 11 is a true and correct copy of Declaration of Roy H. Cetlin in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of

Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

118. Attached hereto as Exhibit 12 is a true and correct copy of Declaration of Kenneth X. Luthy in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

119. Attached hereto as Exhibit 13 is a true and correct copy of Declaration of John Kugel in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement, Plan of Allocation, and Counsel's Motion for Attorneys' Fees and Litigation Expenses.

120. Attached hereto as Exhibit 14 is a true and correct copy of financial data retrieved from S&P Capital IQ demonstrating AOI's share price and market capitalization from January 23, 2017 through May 21, 2020.

## **XI. CONCLUSION**

121. For all of the foregoing reasons, Lead Counsel respectfully requests that the Court: (1) approve the Settlement and Plan of Allocation as fair, reasonable, and adequate; (2) approve the application for an award of attorneys' fees of one-third (33 $\frac{1}{3}$ %) of the Settlement, plus \$167,289.09 in litigation expenses that were incurred in connection with the prosecution of the Action; and (3) award \$15,000 for Lead Plaintiff Lawrence Rougier and \$10,000 each for Plaintiffs Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel for the time they spent on this litigation on behalf of the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 20th day of October 2020, at Stamford, Connecticut.

By: /s/ Shannon L. Hopkins  
**LEVI & KORSINSKY, LLP**  
Shannon L. Hopkins

*Lead Counsel for the Class*

# Exhibit 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LAWRENCE ROUGIER, *et al.*, Individually  
and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

APPLIED OPTOELECTRONICS, INC.,  
CHIH-HSIANG (THOMPSON) LIN, and  
STEFAN J. MURRY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

**DECLARATION OF TINA CHIANGO REGARDING: (A) MAILING OF THE NOTICE  
AND CLAIM FORM; (B) PUBLICATION OF SUMMARY NOTICE; AND (C) REPORT  
ON REQUESTS FOR EXCLUSIONS RECEIVED TO DATE**

I, Tina Chiango, declare and state as follows, pursuant to 23 U.S.C. § 1746:

1. I am the Director of Claims Administration for RG/2 Claims Administration LLC (“RG/2”), whose address is 30 South 17<sup>th</sup> Street, Philadelphia, PA 19103. I am over the age of 18, have personal knowledge of the matters set forth herein, and if called upon to do so, could testify competently to them.

2. RG/2 is a full service class action settlement administrator offering notice, claims processing, allocation, distribution, tax reporting, and class action settlement consulting services. RG/2’s experience includes the provision of notice and administration services for settlements arising from antitrust, consumer fraud, civil rights, employment, negligent disclosure, and securities fraud allegations. Since 2000, RG/2 has administered and distributed in excess of \$1.75 billion in class action settlement proceeds.

3. RG/2 was retained by Lead Counsel for the Class to provide notice and administration services in the above-captioned class action litigation (the “Action”), and appointed by the Court as Claims Administrator.<sup>1</sup> I submit this Declaration in order to provide the Court and the Parties to the Settlement with information regarding, among other things, the mailing of the Court-approved Notice of Pendency of Class Action, Proposed Class Action Settlement, and Motion for Attorneys’ Fees and Expenses (the “Notice”) and the Proof of Claim and Release (“Claim Form”) (together, the Notice and Claim Form are referred to herein as the “Claim Packet”), as well as the publication of the Summary Notice and establishment of the website and toll-free number dedicated to this Action, in accordance with the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement (“Preliminary Approval Order”).

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated August 3, 2020 (the “Stipulation”). ECF 143-2.

**DISSEMINATION OF THE CLAIM PACKET**

4. RG/2 is responsible for disseminating the Claim Packet to potential Class Members. By definition, Class Members are all persons and entities that purchased or otherwise acquired publicly traded common stock and/or call options of Applied Optoelectronics, Inc. (“AOI”), or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, and who were damaged thereby, subject to the exclusions set forth in the Preliminary Approval Order.

5. On September 2, 2020, RG/2 received a pdf and excel files from Counsel for Defendants, containing the Transfer Journal records from Continental Stock Transfer & Trust Co. from February 23, 2017 through February 21, 2018. These listings included the names, addresses and number of shares issued to potential Class members during the Class Period. RG/2 reviewed the files, removed duplicate names and address records and appended 53 names and addresses into a mailing database. RG/2 sent the 53 names and addresses to the National Change of Address database to obtain any updated addresses prior to mailing.

6. On September 25, 2020 (the “Notice Date”), RG/2 caused to be mailed, by First-Class mail, the Claim Packet to the 53 potential Class Members on the shareholder listings. A copy of the Claim Packet is attached hereto as **Exhibit A**.

7. The large majority of potential Class Members are “beneficial” purchasers or sellers whose securities are held in “street name”—*i.e.*, the securities are purchased or sold by brokerage firms, banks, institutions and other third-party nominees in the name of the nominee, on behalf of the beneficial purchasers. Accordingly, on the Notice Date, RG/2 mailed Claim Packets to 411 brokers or potential nominees. The Notice requested that nominees who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the Class Period for the beneficial interest of a person or entity other than themselves, either: (i) send a copy of the Claim Packet to the beneficial owner, postmarked no later than 7 days after

such nominee's receipt of the Claim Packet; or (ii) provide RG/2 with the names and addresses of such persons or entities no later than 7 days after the nominee's receipt of the Claim Packet. Nominees also received an instruction letter with their Claim Packets. A true and correct copy of the letter sent to nominees is attached as **Exhibit B**.

8. Subsequent to the Notice Date, as a result of the responses from nominees, RG/2 mailed an additional 4,371 Claim Packets to potential Class Members and supplied 1,005 Claim Packets in bulk to requesting nominees to perform their own mailings to potential Class Members. As of October 7, 2020, an aggregate 5,429 Claim Packets had been disseminated to potential Class Members and nominees by first-class mail.

9. Subsequently, RG/2 received a large uptick in additional interest in Claims Packets from nominees. On October 16, 2020, as a result of many recent responses from nominees, RG/2 mailed an additional 28,005 Claim Packets in bulk to nominees to perform their own mailings to potential Class Members. Further, on October 19, 2020, RG/2 and its printing vendor attempted to cause an additional 36,638 claims packets to be mailed to potential Class Members and was largely successful. Thus, RG/2 mailed an additional 31,244 claims packets to potential Class Members on October 19, 2020, and mailed the residual 5,394 claims packets on October 20, 2020.

10. RG/2 is continuing to receive responses from nominee firms and will mail additional Claim Forms as requested. RG/2 is currently processing requests for 15,566 claims packets from nominees and has arranged for the mailing of these Claim Packets by October 20, 2020.

11. All requests for notice have been responded to in a timely manner and RG/2 will continue to timely respond to any additional requests received.

12. As of October 20, 2020, a total of 34 Claim Packets have been returned by the United States Postal Service to RG/2 as undelivered as addressed ("UAA"). Of those returned UAA, RG/2 was able to obtain re-mail seven Claim Packets as a result of locating a better address

after Skip Tracing.

13. RG/2 caused the full Claim Packet to be posted to the Depository Trust & Clearing Corporation Legal Notice System (“DTCC LENS”) on October 6, 2020.

#### **PUBLICATION OF THE SUMMARY NOTICE**

14. The Court’s Preliminary Approval Order also directed that the Summary Notice be published once in *Investor’s Business Daily* and be transmitted over *Globe Newswire*. Accordingly, the Summary Notice was transmitted over *Globe Newswire* on September 4, 2020. *Investor’s Business Daily*, which (despite being a misnomer) is published weekly on Mondays, requires any submissions to be received on the Wednesday before publication. Therefore, RG/2 caused the Summary Notice to be published in *Investor’s Business Day* on Monday, September 14, 2020—the first possible edition it could appear in after the Court’s order dated Thursday, September 1, 2020 (ECF 146), which order confirmed the date of the Settlement Hearing that is contained within the Summary Notice. Attached as **Exhibit C** is a confirmation of publication, attesting to the publication in *Investor’s Business Daily* and a screen shot attesting to the transmission over *Globe Newswire*.

#### **SETTLEMENT WEBSITE AND CALL CENTER SERVICES**

15. The Settlement website, [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com) was created by RG/2, went live on September 3, 2020, and accessible 24 hours a day, 7 days a week. The website enables potential Class Members to obtain information about the Settlement. The Settlement website consists of a Homepage, a Notice/Claim page, a Court Documents page, and a Contact Information Page. A toll-free number of 866-742-4955 was provided to Class Members, which has live operators during regular business hours, as well as an option to leave a message after hours.

#### **EXCLUSIONS AND OBJECTIONS**

16. The Notice advised Class Members of the option to exclude themselves provided that they do so, as instructed in the Notice, by November 3, 2020. On October 19, 2020, Plaintiffs

filed an unopposed motion to extend the deadlines for Class Members to request exclusion from the Settlement, up to and including November 17, 2020, which motion was pending and under advisement as of the date of this Declaration. As of the date of this Declaration, RG/2 has received no requests for exclusion from the Class. RG/2 will continue to be the repository for exclusion requests up to and beyond the current postmark deadline, as well as the proposed extended deadline, and will report any exclusion requests that are received.

17. The Notice also advised Class Members of their right to object to the Settlement provided that they do so by November 3, 2020. On October 19, 2020, Plaintiffs filed an unopposed motion to extend the deadlines for Class Members to object to the Settlement, the Plan of Allocation of the Settlement Fund, and/or Lead Counsel's request for an award of fees and expenses, up to and including November 17, 2020, which motion was pending and under advisement as of the date of this Declaration. To date, RG/2 has not received nor been made aware of any objections to the Settlement.

18. RG/2 will submit a supplemental declaration after the current November 3, 2020 deadline for requesting exclusion, or the proposed extended deadline if Plaintiffs' motion for extension of time is granted, which will address all exclusion requests that are received.

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

Executed on October 20, 2020 at Philadelphia, PA.

  
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Tina Chiango

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LAWRENCE ROUGIER, *et al.*, Individually and  
on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

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

**If you purchased or otherwise acquired publicly traded common stock and/or call options of Applied Optoelectronics, Inc. (“AOI”), or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, (the “Class Period”) and were damaged thereby (the “Class”), you may be entitled to a payment from a class action settlement.**

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

- The purpose of this Notice is to inform you of the pendency of this securities class action (the “Action”), the proposed settlement of the Action (the “Settlement”), and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the “Plan of Allocation”) should be approved; and (iii) Lead Counsel’s application for attorneys’ fees and expenses. This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Class.<sup>1</sup>
- If approved by the Court, the proposed Settlement will create a \$15,500,000 settlement fund, plus earned interest, for the benefit of eligible Class Members, less any attorneys’ fees and expenses awarded by the Court, Notice and Administration Expenses, and Taxes.
- The Settlement resolves claims by the Court-Appointed Lead Plaintiff and Class Representative Lawrence Rougier (“Lead Plaintiff”) and Court-Appointed Class Representatives Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel (collectively, “Plaintiffs”) that have been asserted on behalf of the Class against Applied Optoelectronics, Inc. (“AOI” or the “Company”), Chih-Hsiang (Thompson) Lin (“Lin”) and Stefan J. Murry (“Murry,” collectively the “Defendants”). It releases the Released Defendant Parties (defined below) from liability.

<sup>1</sup> All capitalized terms not otherwise defined in this notice shall have the meaning provided in the Stipulation and Agreement of Settlement, dated August 3, 2020 (the “Stipulation”).

If you are a Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>SUBMIT A CLAIM FORM BY NOVEMBER 19, 2020</b>	The <u>only</u> way to get a payment. <i>See</i> Question 8 below for details.
<b>EXCLUDE YOURSELF FROM THE CLASS BY NOVEMBER 3, 2020</b>	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against Defendants or the other Released Defendant Parties concerning the Released Claims. <i>See</i> Question 11 below for details.
<b>OBJECT BY NOVEMBER 3, 2020</b>	Write to the Court about why you do not like the Settlement, the Plan of Allocation, or the Fee and Expense Application. If you object, you will still be a member of the Class. <i>See</i> Question 16 below for details.
<b>GO TO A HEARING ON NOVEMBER 24, 2020 AND FILE A NOTICE OF INTENTION TO APPEAR BY NOVEMBER 3, 2020</b>	Ask to speak in Court at the Settlement Hearing about the Settlement. <i>See</i> Question 18 below for details.
<b>DO NOTHING</b>	Get no payment AND give up your rights to bring your own individual action.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

### SUMMARY OF THE NOTICE

#### Statement of the Class's Recovery

1. Subject to Court approval, Plaintiffs, on behalf of the Class, have agreed to settle the Action in exchange for a payment of \$15,500,000 (the "Settlement Amount"), which will be deposited into an Escrow Account and may earn interest (the "Settlement Fund"). The Net Settlement Fund (as defined below) will be distributed to Class Members according to the Court-approved plan of allocation (the "Plan of Allocation" or "Plan"). The proposed Plan of Allocation is set forth on pages 10 through 14 below.

#### Estimate of Average Amount of Recovery Per Share

2. Based on Plaintiffs' consulting damages expert's estimate of potentially damaged shares under the Plan of Allocation described below, Plaintiffs estimate that the average recovery would be approximately \$0.36 per allegedly damaged share (before deduction of any Court-approved fees and expenses, such as attorneys' fees and expenses, Taxes, and Notice and Administration Expenses). If the Court approves the Fee and Expense Application (discussed below), the average recovery would be approximately \$0.23 per allegedly damaged share. **Please note, however, that these average recovery amounts are only estimates and Class Members may recover more or less than these estimated amounts.** An individual Class Member's actual recovery will depend on for example: (i) the total number of claims submitted; (ii) the amount of the Net Settlement Fund; (iii) when the Class Member purchased or acquired AOI common stock during the Class Period; and (iv) whether and when the Class Member sold or disposed AOI common stock. *See* the Plan of Allocation beginning on page 10 for information on the calculation of your Recognized Claim.

#### Statement of Potential Outcome of Case if the Action Continued to be Litigated

3. The Parties disagree about both liability and damages and do not agree on the damages that would be recoverable if Plaintiffs were to prevail on each claim asserted against Defendants. The issues on which the Parties disagree include, for example: (i) whether Defendants made any statements or omitted any facts that were materially false or misleading, or otherwise actionable under the federal securities laws; (ii) whether any such allegedly materially false or misleading statements or omissions were made with the required level of intent or recklessness; (iii) the amounts by which the prices of AOI securities were allegedly artificially inflated; during the Class Period; (iv) the extent to which factors such as general market, economic and industry conditions, influenced the trading prices of AOI common stock during the Class Period; and (v) whether or not Defendants' allegedly false and misleading statements proximately caused the losses suffered by the Class.

4. Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Action, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Plaintiffs and the Class

have suffered any loss attributable to Defendants' actions or omissions. While Plaintiffs believes they has meritorious claims, they recognize that there are significant obstacles in the way to recovery.

**Statement of Attorneys' Fees and Expenses Sought**

5. Lead Counsel, on behalf of themselves, and other Plaintiffs' Counsel, will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed one-third (33 and 1/3%) of the Settlement Fund, which includes any accrued interest. Lead Counsel will also apply for payment of litigation expenses incurred by Plaintiffs' Counsel in prosecuting the Action in an amount not to exceed \$630,000 plus accrued interest, which may include an application pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA") for the reasonable costs and expenses (including lost wages) of Plaintiffs directly related to their representation of the Class. If the Court approves Lead Counsel's Fee and Expense Application, the average amount of fees and expenses, assuming claims are filed for all shares eligible to participate in the Settlement, will be approximately \$0.23 per allegedly damaged share of AOI common stock. A copy of the Fee and Expense Application will be posted on [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com) after it has been filed with the Court.

**Reasons for the Settlement**

6. For Plaintiffs, the principal reason for the Settlement is the guaranteed cash benefit to the Class. This benefit must be compared to the uncertainty of being able to prove the allegations in the Complaint; the risk that the Court may grant some or all of the anticipated motions to be filed by Defendants; the risk that the Fifth Circuit Court of Appeals may decertify the class; the risks of litigation, especially in complex securities actions like this; as well as the difficulties and delays inherent in such litigation (including any trial and appeals). For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that Class Members were damaged, the principal reasons for entering into the Settlement are to end the burden, expense, uncertainty, and risk of further litigation.

**Identification of Attorneys' Representatives**

7. Plaintiffs and the Class are represented by Lead Counsel, Levi & Korsinsky, LLP, Shannon L. Hopkins, 1111 Summer Street, Suite 403, Stamford, CT 06905, [www.zlk.com](http://www.zlk.com), 203-992-4523.

8. Further information regarding the Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator, RG2 Claims Administration, LLC, at the address below, or Lead Counsel, or visiting the Settlement website at [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com).

AOI Securities Settlement  
c/o RG2 Claims Administration, LLC,  
P.O. Box 59479  
Philadelphia, PA, 19102-9479  
[info@rg2claims.com](mailto:info@rg2claims.com)  
(866) 742-4955  
(215) 979-1620

**Please Do Not Call the Court with Questions About the Settlement.**

**1. Why did I get this Notice?**

9. You or someone in your family, or an investment account for which you serve as a custodian, may have purchased or otherwise acquired shares of common stock and/or call options of AOI, or sold put options of AOI, during the Class Period of February 23, 2017 through February 21, 2018, inclusive, and may be a Class Member. This Notice explains the Action, the Settlement, Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them. Receipt of this Notice does not mean that you are a Member of the Class or that you will be entitled to receive a payment. **If you wish to be eligible for a payment, you are required to submit the Claim Form that is being distributed with this Notice. See Question 8 below.**

10. The Court directed that this Notice be sent to Class Members to inform them of the terms of the proposed Settlement and about all of their options, before the Court decides whether to approve the Settlement at the upcoming hearing to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation, and Lead Counsel's Fee and Expense Application (the "Settlement Hearing").

11. The Court in charge of the Action is the United States District Court for the Southern District of Texas, and the case is known as *Rougier v. Applied Optoelectronics, Inc., et al.*, Case No. 4:17-cv-2399-VDG-CAB. The Action is assigned to the Honorable Vanessa D. Gilmore, United States District Judge and Magistrate Judge Christina A. Bryan.

**2. What is this case about and what has happened so far?**

12. AOI manufactures and sells fiber-optic networking products. AOI's largest business unit supplies internet data centers and contributed over 75% of AOI's 2016 and 2017 revenues. AOI's main data center product is an optical transceiver, which uses laser chips to transmit data. During the Class Period, AOI's largest data center customers were Amazon.com Inc. ("Amazon"), Microsoft Corporation, and Facebook, Inc. who increasingly sought transceivers capable of faster transmission speeds at lower prices. Plaintiffs allege that Defendants violated the federal securities laws throughout the Class Period by concealing problems with AOI's data center business, its ability to transition from 40G to 100G products, and the demand from its largest customer, Amazon.

13. Plaintiffs allege that the market began to learn of Defendants' alleged misrepresentations and omissions when, on August 3, 2017, Defendants stated that AOI saw "softer than expected demand for our 40G [transceivers] with" Amazon in the third quarter of 2017. On October 12, 2017, Defendants stated that "preliminary results for the third quarter fell short of prior estimated" and that AOI "saw lower demand overall [i.e. 40G and 100G] from" Amazon. Finally, on February 21, 2018, Defendants stated that its fourth quarter revenue was lower than expected.

14. On August 5, 2017, the Action was filed in the United States District Court for the Southern District of Texas on behalf of all investors who purchased or otherwise acquired the publicly traded common stock and/or call options of Applied Optoelectronics, Inc., or sold put options of AOI, during the period from July 13, 2017 through August 3, 2017, inclusive. On August 16, 2017, a similar action captioned *Ludwig v. Applied Optoelectronics, Inc., et al.*, No. 4:17-cv-2512 (the "Related Ludwig Action") was also filed in this Court seeking damages on behalf of all investors other than defendants who purchased or otherwise acquired AOI securities during the same period. On September 11, 2017, a similar action captioned *Rizzo v. Applied Optoelectronics, Inc. et al.*, No. 1:17-cv-5313 (the "Related Rizzo Action") was filed in the Eastern District of New York.

15. On October 18, 2017, the Related Rizzo Action was voluntarily dismissed.

16. On January 22, 2018, the Court issued an Order: (i) appointing Lawrence Rougier as Lead Plaintiff for the proposed class; and (ii) appointing Levi & Korsinsky, LLP as Lead Counsel, and Kendall Law Group, PLLC as Liaison Counsel.

17. On March 6, 2018, Lead Plaintiff filed the First Consolidated Amended Class Action Complaint, alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and United States Securities and Exchange Commission ("SEC") Rule 10b-5 promulgated thereunder, against Defendants, on behalf of himself and all other persons or entities similarly situated who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI between February 23, 2017 through February 21, 2018, inclusive.

18. Defendants filed a motion to dismiss the amended complaint on April 4, 2018, which Lead Plaintiff opposed on May 4, 2018. On May 21, 2018, Defendants filed a reply brief in further support of their motion.

19. On March 27, 2019, the Court denied Defendant's motion to dismiss. On May 8, 2019, Defendants filed their answer to the First Consolidated Amended Class Action Complaint.

20. On May 8, 2019, Defendants filed their Motion to Certify for Immediate Appeal and to Stay Proceedings, seeking permission to file an interlocutory appeal pursuant to 28 U.S.C. § 1292(b), which Lead Plaintiff opposed on May 29, 2019. On June 5, 2019, Defendants filed a reply in brief in further support of their motion. The Court denied this motion on June 10, 2019.

21. On May 24, 2019, the operative pleading, the Second Consolidated Amended Class Action Complaint (the “Complaint”) was filed. The Complaint was identical to First Consolidated Amended Class Action Complaint in all material respects except that it added additional plaintiffs Richard Hamilton, Kenneth X. Luthy, Roy H. Cetlin, and John Kugel (and together with Lead Plaintiff, “Plaintiffs”) and was filed on behalf of the operative class definition of persons or entities who purchased or otherwise acquired publicly-traded common stock and/or call options of AOI, or sold put options of AOI from February 23, 2017 through February 21, 2018 (the “Class Period”), both dates inclusive (the “Class”). On May 30, 2019, Defendants filed their answer to the Complaint.

22. On May 28, 2019, Plaintiffs filed their Motion to Certify the Class, which Defendants opposed on July 12, 2019. On August 26, 2019, Plaintiffs filed a reply brief in further support of their motion.

23. On November 13, 2019, Magistrate Judge Christina A. Bryan recommended that Plaintiffs’ Motion to Certify the Class be granted. On November 27, 2019, Defendants objected to Magistrate Judge Bryan’s recommendations to which Plaintiffs responded on December 11, 2019. On December 16, 2020, Defendants filed a reply brief in further support of their objections. On December 20, 2019, the Court entered Magistrate Judge Bryan’s recommendations over Defendants’ objections, certifying a class of: “[a]ll persons or entities who purchased or otherwise acquired publicly traded common stock and/or call options of Applied Optoelectronics, Inc., or sold put options of Applied Optoelectronics, Inc., during the period from February 23, 2017 through February 21, 2018, inclusive, and were injured thereby,” (the “Class”).

24. On January 3, 2020, Defendants filed an Opposed Petition for Permission to Appeal the Court’s order granting class certification pursuant to Federal Rule of Civil Procedure 23(f) in the U.S. Fifth Circuit Court of Appeals, which Plaintiffs opposed on January 13, 2020. On January 21, 2020, Defendants filed a reply in further support of their petition. On January 24, 2020, Fifth Circuit entered an order staying consideration of Defendants’ 23(f) Petition through April 23, 2020, pending the outcome of settlement negotiations. On April 7, 2020, the Fifth Circuit extended the stay to and including June 2, 2020, pending the outcome of settlement negotiations.

25. On May 21, 2020, Plaintiffs and Defendants engaged in a full-day mediation session before Michelle M. Yoshida, Esq., a well-respected and highly experienced mediator. In advance of that session, the Plaintiffs and Defendants exchanged detailed mediation statements along with supporting exhibits. Plaintiffs and Defendants ended the May 21, 2020 mediation without reaching a resolution of the Action. In the weeks following the mediation, the Plaintiffs and Defendants continued to negotiate a possible settlement and agreed to a mediator’s proposal to resolve the claims in the Action on June 2, 2020.

26. In connection with this Action, Plaintiffs, through 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 SEC; (ii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company; (iii) research reports issued by financial analysts concerning the Company; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AOI’s customers; (v) interviews conducted with former employees of AOI; (vi) 54,346 documents (over 300,000 pages) produced by Defendants in response to 89 requests for production of documents served by Plaintiffs over the course of four sets of requests; (vii) Defendants’ responses to 8 interrogatories; (viii) Defendants’ response to a request for admission; (ix) over 34,000 documents produced by third parties in response to 26 validly-issued third party subpoenas; and (x) the applicable law governing the claims and potential defenses. Lead Counsel also consulted with experts on market efficiency, loss causation, and damages issues in advance of moving for class certification and while preparing Plaintiffs’ mediation statement.

### **3. Why is this a class action?**

27. In a class action, one or more persons or entities (in this case, Plaintiffs), sue on behalf of people and entities who or which have similar claims. Together, these people and entities are a “class,” and each is a “class member.” Bringing a case, such as this one, as a class action allows the adjudication of many similar claims of persons and entities who or which might be too small to bring economically as separate actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or “opt-out,” from the class.

### **4. What are the reasons for the Settlement?**

28. The Court did not finally decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement that will end the Action. Plaintiffs and Lead Counsel believe that the claims asserted in the Action have merit, however, Plaintiffs and Lead Counsel recognize the expense and length of continued proceedings necessary to pursue the claims through trial and appeals, as well as the difficulties in establishing liability and damages. In light of the Settlement and the guaranteed cash recovery to the Class, Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class.

29. Defendants have denied and continue to deny any allegations of wrongdoing contained in the Complaint and further deny that they did anything wrong, that Plaintiffs or the Class suffered damages or that the price of AOI securities was artificially inflated by reasons of alleged misrepresentations, nondisclosures, or otherwise. The Settlement should not be seen as an admission or concession on the part of Defendants. Defendants have taken into account the burden, expense, uncertainty, distraction, and risks inherent in any litigation and have concluded that it is desirable to settle upon the terms and conditions set forth in the Stipulation.

**5. How do I know if I am part of the Class?**

30. The Court granted Plaintiffs' motion for class certification that defines the Class. Everyone who fits the following description is a Class Member and subject to the Settlement unless they are an excluded person (*see* Question 6 below) or take steps to exclude themselves from the Class (*see* Question 11 below): **all investors who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, and were injured thereby.**

31. Receipt of this Notice does not mean that you are a Class Member. The Parties do not have access to your transactions in AOI securities. Please check your records or contact your broker to see if you are a member of the Class. If one of your mutual funds purchased AOI common stock or call options or sold put options during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you individually purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI during the Class Period.

**6. Are there exceptions to the definition of the Class and to being included?**

32. Yes. There are some individuals and entities who or which are excluded from the Class by definition. Excluded from the Class are: (i) Defendants; (ii) their immediate family members; (iii) any person who was an officer or director of AOI during the Class Period; (iii) any firm, trust, corporation, or other entity in which a Defendant has or had a controlling interest; (iv) the legal representatives, affiliates, heirs, successors in-interest, or assigns of any such excluded person or entity; and (v) anyone who was not damaged.

33. If you sold, closed open option contracts, or otherwise disposed of all of your AOI securities prior to the first alleged corrective disclosure, which occurred after the market closed on August 3, 2017, and made no subsequent purchases from August 4, 2017, through February 21, 2018, you are not a member of the Class because you were not damaged.

34. Also excluded from the Class will be any Person who or which timely and validly seeks exclusion from the Class in accordance with the procedures described in Question 11 below or whose request is otherwise allowed by the Court.

**THE SETTLEMENT BENEFITS**

**7. What does the Settlement provide?**

35. In exchange for the Settlement and the release of the Released Claims against the Released Defendant Parties, AOI, on behalf of itself and the other Defendants, has agreed to create a \$15.5 million cash fund, which may accrue interest, to be distributed, after deduction of Court-awarded attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court (the "Net Settlement Fund"), among all Class Members who submit valid Claim Forms and are found to be eligible to receive a distribution from the Net Settlement Fund ("Authorized Claimants").

**8. How can I receive a payment?**

36. To qualify for a payment, you must submit a timely and valid Claim Form. A Claim Form is included with this Notice. You can also obtain a Claim Form from the website dedicated to the Settlement: [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com), or from Lead Counsel's website, [www.zlk.com](http://www.zlk.com). You can request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at (866) 742-4955. Please read the instructions contained in the Claim Form carefully, fill out the Claim Form, include all the documents the form requests, sign it, and mail or submit it to the Claims Administrator so that it is **postmarked or received no later than November 19, 2020.**

**9. When will I receive my payment?**

37. The Court will hold a Settlement Hearing on **November 24, 2020** to decide, among other things, whether to finally approve the Settlement. Even if the Court approves the Settlement, there may be appeals which can take time to resolve, perhaps more than a year. It also takes a long time for all of the Claim Forms to be accurately reviewed and processed. Please be patient.

<b>10. What am I giving up to receive a payment or stay in the Class?</b>
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(a) If you are a member of the Class, unless you exclude yourself, you will remain in the class, and that means that, upon the “Effective Date” of the Settlement, you will release all “Released Claims” against the “Released Defendant Parties.” Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the Released Claims. It also means that all of the Court’s Orders will apply to you and legally bind you and you will release your claims against Defendants. **“Released Claims”** means any and all claims and causes of action of every nature and description, including both known claims and Unknown Claims (defined below), contingent or absolute, mature or not mature, discoverable or undiscoverable, liquidated or not liquidated, accrued or not accrued, concealed or hidden, regardless of legal or equitable theory and whether arising under federal, state, common or foreign law, or any other law, rule, or regulation, that Plaintiffs or any other Class Member: (i) asserted in the Action against any of the Released Defendant Parties; or (ii) could have asserted in the Action or any forum, domestic or foreign, against any of the Released Defendant Parties that arise out of, are based upon, or relate to, directly or indirectly, in whole or in part, (1) the allegations, transactions, facts, statements, disclosures, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action and the purchase or acquisition of AOI’s publicly traded common stock or call options or the sale of AOI’s put options during the Class Period; or (2) Defendants’ and/or their attorneys’ defense or settlement of the Action and/or claims alleged therein; or both. Released Claims do not include: (i) claims relating to the enforcement of the Settlement; (ii) any claims for breach of fiduciary duty actually asserted on behalf of the Company in the consolidated action captioned *In re Applied Optoelectronics, Inc. Derivative Litig.*, No. 4:18-cv-2713 (S.D. Tex.) as of the date of the filing of this Stipulation with the Court; and (iii) any claims of Persons who submit a request for exclusion that is accepted by the Court.

(b) **“Released Defendant Parties”** means Defendants, Defendants’ Counsel, and each of their respective past, present, or future direct or indirect subsidiaries, parents, affiliates, principals, joint ventures, joint ventures, any other corporate entities, successors and predecessors, assigns, officers, directors, shareholders, trustees, partners, agents, fiduciaries, contractors, employees, attorneys, insurers and reinsurers, auditors, advisors, financial advisors, investment banks, underwriters, accountants; the spouses, members of the families, representatives, and heirs of the Individual Defendants, as well as any trust of which any Individual Defendant is the settlor or which is for the benefit of any of their immediate family members; any firm, trust, corporation, or entity in which any Defendant has a controlling interest; and any of the legal representatives, heirs, successors in interest or assigns of Defendants.

(c) **“Unknown Claims”** means any and all Released Claims that Plaintiffs or any other Class Member do not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Parties, and any and all Released Defendants’ Claims that any Defendant does not know or suspect to exist in his or its favor at the time of the release of the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to object to the terms of the Settlement or to exclude himself, herself, or itself from the Class. With respect to any and all Released Claims and Released Defendants’ Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiffs and Defendants shall expressly, and each other Class Member shall be deemed to have, and by operation of the Judgment shall be deemed to have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or foreign law, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Plaintiffs, other Class Members, or Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows or believes to be true with respect to the subject matter of the Released Claims and the Released Defendants’ Claims, but Plaintiffs and Defendants shall expressly, fully, finally, and forever settle and release, and each Class Member shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims and Released Defendants’ Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Plaintiffs and Defendants acknowledge, and other Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Released Defendants’ Claims was separately bargained for and was a material element of the Settlement.

38. The “Effective Date” will occur when an Order entered by the Court approving the Settlement becomes Final and is not subject to appeal. If you remain a member of the Class, all of the Court’s orders, whether favorable or unfavorable, will apply to you and legally bind you. Upon the Effective Date, Defendants will also provide a release of any claims against Plaintiffs and the Class arising out of or related to the institution, prosecution, or settlement of the claims in the Action.

39. If you do not want to be eligible to receive a payment from the Settlement but you want to keep any right you may have to sue or continue to sue the Released Defendant Parties on your own about the Released Claims, then you must take steps to remove yourself from the Class. This is called excluding yourself or “opting out.” **Please note: if you bring your own claims, Defendants will have the right to seek their dismissal, including because the suit is not filed within the applicable time periods required for filing suit. Also, Defendants may terminate the Settlement if Class Members who purchased in excess of a certain amount of shares of AOI common stock seek exclusion from the Class.**

**11. How do I exclude myself from the Class?**

40. To exclude yourself from the Class, you must mail a signed letter stating that you “request to be excluded from the Class in *Rougier v. Applied Optoelectronics, Inc., et al.*, Case No. 4:17-cv-2399-VDG-CAB (S.D. Tex).” You cannot exclude yourself by telephone or e-mail. Each request for exclusion must also: (i) state the name, address, and telephone number of the person or entity requesting exclusion; (ii) state the number of shares of AOI common stock or AOI option contracts the person or entity purchased, acquired, and/or sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale; and (iii) be signed by the person or entity requesting exclusion or an authorized representative. A request for exclusion must be mailed, so that it is **received no later than November 3, 2020**, to:

*Applied Optoelectronics Securities Litigation*  
c/o RG2 Claims Administration, LLC,  
P.O. Box 59479  
Philadelphia, PA, 19102-9479  
info@rg2claims.com  
(866) 742-4955  
(215) 979-1620

**Your exclusion request must comply with these requirements in order to be valid, unless it is otherwise accepted by the Court.**

41. If you ask to be excluded, do not submit a Claim Form because you cannot receive any payment from the Net Settlement Fund. Also, you cannot object to the Settlement because you will not be a Class Member. However, if you submit a valid exclusion request, you will not be legally bound by 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, assuming your claims are timely. If you have a pending lawsuit against any of the Released Defendant Parties, **please speak to your lawyer in the case immediately.**

**12. If I do not exclude myself, can I sue Defendants and the other Released Defendant Parties for the same thing later?**

42. 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 Claims.

**THE LAWYERS REPRESENTING YOU**

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

43. The Court appointed the law firm of Levi & Korsinsky, LLP to represent all Class Members. These lawyers are called “Lead Counsel.” You will not be separately charged for these lawyers. The Court will determine the amount of Plaintiffs’ Counsel’s fees and expenses, which will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

**14. How will the lawyers be paid?**

44. Plaintiffs’ Counsel have not received any payment for their services in pursuing the claims against Defendants on behalf of the Class, nor have they been paid for their litigation expenses. Lead Counsel will ask the Court to award Plaintiffs’ Counsel attorneys’ fees of no more than one-third (33 and 1/3%) of the Settlement Fund, which will include any accrued interest. Plaintiffs’ Counsel are Levi & Korsinsky, LLP, Kendall Law Group, PLLC, and Bragar Eigel & Squire, P.C. No other attorneys will share in the fee awarded by the Court. Lead Counsel will also seek payment of litigation expenses incurred by Plaintiffs’ Counsel in the prosecution of the Action of no more than \$630,000, plus accrued interest, which may include an application in accordance with the PSLRA for the reasonable costs and expenses of Plaintiffs directly related to its representation of the Class.

**OBJECTING TO THE SETTLEMENT, THE PLAN OF ALLOCATION,  
OR THE FEE AND EXPENSE APPLICATION**

**15. How do I tell the Court that I do not like something about the proposed Settlement?**

45. If you are a Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation, or the Fee and Expense Application. You can ask the Court not to approve the Settlement, however you cannot ask the Court to order a different settlement; the Court can only approve or deny this Settlement. If the Court denies approval of the Settlement, no payments will be made to Class Members, the Parties will return to the position they were in before the Settlement was agreed to, and the Action will continue.

46. To object, you must send a signed letter stating that you object to the proposed Settlement, the proposed Plan of Allocation, or the Fee and Expense Application in “*Rougier v. Applied Optoelectronics, Inc., et al.*, Case No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)” Your objection must state why you are objecting and whether your objection applies only to you, a subset of the Class, or the entire Class. The objection must also: (i) include the name, address, and telephone number of the person or entity objecting; (ii) contain a statement of the objection and the specific reasons for it, including any legal and evidentiary support (including witnesses) the Class Member wishes to bring to the Court’s attention; and (iii) documentation identifying the number of shares of AOI common stock or AOI option contracts the person or entity purchased, acquired, and/or sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale. Unless otherwise ordered by the Court, any Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will be forever foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, or Lead Counsel’s Fee and Expense Application. Your objection must be filed with the Court at the address below, either by mail or in person, **no later than November 3, 2020** and be mailed or delivered to each of the following counsel so that it is **received no later than November 3, 2020**:

<u>Court</u>	<u>Lead Counsel</u>	<u>Defendants’ Counsel Representatives</u>
Byron Thomas Clerk of the Court United States District Court Southern District of Texas United States Courthouse 515 Rusk Ave., Room 5300 Houston, TX 77002	Levi & Korsinsky LLP Shannon L. Hopkins 1111 Summer St. Suite 403 Stamford, CT 06905	Vinson & Elkins LLP Michael C. Holmes Jeffrey S. Johnston 1001 Fannin Street, Suite 2500 Houston, TX 77002

**16. What is the difference between objecting and seeking exclusion?**

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

**THE SETTLEMENT HEARING**

**17. When and where will the Court decide whether to approve the proposed Settlement?**

48. The Court will hold the Settlement Hearing on **November 24, 2020 at 9:00 a.m.**, either telephonically and/or in Courtroom 110 of the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Ave., Room 5300, Houston, Texas 77002. At this hearing, the Court will consider, whether: (i) the Settlement is fair, reasonable and adequate, and should be finally approved; (ii) the Plan of Allocation is fair and reasonable, and should be approved; (iii) service awards to the Plaintiffs is reasonable and should be approved; and (iv) Lead Counsel’s Fee and Expense Application is reasonable and should be approved. The Court will take into consideration any written objections filed in accordance with the instructions in Question 15 above. We do not know how long it will take the Court to make these decisions.

49. You should be aware that the Court may change the date and time of the Settlement Hearing, or hold the hearing telephonically, without another notice being sent to Class Members. If you want to attend the hearing, you should check with Lead Counsel beforehand to be sure that the date or time has not changed, periodically check the settlement website at [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com), or periodically check the Court’s website at <https://www.txs.uscourts.gov/> to see if the

Settlement Hearing stays as calendared or is changed. Subscribers to PACER, a fee-based service, can also view the Court's docket for the Action for updates about the Settlement Hearing through the Court's on-line Case Management/Electronic Case Files System at <https://www.pacer.gov>.

**18. Do I have to come to the Settlement Hearing?**

50. No. Lead Counsel will answer any questions the Court may have. But, you are welcome to attend at your own expense. If you submit a valid and timely objection, the Court will consider it and you do not have to come to Court to discuss it. You may have your own lawyer attend (at your own expense), but it is not required. If you do hire your own lawyer, he or she must file and serve a Notice of Appearance in the manner described in the answer to Question 19 below **no later than November 3, 2020**.

**19. May I speak at the Settlement Hearing?**

51. You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 15), **no later than November 3, 2020** a statement that you, or your attorney, intend to appear in "*Rougier v. Applied Optoelectronics, Inc., et al.*, Case No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)." Persons who intend to present evidence at the Settlement Hearing must also include in their objections the identities of any witnesses they may wish to call to testify and any exhibits they intend to introduce into evidence at the hearing. You may not speak at the Settlement Hearing if you exclude yourself or if you have not provided written notice in accordance with the procedures described in this Question 19 and Question 15 above.

**IF YOU DO NOTHING**

**20. What happens if I do nothing at all?**

52. If you do nothing and you are a member of the Class, you will receive no money from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against Defendants and the other Released Defendant Parties concerning the Released Claims. To share in the Net Settlement Fund, you must submit a Claim Form (*see* Question 8 above). To start, continue or be part of any other lawsuit against Defendants and the other Released Defendants' Parties concerning the Released Claims in this case, to the extent it is otherwise permissible to do so, you must exclude yourself from the Class (*see* Question 11 above).

**GETTING MORE INFORMATION**

**21. Are there more details about the Settlement?**

53. This Notice summarizes the proposed Settlement. More details are in the Stipulation. Lead Counsel's motions in support of final approval of the Settlement, the request for attorneys' fees and litigation expenses, and approval of the proposed Plan of Allocation will be filed with the Court no later than October 20, 2020 and be available from Lead Counsel, the Claims Administrator, or the Court, pursuant to the instructions below.

54. You may review the Stipulation or documents filed in the case at the Office of the Clerk, United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Ave., Room 5300, Houston, Texas 77002, on weekdays (other than court holidays) between 9:00 a.m. and 4:00 p.m. Subscribers to PACER can also view the papers filed publicly in the Action through the Court's on-line Case Management/Electronic Case Files System at <https://www.pacer.gov>.

55. You can also get a copy of the Stipulation and other case documents by calling the Claims Administrator toll free at (866) 742-4955 writing to the Claims Administrator at *Applied Optoelectronics Securities Litigation, c/o* RG2 Claims Administration, LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479, or visiting the website dedicated to the Settlement, [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com), or the website of Lead Counsel, [www.zlk.com](http://www.zlk.com).

**Please do not call the Court with questions about the Settlement.**

**PLAN OF ALLOCATION OF NET SETTLEMENT FUND**

**22. How will my claim be calculated?**

56. As discussed above, the Settlement Amount and any interest it earns constitute the Settlement Fund. The Settlement Fund, after the deduction of Court-approved attorneys' fees and litigation expenses, Notice and Administration Expenses, Taxes, and any other fees or expenses approved by the Court, is the Net Settlement Fund. If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible Authorized Claimants – *i.e.*, members of the Class who timely submit valid Claim Forms that are accepted for payment – in accordance with this proposed Plan of Allocation or such other plan of allocation as the Court may approve. Class Members who do not timely submit valid Claim Forms will not share in the Net

Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve this proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the settlement website: [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com).

57. To design the Plan, Lead Counsel have conferred with Plaintiffs' consulting damages expert. The objective of the Plan of Allocation is to distribute the Net Settlement Fund equitably among those Class Members who suffered economic losses as a proximate result of the alleged wrongdoing. The Plan of Allocation is not intended to estimate, or be indicative of, the amounts that Class Members might have been able to recover after a trial. Because the Net Settlement Fund is less than the total losses alleged to be suffered by Class Members, the formulas described below for calculating Recognized Losses are not intended to estimate the amounts that will actually be paid to Authorized Claimants. The Plan of Allocation measures the amount of loss that a Class Member can claim for purposes of making *pro rata* allocations of the Net Settlement Fund to Authorized Claimants.

58. For losses to be compensable damages under the federal securities laws, the disclosure of the allegedly misrepresented information must be the cause of the change in the price of the securities at issue. In this case, Plaintiffs alleged that Defendants issued false statements and omitted material facts during the Class Period (February 23, 2017 through February 21, 2018, inclusive) that artificially inflated the price of AOI common stock and call options, as well as artificially deflated the price of AOI put options. It is alleged that corrective information released to the market after market close on August 3, 2017, October 12, 2017, and February 21, 2018 impacted the market prices of AOI common stock in a statistically significant manner and removed the alleged artificial inflation from the share prices on those days.<sup>2</sup> Accordingly, in order to have a compensable loss in this Settlement, AOI common stock and call option on such stock must have been purchased or otherwise acquired during the Class Period and held through at least one of the alleged corrective disclosure dates, and put options on AOI common stock must have been written during the Class Period and such written position exist through at least one of the alleged corrective disclosure dates. Therefore, artificial inflation (deflation) only is estimated for call (put) options meeting these criteria.

59. An individual Settlement Class Member's recovery will depend on, for example: (a) the total number and value of claims submitted; (b) when the claimant purchased or acquired AOI common stock (or opened an option position); and (c) whether and when, or if, the claimant sold his, her, or its AOI common stock (or closed out an option position).

#### **CALCULATION OF RECOGNIZED LOSS AMOUNTS**

60. For purposes of determining whether a Claimant has a "Recognized Claim", purchases, acquisitions, and sales of AOI common stock and options will first be matched on a First In/First Out ("FIFO") basis. If a Class Member has more than one purchase/acquisition or sale of AOI common stock or options during the Class Period, Class Period sales will be matched first against any holdings at the beginning of the Class Period and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.

61. A "Recognized Loss Amount" will be calculated as set forth below for each purchase of AOI common stock or opening position of AOI options during the Class Period from February 23, 2017 through February 21, 2018 that is listed in the Claim Form and for which adequate documentation is provided. To the extent that the calculation of a Claimant's Recognized Loss Amount results in a negative number, that number shall be set to zero.

62. A "Recognized Gain Amount" will be calculated as set forth below for each sale of AOI common stock or opening or closing position of AOI options during the Class Period from February 23, 2017 through February 21, 2018 that is listed in the Claim Form and for which adequate documentation is provided. To the extent that the calculation of a Claimant's Recognized Gain Amount results in a negative number, that number shall be set to zero. The sum of a Claimant's Recognized Loss Amounts less the sum of a Claimant's Recognized Gain Amounts across all AOI securities will be the Claimant's "Recognized Claim."

63. For each transaction in AOI common stock or options, an "Investment Loss" and "Investment Gain" will be calculated. Investment Loss is defined as the purchase price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions). To the extent that the calculation of the Investment Loss results in a negative number, that number will be considered an Investment Gain. Investment Gain and Loss are calculated only for those transactions where both the purchase and sale (or option opening/closing) are within the Class Period.

#### **1. RECOGNIZED LOSS AMOUNT FOR AOI COMMON STOCK:**

**64. For each share of AOI common stock purchased or acquired from February 23, 2017 through and including February 21, 2018, and:**

- A. Sold before the opening of trading on August 4, 2017, the Recognized Loss Amount for each such share shall be zero.

<sup>2</sup> In addition, it is alleged that these disclosures removed artificial inflation in call options on AOI common stock and removed artificial deflation in put options on AOI common stock.

- B. Sold after the opening of trading on August 4, 2017 and before the close of trading on February 21, 2018, the Recognized Loss Amount for each such share shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such share on the date of purchase/acquisition as set forth in **Table 1** *minus* the artificial inflation applicable to each such share on the date of sale as set forth in **Table 1**;<sup>3</sup>
  2. the loss limitation per share on the date of purchase as set forth in **Table 2** *minus* the loss limitation per share on the date of sale as set forth in **Table 2**; or
  3. the Investment Loss.
- C. Sold after the opening of trading on February 22, 2018 and before the close of trading on May 22, 2018, the Recognized Loss Amount for each such share shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such share on the date of purchase/acquisition as set forth in **Table 1**;
  2. the loss limitation per share based on the date of purchase as set forth in **Table 2**; or
  3. the actual purchase/acquisition price of each such share *minus* the average closing price from February 22, 2018, up to the date of sale as set forth in **Table 3**.
- D. Held as of the close of trading on May 22, 2018, the Recognized Loss Amount for each such share shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such share on the date of purchase/acquisition as set forth in **Table 1**;
  2. the loss limitation per share based on the date of purchase as set forth in **Table 2**; or
  3. the actual purchase/acquisition price of each such share *minus* \$29.15.<sup>4</sup>

**2. RECOGNIZED GAIN AMOUNT FOR AOI COMMON STOCK:**

**65. For each share of AOI common stock sold from February 23, 2017 through and including February 21, 2018, and:**

- A. Purchased before the opening of trading on February 23, 2017, the Recognized Gain Amount for each such share shall be the lesser of: (i) the artificial inflation on the date of sale as set forth in **Table 1**; or (ii) the loss limitation per share on the date of sale as set forth in **Table 2**.
- B. Purchased after the opening of trading on February 23, 2017 and before the close of trading on February 21, 2018, the Recognized Gain Amount for each such share shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such share on the date of sale as set forth in **Table 1** *minus* the artificial inflation applicable to each such share on the date of purchase as set forth in **Table 1**;
  2. the loss limitation per share based on the date of sale as set forth in **Table 2** *minus* the loss limitation on the date of purchase as set forth in **Table 2**; or
  3. the Investment Gain.
- C. Sold short and not covered prior to the opening of trading on February 22, 2018, the Recognized Gain Amount for each such share shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such share on the date of sale as set forth in **Table 2**; or
  2. the loss limitation per share based on the date of sale as set forth in **Table 2**.

**3. RECOGNIZED LOSS AMOUNT FOR AOI CALL OPTIONS:**

**66. For each call option purchased or acquired from February 23, 2017 through and including February 21, 2018 to open a long position, and:**

- A. Closed out before the opening of trading on August 4, 2017, the Recognized Loss Amount for each such option shall be zero.
- B. Sold after the opening of trading on August 4, 2017 and before the close of trading on February 21, 2018, the Recognized Loss Amount for each such option shall be *the lesser of (but not less than zero)*:
1. the artificial inflation applicable to each such option on the date of purchase or acquisition as set forth in **Table 4** *minus* the artificial inflation applicable to each such option on the date of sale as set forth in **Table 4**; or
  2. the Investment Loss.

<sup>3</sup> Due to their voluminous nature, Tables 1 through 5 may be located on the claims administrator's website at: [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com).

<sup>4</sup> Pursuant to Section 21D(e)(1) of the Exchange Act, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of AOI common stock during the "90-day look-back period," February 22, 2018 through May 22, 2018. The mean (average) closing price for AOI common stock during this 90-day look-back period was \$29.15.

<sup>5</sup> Artificial Inflation in Table 4 is on a per underlying share basis. Standard option contracts are for 100 underlying shares.

C. Still held after the close of trading on February 21, 2018, the Recognized Loss Amount for each such option shall be *the lesser of (but not less than zero)*:

1. the artificial inflation applicable to each such option on the date of purchase/acquisition as set forth in **Table 4**;  
or
2. the purchase price less the holding value set forth in **Table 4**.<sup>6</sup>

**4. RECOGNIZED GAIN AMOUNT FOR AOI CALL OPTIONS:**

**67. For each call option sold or closed out from February 23, 2017 through and including February 21, 2018 to open a written position or close a long position, and:**

- A. Purchased before the opening of trading on February 23, 2017, the Recognized Gain Amount for each such option shall be the artificial inflation on the date of sale/closing as set forth in **Table 4**.
- B. Purchased/closed out after the opening of trading on February 23, 2017 and before the close of trading on February 21, 2018, the Recognized Gain Amount for each such option shall be *the least of (but not less than zero)*:
  1. the artificial inflation applicable to each such option on the date of sale/writing as set forth in **Table 4** *minus* the artificial inflation applicable to each such share on the date of purchase/closing as set forth in **Table 4**; or
  2. the Investment Gain.
- C. For written positions not closed out prior to the opening of trading on February 22, 2018, the Recognized Gain Amount for each such option shall be the artificial inflation applicable to each such option on the date of writing as set forth in **Table 4**.

**5. RECOGNIZED LOSS AMOUNT FOR AOI PUT OPTIONS:**

**68. For each put option sold from February 23, 2017 through and including February 21, 2018 to open a written position, and:**

- A. Closed out before the opening of trading on August 4, 2017, the Recognized Loss Amount for each such option shall be zero.
- B. Closed out after the opening of trading on August 4, 2017 and before the close of trading on February 21, 2018, the Recognized Loss Amount for each such option shall be *the least of (but not less than zero)*:
  1. the artificial deflation applicable to each such option on the date of writing as set forth in **Table 5**<sup>7</sup> *minus* the artificial deflation applicable to each such option on the date of closing as set forth in **Table 5**; or
  2. the Investment Loss.
- C. Still not closed out after the close of trading on February 21, 2018, the Recognized Loss Amount for each such option shall be *the least of (but not less than zero)*:
  1. the artificial deflation applicable to each such option on the date of writing as set forth in **Table 5**; or
  2. the sale price less the holding value set forth in **Table 5**.<sup>8</sup>

**6. RECOGNIZED GAIN AMOUNT FOR AOI PUT OPTIONS:**

**69. For each put option purchased or closed out from February 23, 2017 through and including February 21, 2018 to open a long position or close a written position, and:**

- A. For written positions opened before the opening of trading on February 23, 2017, the Recognized Gain Amount for each such option shall be the artificial deflation on the date of sale.
- B. Opened (if written) or sold (if a long position) after the opening of trading on February 23, 2017 and before the close of trading on February 21, 2018, the Recognized Gain Amount for each such option shall be *the least of (but not less than zero)*:
  1. the artificial deflation applicable to each such option on the date of purchasing (long position)/closing (written position) as set forth in **Table 5** *minus* the artificial inflation applicable to each such option on the date of closing (long position)/opening (written position) as set forth in **Table 5**; or
  2. the Investment Gain.
  3. For long positions not closed out prior to the opening of trading on February 22, the Recognized Gain Amount for each such option shall be the artificial deflation on the date of purchase as set forth in **Table 5**.

<sup>6</sup> The holding value is set equal to the estimated price of the option on February 22, 2018 to reduce the complexity of 90-day average price tables for the multitude of option contracts.

<sup>7</sup> Artificial Inflation in Table 5 is on a per underlying share basis. Standard option contracts are for 100 underlying shares.

<sup>8</sup> The holding value is set equal to the estimated price of the option on February 22, 2018 to reduce the complexity of 90-day average price tables for the multitude of option contracts.

**ADDITIONAL PROVISIONS OF THE PLAN OF ALLOCATION**

70. AOI common stock and call options purchased to start a long position and put options sold to start a written position are the only securities eligible for recovery under the Plan of Allocation. Inflation and deflation for options are only measured for those options that were potentially held over an alleged corrective disclosure based on available data. With respect to AOI common stock purchased or sold through the exercise/assignment of an option, the purchase/sale date of the AOI common stock is the exercise date of the option and the purchase/sale price is the exercise price of the option. For exercised/assigned options, the price on closing of such options shall be equal to: (i) for call options, the stock price less the exercise price (but not less than zero); and (ii) for put options, the exercise price less the stock price (but not less than zero).

71. Purchases or acquisitions and sales of AOI common stock and options shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of AOI common stock or options during the Class Period shall not be deemed a purchase, acquisition, or sale of such securities for the calculation of a claimant’s Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition/sale of such common stock or option unless (i) the donor or decedent purchased/acquired/sold such common stock or option during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such common stock or option; and (iii) it is specifically so provided in the instrument of gift or assignment.

72. In accordance with the Plan of Allocation, the Recognized Loss Amount on any portion of a purchase or acquisition of AOI common stock that matches against (or “covers”) a “short sale” is zero. The Recognized Loss Amount on a “short sale” that is not covered by a purchase or acquisition is also zero. In the event that a claimant has an opening short position in AOI common stock at the start of the Class Period, the earliest Class Period purchases or acquisitions shall be matched against such opening short position in accordance with the FIFO matching described above and any portion of such purchases or acquisition that covers such short sales will not be entitled to recovery, but will be included in the calculation of Recognized Gain Amounts. In the event that a claimant newly established a short position during the Class Period, the earliest subsequent Class Period purchase or acquisition shall be matched against such short position on a FIFO basis and will not be entitled to a recovery. Call options written prior to or during the Class Period shall also not be entitled to recovery but will be included in the calculation of Recognized Gain Amounts. Put options purchased to open a long position prior to or during the Class Period shall also not be entitled to recovery but will be included in the calculation of Recognized Gain Amounts.

73. The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation and a distribution will not be made to that Authorized Claimant.

74. Payment according to this Plan of Allocation will be deemed conclusive against all Authorized Claimants. Recognized Claims will be calculated as defined herein by the Claims Administrator and cannot be less than zero.

75. Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise) after at least six (6) months from the date of initial distribution of the Net Settlement Fund, the Claims Administrator shall, if feasible and economical after payment of Notice and Administration Expenses, Taxes, and Attorneys’ Fees and Expenses, if any, redistribute such balance among Authorized Claimants who have cashed their initial checks in an equitable and economic fashion. Once it is no longer feasible or economical to make further distributions, any balance that still remains in the Net Settlement Fund after such re-distribution(s) and after payment of outstanding Notice and Administration Expenses, Taxes, and Attorneys’ Fees and Expenses, if any, shall be contributed to Lone Star Legal Aid subject to approval by the Court.

76. Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Plaintiff’s Counsel, their damages expert, Claims Administrator, or other agent designated by Lead Counsel, arising from determinations or distributions to claimants made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Lead Plaintiff, Defendants, and all other Released Defendant Parties shall have no responsibility for or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation or the determination, administration, calculation, or payment of any Claim Form or non-performance of the Claims Administrator, the payment or withholding of Taxes owed by the Settlement Fund or any losses incurred in connection therewith.

77. If you purchased or otherwise acquired AOI common stock during the Class Period for the beneficial interest of a person or entity other than yourself, the Court has directed that **WITHIN SEVEN (7) DAYS OF YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER:** (a) provide to the Claims Administrator the name and last known address of each such person or entity; or (b) request additional copies of this Notice and the Claim Form from the Claims Administrator, which will be provided to you free of charge, and **WITHIN SEVEN (7) DAYS** of receipt, mail the Notice and Claim Form directly to all such persons or entities. If they are available, you must also provide the Claims Administrator with the e-mails of the beneficial owners. If you choose to follow procedure (b), the Court has also directed that, upon making that mailing, **YOU MUST SEND A STATEMENT** to the Claims Administrator confirming that the mailing was made as directed and keep a record of the names and mailing addresses used. Upon full and timely compliance with these directions, you may seek reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, upon request and submission of appropriate documentation. All communications concerning the foregoing should be addressed to the Claims Administrator: *Applied Optoelectronics Securities Litigation*, Claims Administrator, RG2 Claims Administration, LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479, [info@rg2claims.com](mailto:info@rg2claims.com). (866) 742-4955 or (215) 979-1620, [www.AOI SecuritiesSettlement.com](http://www.AOI SecuritiesSettlement.com).

Dated: August 26, 2020

BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LAWRENCE ROUGIER, *et al.*, Individually  
and on Behalf of All Others Similarly Situated,

Plaintiffs,

Case No. 4:17-cv-2399-VDG-CAB

v.

APPLIED OPTOELECTRONICS, INC.,  
CHIH-HSIANG (THOMPSON) LIN, and  
STEFAN J. MURRY,

Defendants.

**PROOF OF CLAIM AND RELEASE**

**I. GENERAL INSTRUCTIONS**

1. To recover as a member of the Settlement Class based on your claims in the action entitled *Rougier v. Applied Optoelectronics, Inc., et al.*, Case No. 4:17-cv-2399-VDG-CAB (S.D. Tex.) (the “Action”), you must complete and, on page 7 below, sign this Proof of Claim and Release form (“Claim Form”). If you fail to submit a timely and properly addressed (as explained in paragraph 3 below) Claim Form, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

2. Submission of this Claim Form, however, does not assure that you will share in the proceeds of the Settlement of the Action.

**3. THIS CLAIM FORM MUST BE POSTMARKED NO LATER THAN NOVEMBER 19, 2020, ADDRESSED AS FOLLOWS:**

*Applied Optoelectronics Securities Litigation*  
c/o RG2 Claims Administration, LLC  
P.O. Box 59479  
Philadelphia, PA, 19102-9479  
info@rg2claims.com  
(866) 742-4955  
(215) 979-1620

4. If you are a member of the Settlement Class and you do not timely request exclusion in response to the Notice dated August 26, 2020, you are bound by the terms of any judgment entered in the Action, including the releases provided therein, **WHETHER OR NOT YOU SUBMIT A CLAIM FORM OR RECEIVE A PAYMENT.**

**II. CLAIMANT IDENTIFICATION**

1. If you purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, (the “Class Period”) and held the securities in your name, you are the beneficial owner as well as the record owner. If, however, you purchased, otherwise acquired, or sold Applied Optoelectronics, Inc. (“AOI”) securities during the Class Period through a third party, such as a brokerage firm, you are the beneficial owner and the third party is the record owner.

2. Use **Part A** of this form entitled “Claimant Information” to identify each beneficial owner of AOI securities that form the basis of this claim, as well as the owner of record if different. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNERS OR THE LEGAL REPRESENTATIVE OF SUCH OWNERS.**

3. All joint owners must sign this claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

### III. IDENTIFICATION OF TRANSACTIONS

1. Use **Part B** of this form entitled “Schedule of Transactions in AOI Common Stock” to supply all required details of your transaction(s) in AOI common stock, **Part C** entitled “Schedule of Transactions in AOI Call Options” to supply all required details of your transaction(s) in AOI call options and **Part D** entitled “Schedule of Transactions in AOI Put Options” to supply all required details of your transaction(s) in AOI put options. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedules, provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of AOI securities, whether the transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. The date of covering a “short sale” is deemed to be the date of purchase of AOI common stock. The date of a “short sale” is deemed to be the date of sale of AOI common stock.

4. Copies of broker confirmations or other documentation of your transactions must be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. **THE PARTIES DO NOT HAVE INFORMATION ABOUT YOUR TRANSACTIONS IN AOI SECURITIES.**

5. NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All claimants MUST submit a manually signed paper Claim Form whether or not they also submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at (866) 742-4955 to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

**PART A – CLAIMANT INFORMATION**

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above. Complete names of all persons and entities must be provided.

Beneficial Owner's First Name	MI	Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Co-Beneficial Owner's First Name	MI	Co-Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Entity Name (if claimant is not an individual)

Representative or Custodian Name (if different from Beneficial Owner(s) listed above)

Address1 (street name and number)

Address2 (apartment, unit, or box number)

City	State	ZIP/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

Foreign Country (only if not USA) Foreign Country (only if not USA)

Social Security Number	Taxpayer Identification Number
<input type="text"/> - <input type="text"/> - <input type="text"/>	OR <input type="text"/> - <input type="text"/>

Telephone Number (home)	Telephone Number (work)
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>

Email address

Account Number (if filing for multiple accounts, file a separate Claim Form for each account)

- Claimant Account Type (check appropriate box):
- |   |   |                                |
|---|---|--------------------------------|
| <input type="checkbox"/> Individual (includes joint owner accounts) | <input type="checkbox"/> Pension Plan                 | <input type="checkbox"/> Trust |
| <input type="checkbox"/> Corporation                                | <input type="checkbox"/> Estate                       |                                |
| <input type="checkbox"/> IRA/401K                                   | <input type="checkbox"/> Other _____ (please specify) |                                |

**PART B: TRANSACTIONS IN AOI COMMON STOCK**

Complete this Part B if, and only if, you purchased/acquired AOI common stock during the period from February 23, 2017, through February 21, 2018, inclusive. Please include proper documentation with your Claim Form as described in detail in Section III – Identification of Transactions, above. Do not include information in this section regarding securities other than AOI common stock

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THE TRANSACTION PAGE NEEDED AND CHECK THIS BOX**   
**IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED**

**1. BEGINNING HOLDINGS** – State the total number of shares of common stock held as of the opening of trading on February 23, 2017. If none, write “0” or “Zero.” (Must be documented.)  
 \_\_\_\_\_

**2. PURCHASES/ACQUISITIONS DURING THE CLASS PERIOD** – Separately list each and every purchase/acquisition of common stock or call options from after the opening of trading on February 23, 2017 through and including February 21, 2018. (Must be documented.)

Date of Purchase (List Chronologically) (MM/DD/YY)	Number of Shares Purchased	Purchase Price Per Share	Total Purchase Price (excluding taxes, commissions and fees)
		\$	\$
		\$	\$
		\$	\$
		\$	\$

**3. PURCHASES/ACQUISITIONS DURING 90-DAY LOOKBACK PERIOD** – State the total number of shares of common stock purchased/acquired between February 22, 2018 and May 22, 2018, inclusive. If none, write “zero” or “0.”<sup>1</sup> (Must be documented.)  
 \_\_\_\_\_

**4. SALES DURING THE CLASS PERIOD AND DURING THE 90-DAY LOOKBACK PERIOD** – Separately list each and every sale/disposition of common stock from after the opening of trading on February 23, 2017 through and including the close of trading on May 22, 2018. (Must be documented.)

Date of Sale (List Chronologically) (MM/DD/YY)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions and fees)
		\$	\$
		\$	\$
		\$	\$
		\$	\$

**5. ENDING HOLDINGS** – State the total number of shares of common stock held as of the close of trading on May 22, 2018. If none, write “0” or “Zero.” (Must be documented.)  
 \_\_\_\_\_

<sup>1</sup> **Please Note:** Information requested with respect to your purchases/acquisitions of AOI common stock from after the opening of trading on February 22, 2018, through and including the close of trading on May 22, 2018, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

**PART C: SCHEDULE OF TRANSACTIONS IN AOI CALL OPTIONS**

Complete this Part C if and only if you purchased/acquired AOI Call Options during the period from February 23, 2017, through February 21, 2018, inclusive. Please include proper documentation with your Claim Form as described in detail in Section III – Identification of Transactions, above. Do not include information in this section regarding securities other than AOI Call Options.

<b>1. BEGINNING HOLDINGS</b> – Separately list all positions in AOI Call Option contracts in which you had an open interest as of the opening of trading on February 23, 2017. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>	
Strike Price of Call Option Contract		Expiration Date of Call Option Contract (Month/Day/Year)		Option Class Symbol		Number of Call Option Contracts in Which You Had an Open Interest		
\$		/ /						
\$		/ /						
\$		/ /						
\$		/ /						
<b>2. PURCHASES/ACQUISITIONS DURING THE CLASS PERIOD</b> – Separately list each and every purchase/acquisition (including free receipts) of AOI Call Option contracts from after the opening of trading on February 23, 2017, through and including the close of trading on May 22, 2018. (Must be documented.) <sup>2</sup>								
Date of Purchase/Acquisition (List Chronologically) (Month/Day/Year)	Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Option Class Symbol	Number of Call Option Contracts Purchased/Acquired	Purchase/Acquisition Price Per Call Option Contract	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)	Insert an “E” if Exercised Insert an “A” if Assigned Insert an “X” if Expired	Exercise Date (Month/ Day/ Year)
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
<b>3. SALES DURING THE CLASS PERIOD</b> – Separately list each and every sale/disposition (including free deliveries) of AOI Call Options from after the opening of trading on February 23, 2017, through and including the close of trading on May 22, 2018. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>	
Date of Sale (List Chronologically) (Month/Day/Year)	Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Option Class Symbol	Number of Call Option Contracts Sold	Sale Price Per Call Option Contract	Total Sale Price (excluding taxes, commissions, and fees)	Insert an “E” if Exercised Insert an “A” if Assigned Insert an “X” if Expired	Exercise Date (Month/ Day/ Year)
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
/ /	\$	/ /			\$	\$		/ /
<b>4. ENDING HOLDINGS</b> – Separately list all positions in AOI Call Option contracts in which you had an open interest as of the close of trading on May 22, 2018. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>	
Strike Price of Call Option Contract		Expiration Date of Call Option Contract (Month/Day/Year)		Option Class Symbol		Number of Call Option Contracts in Which You Had an Open Interest		
\$		/ /						
\$		/ /						
\$		/ /						
\$		/ /						

<sup>2</sup> **Please note:** Information requested with respect to your purchases/acquisitions of AOI Call Options from after the opening of trading on February 22, 2018, through and including the close of trading on May 22, 2018, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

**PART D: SCHEDULE OF TRANSACTIONS IN AOI PUT OPTIONS**

Complete this Part D if and only if you sold (wrote) AOI Put Options during the period from February 23, 2017, through February 21, 2018, inclusive. Please include proper documentation with your Claim Form as described in detail in Section III – Identification of Transactions, above. Do not include information in this section regarding securities other than AOI Put Options.

<b>1. BEGINNING HOLDINGS</b> – Separately list all positions in AOI Put Option contracts in which you had an open interest as of the opening of trading on February 23, 2017. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>		
Strike Price of Put Option Contract	Expiration Date of Put Contract (Month/Day/Year)		Option Class Symbol		Number of Put Option Contracts in Which You Had an Open Interest				
\$	/ /								
\$	/ /								
\$	/ /								
\$	/ /								
<b>2. SALES (WRITING) DURING THE CLASS PERIOD</b> – Separately list each and every sale (writing) (including free deliveries) of AOI Put Option contracts from after the opening of trading on February 23, 2017, through and including the close of trading on May 22, 2018. (Must be documented.) <sup>3</sup>									
Date of Sale (Writing) (List Chronologically) (Month/Day/Year)	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Option Class Symbol	Number of Put Option Contracts Sold (Written)	Sale Price Per Put Option Contract	Total Sale Price (excluding taxes, commissions, and fees)	Insert an “E” if Exercised  Insert an “A” if Assigned  Insert an “X” if Expired	Exercise Date (Month/ Day/ Year)	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
<b>3. PURCHASES/ACQUISITIONS DURING THE CLASS PERIOD</b> – Separately list each and every purchase/acquisition (including free receipts) of AOI Put Option contracts from after the opening of trading on February 23, 2017, through and including the close of trading on May 22, 2018. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>		
Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Option Class Symbol	Number of Put Option Contracts Purchased/ Acquired	Purchase/ Acquisition Per Put Option Contract	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)	Insert an “E” if Exercised  Insert an “A” if Assigned  Insert an “X” if Expired	Exercise Date (Month/ Day/ Year)	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
/ /	\$	/ /			\$	\$		/ /	
<b>4. ENDING HOLDINGS</b> – Separately list all positions in AOI Put Option contracts in which you had an open interest as of the close of trading on May 22, 2018. (Must be documented.)							<b>IF NONE, CHECK HERE</b> <input type="checkbox"/>		
Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)		Option Class Symbol		Number of Put Option Contracts in Which You Had an Open Interest				
\$	/ /								
\$	/ /								
\$	/ /								
\$	/ /								

<sup>3</sup> Please note: Information requested with respect to your sales of AOI Put Options from after the opening of trading on February 22, 2018, through and including the close of trading on May 22, 2018, is needed in order to balance your claim; sales during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

1. By signing and submitting this Claim Form, the claimant(s) or the person(s) acting on behalf of the claimant(s) certify(ies) that: I (We) submit this Claim Form under the terms of the Stipulation described in the accompanying Notice. I (We) also submit to the jurisdiction of the United States District Court for the Southern District of Texas (the "Court") with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the releases set forth herein. I (We) further acknowledge that I (we) will be bound by the terms of any judgment entered in connection with the Settlement in the Action, including the releases set forth therein. I (We) agree to furnish additional information to the Claims Administrator to support this claim, such as additional documentation for transactions in eligible AOI securities, if required to do so. I (We) have not submitted any other claim covering the same transactions in AOI securities stock during the Class Period and know of no other person having done so on my (our) behalf.

V. RELEASES, WARRANTIES, AND CERTIFICATION

1. I (We) hereby warrant and represent that I am (we are) a Class Member as defined in the Notice, that I am (we are) not excluded from the Settlement Class, that I am (we are) not one of the "Released Defendant Parties" as defined in the accompanying Notice.

2. As a Class Member, I (we) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, and discharge with prejudice the Released Claims as to each and all of the Released Defendant Parties (as these terms are defined in the accompanying Notice). This release shall be of no force or effect unless and until the Court approves the Settlement and it becomes effective on the Effective Date.

3. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

4. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases, acquisitions and sales of AOI securities that occurred during the Class Period and the number of securities held by me (us), to the extent requested.

5. I (We) certify that I am (we are) NOT subject to backup tax withholding. (If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

I declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on this Claim Form by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, in \_\_\_\_\_, \_\_\_\_\_  
(Month / Year) (City) (State/Country)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Joint Claimant, if any

\_\_\_\_\_  
Print Name of Claimant

\_\_\_\_\_  
Print Name of Joint Claimant, if any

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., Beneficial Purchaser, Executor or Administrator)

---

**REMINDER CHECKLIST:**

---

1. Please sign this Claim Form.
2. DO NOT HIGHLIGHT THE CLAIM FORM OR YOUR SUPPORTING DOCUMENTATION.
3. Attach only copies of supporting documentation as these documents will not be returned to you.
4. Keep a copy of your Proof of Claim for your records.
5. If you move after submitting this Claim Form please notify the Claims Administrator of the change in your address, otherwise you may not receive additional notices or payment.

# **EXHIBIT B**



September 25, 2020

«name»  
«Street»  
«Street2»  
«City», «State» «Zip»



**The Class for this Action includes all persons or entities that purchased or otherwise acquired the publicly traded common stock and/or call options of Applied Optoelectronics, Inc. (“AOI”), or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, (the “Class Period”).**

**The Ticker symbol is AAOI for common stock and the cusip number is 03823U102**

We are the Court-appointed Claims Administrator for the Applied Optoelectronics Securities Litigation.

Please find the enclosed Court-approved Notice of Pendency of Class Action, Proposed Class Action Settlement, and Motion for Attorneys’ Fees and Expenses (“Notice”).

If you held AOI common stock or options during the Class Period as a nominee for a beneficial owner, then, within seven (7) calendar days after you receive this Notice, you must either: (1) send a copy of this Notice by first-class mail to all beneficial owners of shares; or (2) provide a list of the names and addresses of such beneficial owners to the Claims Administrator. If you choose to mail the Notice yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

You are entitled to reimbursement of your reasonable out-of-pocket research expenses and actual expenses incurred in connection with the mailing of the Notice, (including postage associated with mailing the Notices). Those expenses will be paid upon request and submission of the appropriate supporting documentation.

Please complete the enclosed response and return it to the Claims Administrator within the next 7 days. **We recommend sending your response via email to [info@rg2claims.com](mailto:info@rg2claims.com) or [tchiango@rg2claims.com](mailto:tchiango@rg2claims.com).**

Should you have any questions or wish to make other arrangements, please feel free to contact us at 215-979-1620 or via email to [info@rg2claims.com](mailto:info@rg2claims.com). We look forward to hearing from you soon.

Sincerely,  
Claims Administrator  
RG/2 Claims Administration LLC

APPLIED OPTOELECTRONICS SECURITIES LITIGATION  
c/o RG/2 CLAIMS ADMINISTRATION, LLC  
P.O. BOX 59479  
PHILADELPHIA, PA 19102-9479

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\_\_\_\_\_ We would like to request \_\_\_\_\_ additional copies of the Notice to be sent to us, to mail to our beneficial holders.

\_\_\_\_\_ We would like to request that the Claims Administrator mail the Notice to our beneficial holders, and we have provided the Claims Administrator with a list of the names and addresses of these beneficial holders.

\_\_\_\_\_ We have no eligible holders of AOI securities during the Class Period.

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Name of Contact Person (Please print)

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Phone Number

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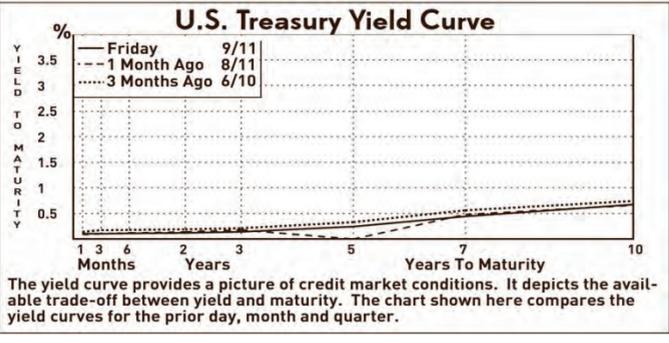
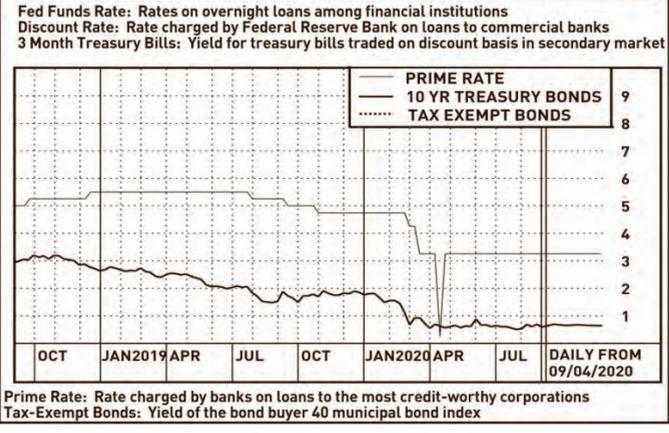
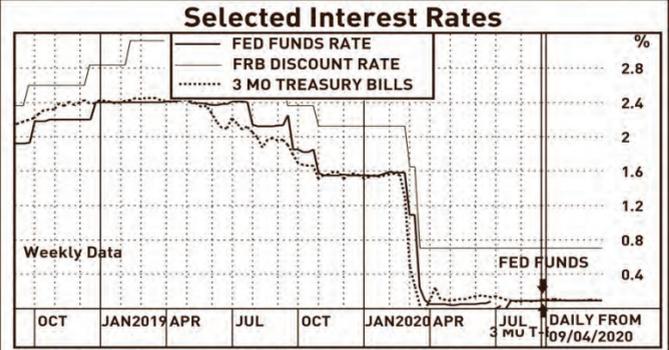
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# **EXHIBIT C**

## Key Financial And Commodity Futures



**UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**  
LAWRENCE ROUGIER, et al., Individually and on Behalf of All Others Similarly Situated, v. Plaintiffs, APPLIED OPTOELECTRONICS, INC., CHIH-HSIANG (THOMPSON) LIN, and STEFAN J. MURRY, Defendants.

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

To: All persons and entities who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, and were damaged thereby (the "Class").

YOU ARE HEREBY NOTIFIED, pursuant to Federal Rule of Civil Procedure 23 and an Order of the United States District Court for the District of Southern District of Texas, that the Court-appointed Class Representatives, on behalf of themselves and all members of the Class, and Applied Optoelectronics, Inc. ("AOI" or the "Company"), Chih-Hsiang (Thompson) Lin ("Lin") and Stefan J. Murry ("Murry", collectively the "Defendants"), have reached a proposed settlement of the claims in the above-captioned class action (the "Action") in the amount of \$15,500,000 (the "Settlement").

A hearing will be held before the Honorable Vanessa D. Gilmore, likely via teleconference or videoconference, on **November 24, 2020 at 9:00 a.m.**, in Courtroom 5300 of the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Ave., Room 5300, Houston, Texas 77002 (the "Settlement Hearing") to, among other things, determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable, and adequate; (ii) dismiss the Action with prejudice as provided in the Stipulation and Agreement of Settlement, dated August 3, 2020; (iii) approve the proposed Plan of Allocation for distribution of the settlement funds available for distribution to Class Members (the "Net Settlement Fund"); (iv) approve Lead Counsel's Fee and Expense Application; and (v) approve the Class Representatives' service awards. The Court may change the date of the Settlement Hearing, or hold it telephonically or via videoconference, without providing another notice. You do NOT need to attend the Settlement Hearing to receive a distribution from the Net Settlement Fund.

**IF YOU ARE A MEMBER OF THE CLASS, YOUR RIGHTS WILL BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO A MONETARY PAYMENT.** If you have not yet received a full Notice and Claim Form, you may obtain copies of these documents by visiting the website of the Claims Administrator, www.AOISecuritiesSettlement.com, or by contacting the Claims Administrator at:

Applied Optoelectronics Securities Litigation  
RG2 Claims Administration  
LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479  
info@rg2claims.com  
(866) 742-4955, (215) 979-1620  
Settlement Website: [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com)

Inquiries, other than requests for the Notice/Claim Form or for information about the status of a claim, may also be made to Lead Counsel:

**LEVI & KORSINSKY LLP**  
Shannon L. Hopkins  
1111 Summer Street, Suite 403, Stamford, CT 06905  
www.zlk.com  
203-992-4523

If you are a Class Member, to be eligible to share in the distribution of the Net Settlement Fund, you must submit a Claim Form **postmarked or submitted online no later than November 19, 2020**. If you are a Class Member and do not timely submit a valid Claim Form, you will not be eligible to share in the distribution of the Net Settlement Fund, but you will nevertheless be bound by all judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable.

If you are a Class Member and wish to exclude yourself from the Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice such that it is **received no later than November 3, 2020**. If you properly exclude yourself from the Class, you will not be bound by any judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Net Settlement Fund.

Any objections to the proposed Settlement, Lead Counsel's Fee and Expense Application, and/or the proposed Plan of Allocation must be filed with the Court, either by mail or in person, and be mailed to counsel for the Parties in accordance with the instructions in the Notice, such that they are **received no later than November 3, 2020**. **PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE.**

DATED: August 26, 2020 BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS

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Base interest rate charged by major U.S. commercial banks on loans to corporations.	Rate charged on short-term loans to brokerage dealers backed by securities.	1 month ..... 0.06	Unsecured Overnight Rate ..... 0.10
<b>Discount Rate:</b> ..... 0.25	<b>Federal Funds Effective Rate:</b> ..... 0.09	3 months ..... 0.09	<b>Treasury Bill Auction Results:</b>
Primary ..... 0.25	Rates on overnight loans among financial institutions.	6 months ..... 0.14	3-months (as of Sept. 8) ..... 0.115
Secondary ..... 0.75	<b>Certificates of Deposit:</b>	1 year ..... 0.21	6-months (as of Sept. 8) ..... 0.125
Rate charged by Federal Reserve System on loans to depository institutions	3 months ..... 0.08	<b>London Interbank Offered Rate:</b>	Average discount rate for Treasury bills in minimum units on \$10,000.
	6 months ..... 0.13	3 months ..... 0.25	<b>Treasury Bill:</b>
	1 year ..... 0.19	6 months ..... 0.31	1-year, (as of Sept. 8) ..... 0.13
	Interest rate paid by dealers for certificates of deposit based on the duration of the security.	1 year ..... 0.42	Annualized rate on weekly average basis, yield adjusted for constant maturity.
		The average of rates paid on dollar deposits.	

# RG2 Claims Administration, LLC Announces Class Action Settlement on Behalf of Purchasers of Common Stock and/or Call Options and Sellers of Put Options of Applied Optoelectronics, Inc.

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September 04, 2020 17:34 ET | **Source:** RG/2 Claims Administration LLC

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PHILADELPHIA, Sept. 04, 2020 (GLOBE NEWSWIRE) -- RG/2 Claims Administration announces that the United States District Court for the Southern District of Texas has approved the following announcement of a proposed class action settlement that would benefit purchasers of Applied Optoelectronics Inc (AOI) common stock and/or call options, and sellers of AOI put options.

## SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

To: All persons and entities who purchased or otherwise acquired publicly traded common stock and/or call options of AOI, or sold put options of AOI, during the period from February 23, 2017 through February 21, 2018, inclusive, and were damaged thereby (the "Class").

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Murry ("Murry," collectively the "Defendants"), have reached a proposed settlement of the claims in the above-captioned class action (the "Action") in the amount of \$15,500,000 (the "Settlement").

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*Applied Optoelectronics Securities Litigation*

RG2 Claims Administration, LLC

P.O. Box 59479

Philadelphia, PA, 19102-9479

[info@rg2claims.com](mailto:info@rg2claims.com)

(866) 742-4955

(215) 979-1620

Settlement Website: [www.AOISecuritiesSettlement.com](http://www.AOISecuritiesSettlement.com)

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Shannon L. Hopkins

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203-992-4523

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PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR  
DEFENDANTS' COUNSEL REGARDING THIS NOTICE.

DATED: August 26, 2020

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

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# Exhibit 2

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

# Securities Class Action Settlements

2019 Review and Analysis

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The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

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Analyses in this report are based on 1,849 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2019. 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.

# Highlights

Historically high median settlement amounts persisted in 2019, driven primarily by an increase in the overall percentage of mid-sized cases in the \$5 million to \$25 million range as well as a decrease in the number of smaller settlements.

- There were 74 settlements totaling \$2 billion in 2019. (page 3)
- The median settlement in 2019 of \$11.5 million was unchanged from 2018 (adjusted for inflation) and was 34 percent higher than the prior nine-year median. (page 3)
- The average settlement amount in 2019 was \$27.4 million, which was 43 percent lower than the prior nine-year average. (page 4)
- There were four mega settlements (settlements equal to or greater than \$100 million) in 2019. (page 20)
- The number of small settlements (amounts less than \$5 million) declined by 36 percent to 16 cases in 2019, the fewest such settlements in the past decade. (page 4)
- The proportion of settlements in 2019 with a public pension plan as lead plaintiff reached its lowest level in the prior 10 years. (page 12)
- In 2019, 53 percent of settled cases involved an accompanying derivative action, the second-highest rate over the past decade. (page 10)
- Companies that settled cases after a ruling on a motion to dismiss (MTD) were, on average, 50 percent larger (measured by total assets) than companies that settled while the MTD was pending. (page 14)

**Figure 1: Settlement Statistics**

(Dollars in millions)

	1996–2018	2018	2019
Number of Settlements	1,775	78	74
Total Amount	\$103,955.3	\$5,156.0	\$2,029.9
Minimum	\$0.2	\$0.4	\$0.5
Median	\$8.8	\$11.5	\$11.5
Average	\$58.6	\$66.1	\$27.4
Maximum	\$9,172.1	\$3,054.4	\$389.6

Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. Figure 1 includes all post-Reform Act settlements. Settlements in prior years have included 14 cases exceeding \$1 billion. Adjusted for inflation, these settlements drive up the average settlement amount.

# Author Commentary

## 2019 Findings

The size of issuer defendant firms (measured by total assets) continued to grow in 2019, increasing by 59 percent over 2018 and 117 percent above the median over the last 10 years. This may be due at least in part to prolonged changes in the population of public companies. In particular, as has been widely observed, the number of publicly traded firms continued to decline in recent years—with the result that remaining public firms are larger.<sup>1</sup>

As discussed by other commentators, large issuer defendants may cause plaintiff counsel to pursue potential claims more vigorously.<sup>2</sup> As in our prior research, we examine the number of docket entries as a proxy for the time and effort by plaintiff counsel and/or case complexity. In 2019, average docket entries were the highest in the last 10 years, primarily driven by cases with relatively large damages, as measured by our simplified proxy for plaintiff-style damages (i.e., “simplified tiered damages” exceeding \$500 million).

Overall, our simplified proxy for plaintiff-style damages remained at elevated levels in 2019 compared to earlier years in the decade, in part reflecting the relatively high market capitalization losses associated with cases filed over the last three years.<sup>3</sup>

Another driver of higher plaintiff-style damages is class period length. Indeed, plaintiffs often amend their initial complaints to capture longer alleged class periods. In 2019, the median class period length per the operative complaint as of the time of settlement was 1.7 years—the longest over the last 10 years. In comparison, the median class period alleged in first identified complaints during 2015–2018 (the period during which most of the 2019 settlements were filed) was just under one year. This indicates that between the time of filing and settlement plaintiffs substantially expanded the period over which they claim the alleged fraud occurred.

Despite the large size of cases settled in 2019, public pension plans served as lead plaintiffs less frequently, with their involvement reaching the lowest level over the last 10 years. Prior literature has discussed possible reasons for institutions choosing not to serve as lead plaintiffs, including an imbalance in the cost/benefit of doing so.<sup>4</sup>

---

*One finding that is particularly striking is the decrease in public pension plan lead plaintiffs despite an increase in larger issuer firms with potentially sizable damages exposure.*

*Dr. Laura E. Simmons  
Senior Advisor  
Cornerstone Research*

---

Other contributors to the reduction in public pension plan involvement may include changes in the mix of plaintiff law firms serving as lead counsel, and possibly the recent increase in the propensity of plaintiffs to opt out of class actions, including in larger cases (see *Opt-Out Cases in Securities Class Action Settlements: 2014–2018 Update*, Cornerstone Research).

## Looking Ahead

Recent trends in securities case filings can inform expectations for developments in settlements in upcoming years.

The number of filings alleging Rule 10b-5 and/or Section 11 claims reached record levels in 2019. In addition, for the second year in a row, median Disclosure Dollar Loss (DDL) for case filings reached unusually high levels (see *Securities Class Action Filings—2019 Year in Review*, Cornerstone Research).

Absent changes in dismissal rates, these results suggest that the volume of securities case settlements, as well as their value, is likely to continue at relatively high levels in upcoming years.

—Laarni T. Bulan and Laura E. Simmons

# Total Settlement Dollars

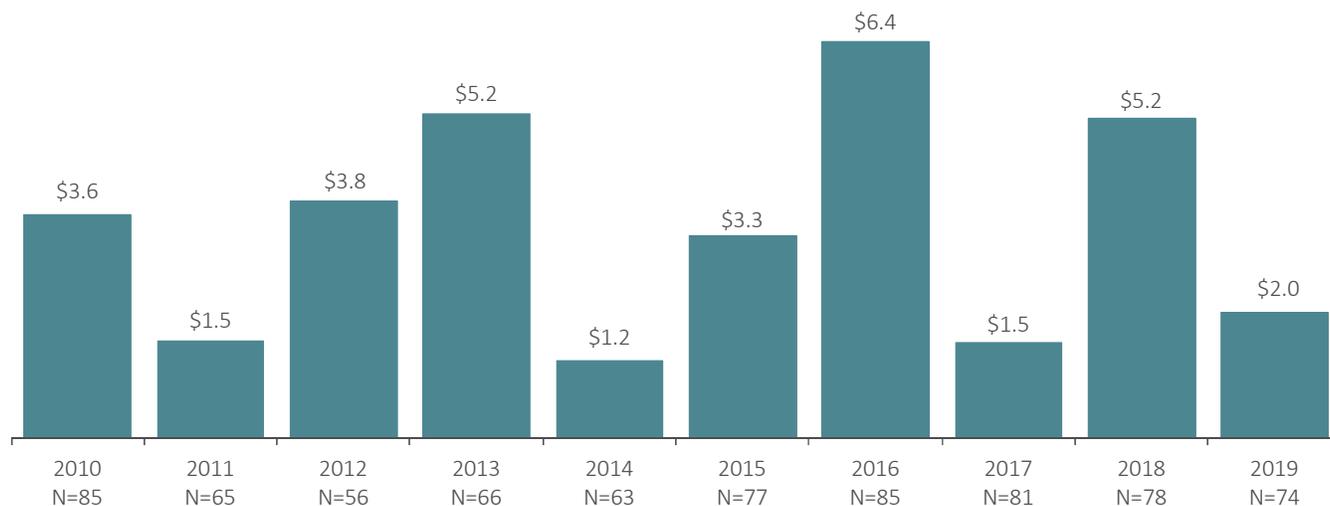
- The total value of settlements approved by courts in 2019 declined dramatically from 2018 due to the absence of very large settlements. Excluding 2018 settlements over \$1 billion, however, total settlement dollars declined by a modest 3 percent in 2019 (adjusted for inflation).
- The median settlement amount in 2019 of \$11.5 million was unchanged from the prior year (adjusted for inflation).
- Compared to the prior nine years, larger median settlement amounts in 2019 were accompanied by higher levels in the proxy for plaintiff-style damages. *(See page 5 for a discussion of damages estimates.)*

*The median settlement amount in 2019 was 34 percent higher than the prior nine-year median.*

- Mediators continue to play a central role in the resolution of securities class action settlements. In 2019, nearly all cases in the sample involved a mediator.

Figure 2: Total Settlement Dollars  
2010–2019

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. N refers to the number of observations.

# Settlement Size

As discussed above, the median settlement amount was unchanged from 2018. Generally, the median is more stable from year to year than the average, since the average can be affected by the presence of even a small number of large settlements.

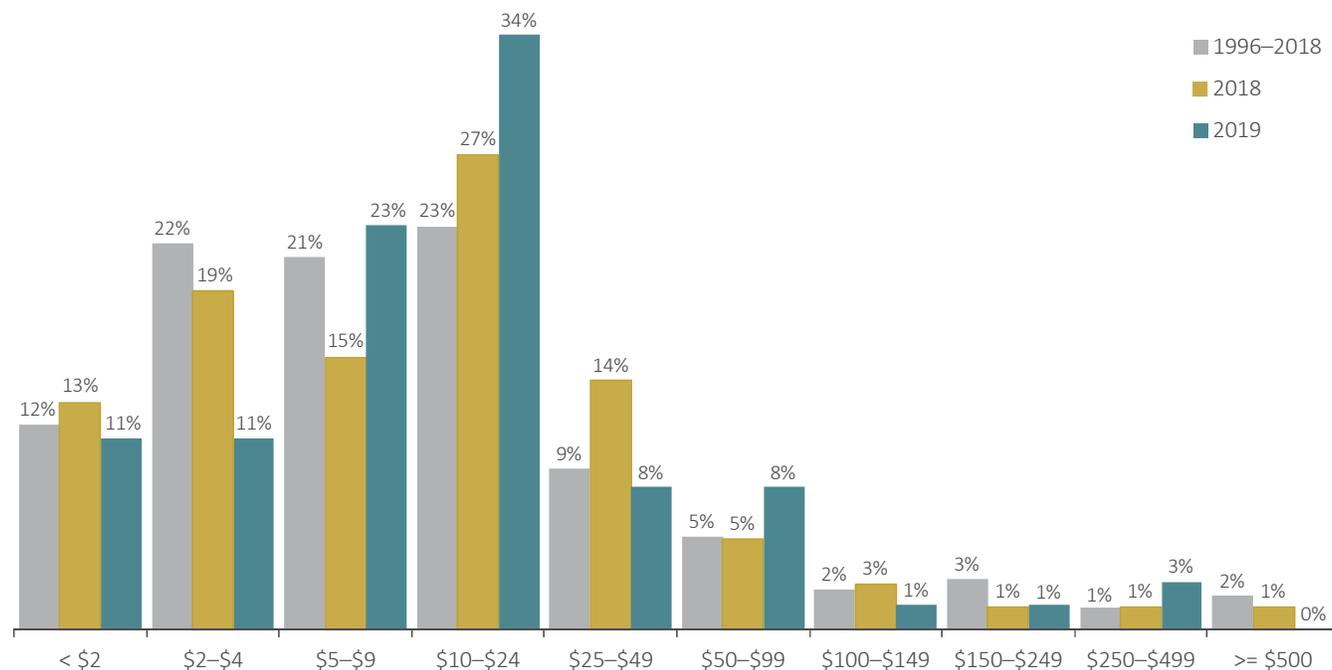
- The average settlement amount in 2019 was \$27.4 million, 43 percent lower than the average over the prior nine years. (See Appendix 1 for an analysis of settlements by percentiles.)
- If settlements exceeding \$1 billion are excluded from the prior nine-year average, the decline in 2019 was 16 percent.
- There were four mega settlements (equal to or greater than \$100 million) in 2019, with settlements ranging from \$110 million to \$389.6 million. (See Appendix 4 for additional information on mega settlements.)

- Despite a decline in the average settlement amount from 2018, the number of small settlements (less than \$5 million) also declined by 36 percent to 16 cases in 2019, the fewest such settlements in the past decade. Cases that result in settlement funds less than \$5 million may be viewed as “nuisance” suits, a shift upwards from a threshold of \$2 million prevalent in early post-Reform Act years.<sup>5</sup>

*57 percent of cases settled for between \$5 million and \$25 million.*

**Figure 3: Distribution of Post-Reform Act Settlements 1996–2019**

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. Percentages may not sum to 100 percent due to rounding.

# Damages Estimates

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

“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior. 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>6</sup>

Cornerstone Research’s prediction model finds this measure to be the most important factor in predicting settlement amounts.<sup>7</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.

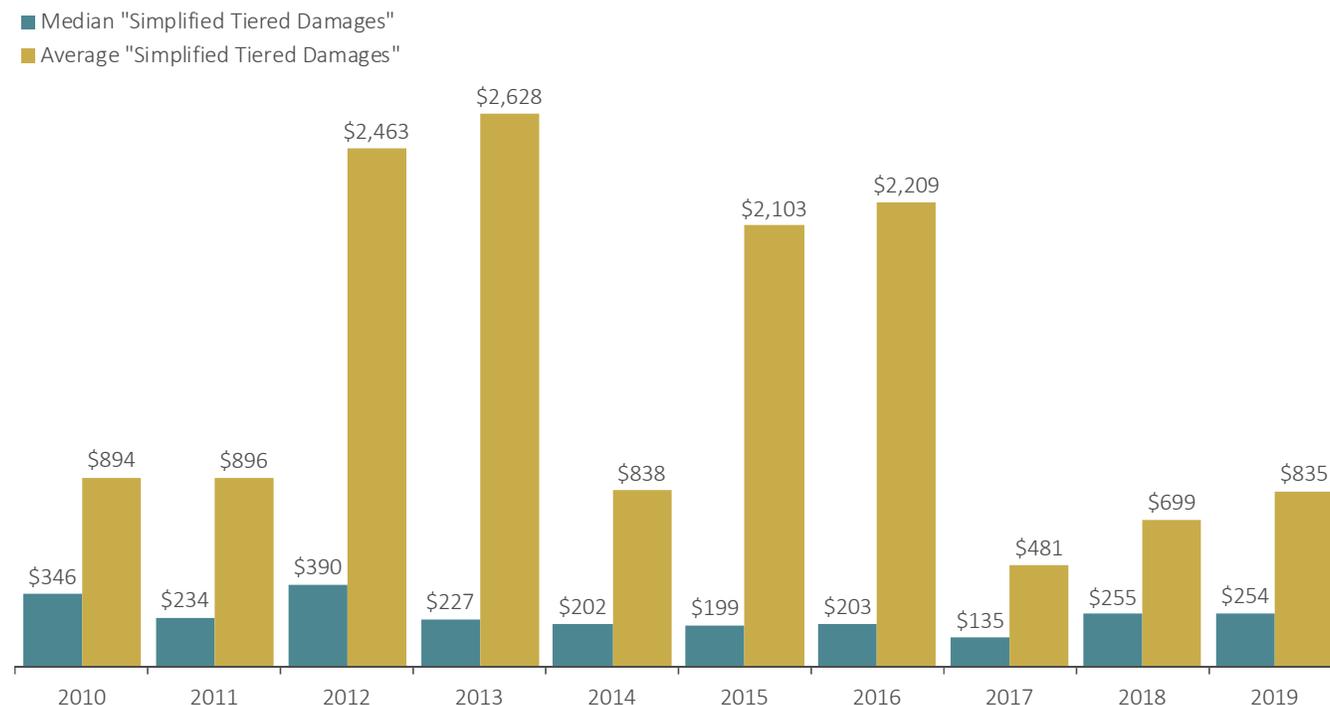
- Median “simplified tiered damages” was largely unchanged from the prior year. (See Appendix 5 for additional information on the median and average settlements as a percentage of “simplified tiered damages.”)

*While median “simplified tiered damages” remained largely unchanged in 2019, average “simplified tiered damages” increased for the third year in a row.*

- “Simplified tiered damages” is generally correlated with the length of the class period. Among cases with Rule 10b-5 claims, the median class period length in 2019 was at its highest level in the last 10 years.
- “Simplified tiered damages” is also typically correlated with larger issuer defendants (measured by total assets or market capitalization of the issuer). However, despite the lack of change in median “simplified tiered damages” compared to 2018, median total assets of issuer defendants increased by over 67 percent in 2019.

Figure 4: Median and Average “Simplified Tiered Damages” in Rule 10b-5 Cases 2010–2019

(Dollars in millions)



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

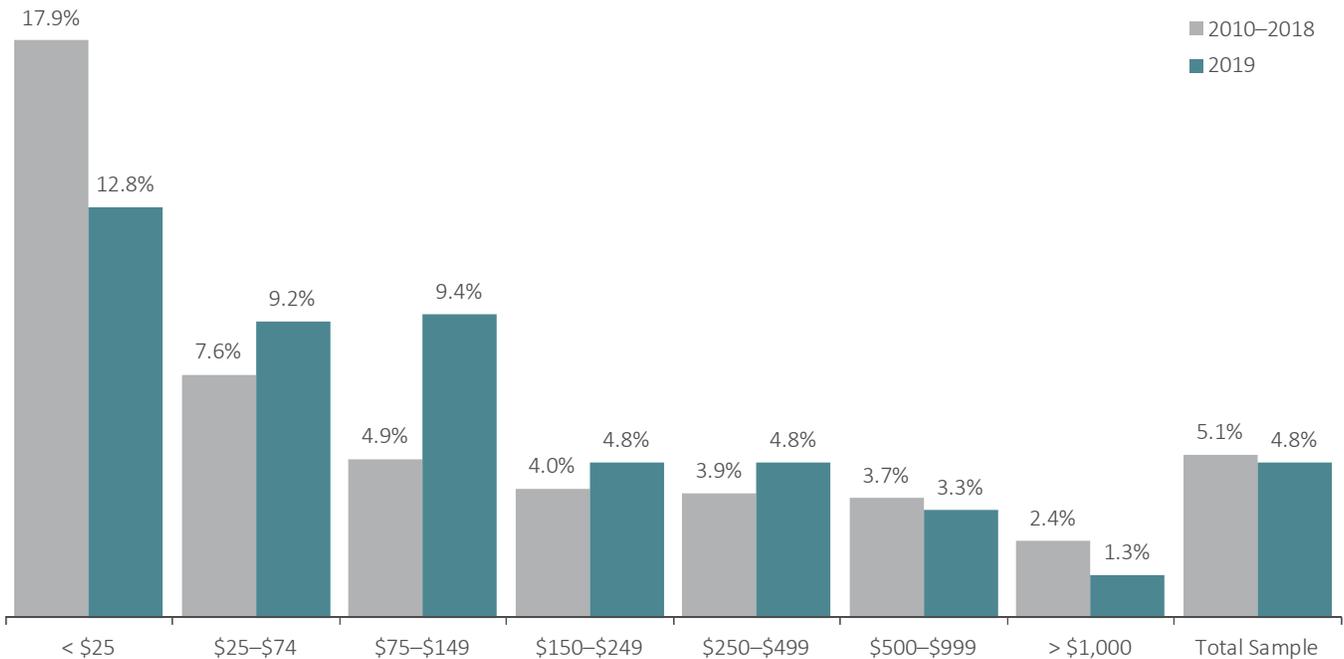
- Larger cases, as measured by “simplified tiered damages,” typically settle for a smaller percentage of damages.
- Smaller cases (less than \$25 million in “simplified tiered damages”) are less likely to include factors such as institutional lead plaintiffs and/or related actions by the Securities and Exchange Commission (SEC) or criminal charges.
- Among cases in the sample, smaller cases typically settle more quickly. In 2019, cases with less than \$25 million in “simplified tiered damages” settled within 2.0 years on average, compared to 3.5 years for cases with “simplified tiered damages” greater than \$500 million.

At 9.4 percent in 2019, median settlements as a percentage of “simplified tiered damages” for mid-sized cases reached a five-year high.

- The steadily increasing median settlement as a percentage of “simplified tiered damages” observed from 2016 to 2018 reversed in 2019. Appendix 5 shows a substantial increase in 2019 in average settlements as a percentage of “simplified tiered damages.” However, this result is driven by a few outlier cases. Excluding these cases, the average percentage for 2019 is not unusual compared to recent years.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges in Rule 10b-5 Cases 2010–2019

(Dollars in millions)



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

### '33 Act Claims: "Simplified Statutory Damages"

For cases involving only Section 11 and/or Section 12(a)(2) claims ('33 Act claims), 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> Only the offered shares are assumed to be eligible for damages.

"Simplified statutory damages" are typically smaller than "simplified tiered damages," reflecting differences in the methodologies used to estimate alleged inflation per share, as well as differences in the shares eligible to be damaged (i.e., only offered shares are included).

*Median "simplified statutory damages" for '33 Act claim cases in 2019 was more than 65 percent higher than the prior five-year median.*

- Cases with only '33 Act claims tend to settle for smaller median amounts than cases that include Rule 10b-5 claims.
- In 2019, among settlements involving '33 Act claims only, the median time to settlement was only slightly longer than cases involving Rule 10b-5 claims only, 3.2 years and 2.9 years, respectively. When compared to the prior year, however, '33 Act claim cases took more than 36 percent longer to resolve in 2019 (3.2 years compared to 2.3 years).

Figure 6: Settlements by Nature of Claims  
2010–2019

(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	77	\$7.2	\$118.8	7.4%

	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)	115	\$15.1	\$390.0	5.8%
Rule 10b-5 Only	524	\$8.5	\$212.5	4.6%

Note: Settlement dollars and damages are adjusted for inflation; 2019 dollar equivalent figures are used. Damages are adjusted for inflation based on class period end dates.

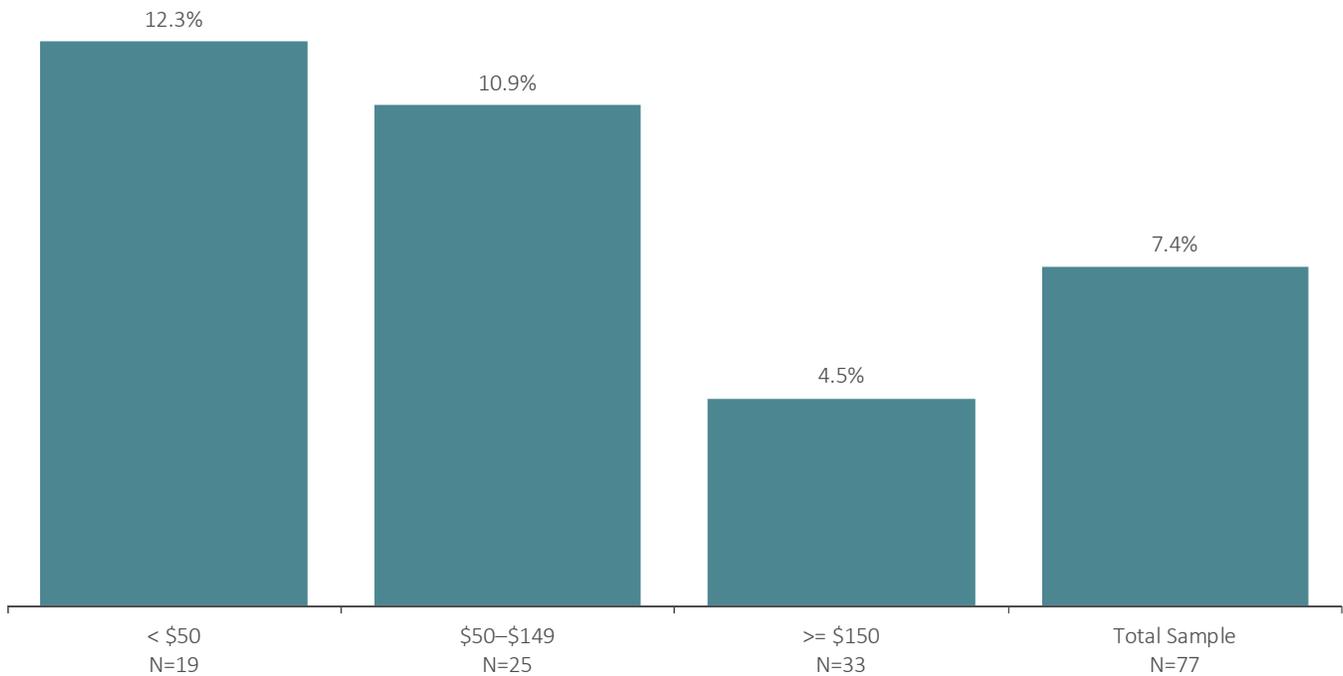
- Settlements as a percentage of “simplified statutory damages” are smaller for cases that have larger estimated damages. This finding holds for cases with ’33 Act claims only, as well as those with Rule 10b-5 claims.

*90 percent of cases with only ’33 Act claims involved an underwriter as a codefendant.*

- Over the period 2010–2019, the median size of issuer defendants (measured by total assets) was 68 percent smaller for cases with only ’33 Act claims relative to those that included Rule 10b-5 claims.
- The smaller size of issuer defendants in ’33 Act cases is consistent with the vast majority of these cases involving initial public offerings (IPOs). From 2010 through 2019, 83 percent of all cases with only ’33 Act claims have involved IPOs.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges in ’33 Act Cases 2010–2019

(Dollars in millions)



Note: N refers to the number of observations.

# Analysis of Settlement Characteristics

## Accounting Allegations

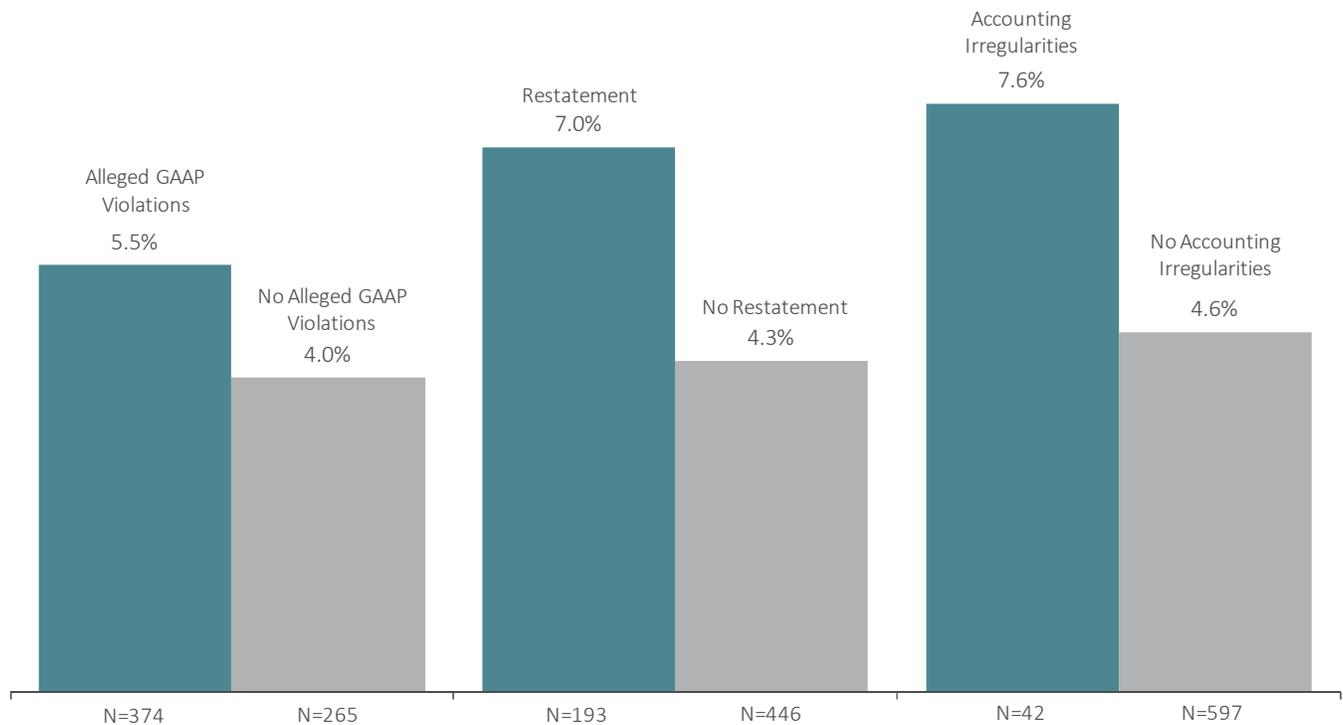
This analysis examines accounting allegations related to issues among securities class actions involving Rule 10b-5 claims: alleged Generally Accepted Accounting Principles (GAAP) violations, violations of other reporting standards, auditing violations, or weaknesses in internal controls over financial reporting.<sup>9</sup> For further details regarding settlements of accounting cases, see Cornerstone Research’s annual report on *Accounting Class Action Filings and Settlements*.<sup>10</sup>

- The proportion of settled cases alleging GAAP violations in 2019 was 44 percent, continuing a five-year decline from a high of 67 percent in 2014.
- Settled cases with restatements are generally associated with higher settlements as a percentage of “simplified tiered damages” compared to cases without restatements. In 2019, the median settlement as a percentage of “simplified tiered damages” for cases with restatements was 5.2 percent, compared to 4.1 percent for cases without restatements.

- Among cases settled in 2019 with accounting-related allegations, only 6 percent involved a named auditor codefendant. This was the lowest rate in the past decade and a decline from a high of 24 percent in 2015.
- The proportion of cases with accounting-related allegations that also involved associated criminal charges was 27 percent in 2019, well above the rate of 11 percent among cases settled during 2010–2018.

*The frequency of reported accounting irregularities increased among settled cases in 2019 to 9 percent, compared to an average of less than 2 percent from 2015 to 2018.*

Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and Accounting Allegations 2010–2019



Note: N refers to the number of observations.

## Derivative Actions

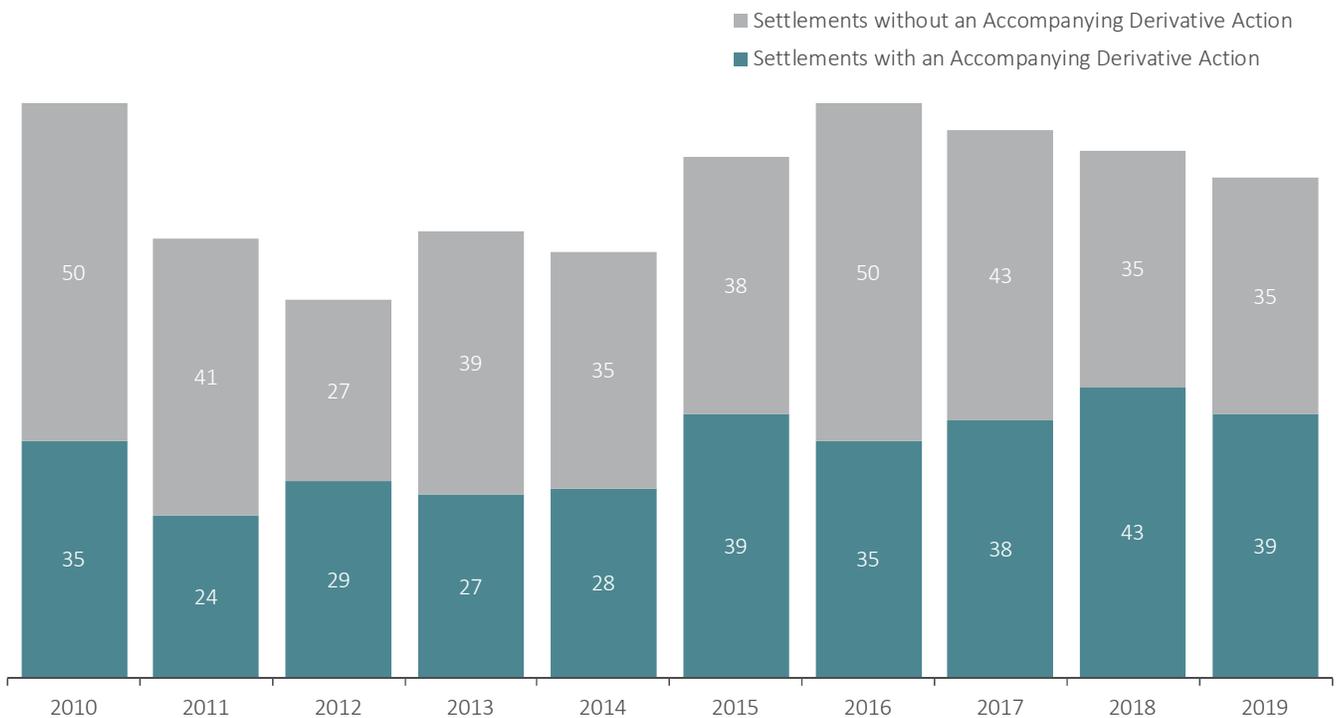
While settled cases involving an accompanying derivative action are typically associated with both larger cases (measured by “simplified tiered damages”) and larger settlement amounts, this was not true in 2019.

- The median settlement among cases with an accompanying derivative action was \$10 million compared to \$14.8 million for cases without a derivative action.
- This may be due at least in part to a substantial increase in derivative actions involving smaller issuers. In 2019, 70 percent of cases involving issuers with less than \$250 million in total assets also had an accompanying derivative action, compared to only 46 percent over the prior nine years.

*53 percent of settled cases involved an accompanying derivative action, the second-highest rate over the last 10 years.*

- Many larger settlements in 2019 involved non-U.S. issuers (44 percent of settlements above \$25 million), which have been associated with derivative actions far less frequently than cases involving U.S. issuers. During 2010–2019, only 22 percent of cases involving non-U.S. issuers had accompanying derivative actions.
- In 2019, 36 percent of derivative actions were filed in Delaware, the highest proportion in the past decade. The second most common filing state for derivative suits was California.

Figure 9: Frequency of Derivative Actions 2010–2019



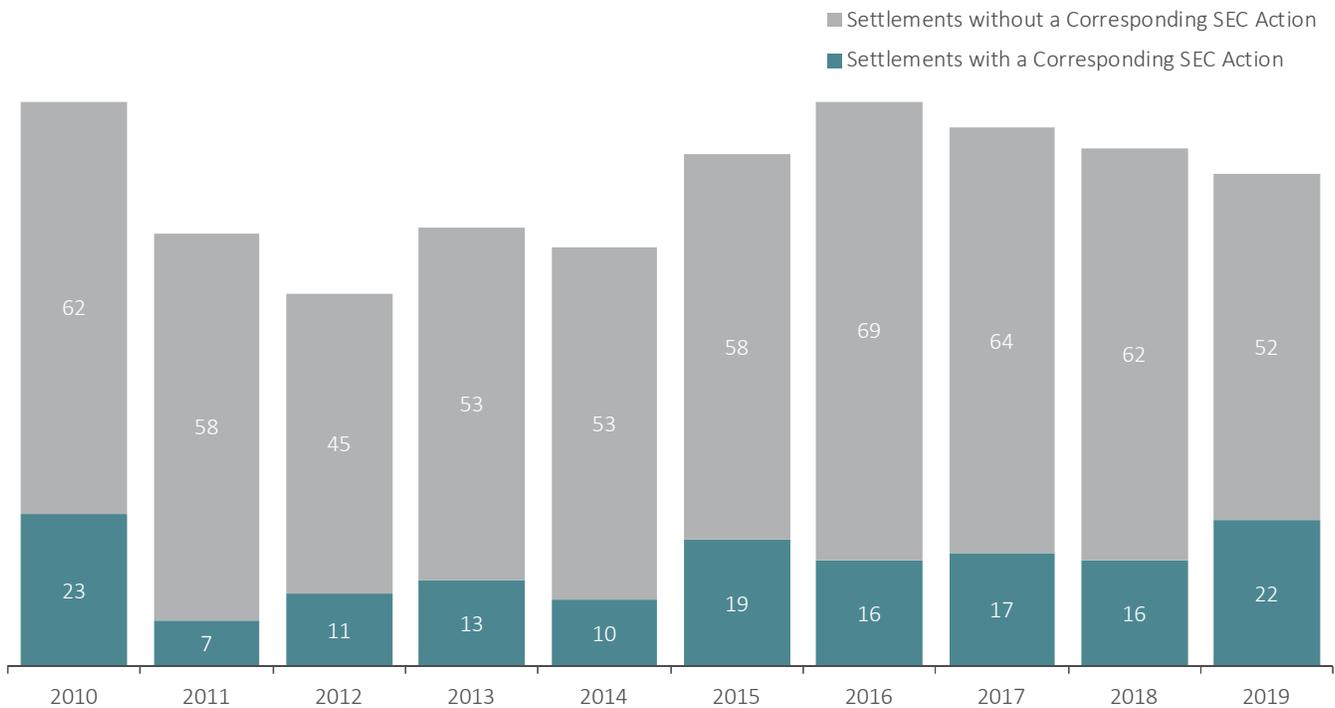
## Corresponding SEC Actions

Cases with an SEC action related to the allegations are typically associated with significantly higher settlement amounts and higher settlements as a percentage of “simplified tiered damages.”<sup>11</sup>

- In 2019, the median total assets of issuer defendant firms at the time of settlement was \$1.3 billion for cases with corresponding SEC actions compared to \$1.5 billion for cases without a corresponding SEC action. This was consistent with the overall increase in the asset size of issuers.
- For cases settled during 2015–2019, 42 percent of cases with a corresponding SEC action involved issuer defendants that had either declared bankruptcy or were delisted from a major U.S. exchange prior to settlement.
- Cases with corresponding SEC actions have involved accounting-related allegations less frequently in recent years. From 2010 to 2016, 88 percent of settled cases involved accounting-related allegations, compared to 75 percent from 2017 to 2019.
- Cases involving corresponding SEC actions may also include allegations of criminal activity in connection with the time period covered by the underlying class action. In 2019, more than 40 percent of cases with an SEC action had related criminal charges.

*30 percent of settled cases involved a corresponding SEC action, the highest rate over the last 10 years.*

Figure 10: Frequency of SEC Actions  
2010–2019



## Institutional Investors

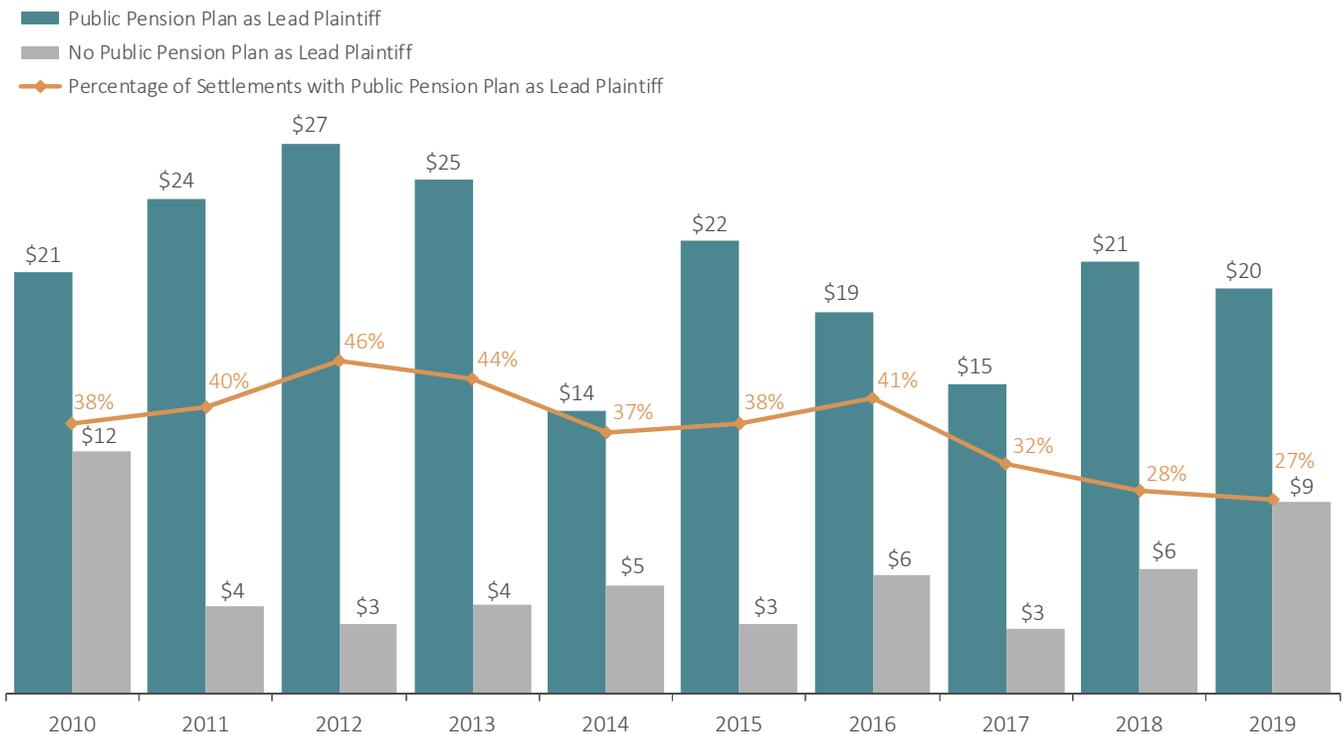
- Institutional investors, including public pension plans (a subset of institutional investors), tend to be involved in larger cases, that is, cases with higher “simplified tiered damages.”
- Median “simplified tiered damages” for cases involving a public pension as a lead plaintiff in 2019 were more than three times higher than for cases without a public pension plan as a lead plaintiff.
- In 2019, median market capitalization (measured prior to the settlement hearing date) for issuer defendants in cases involving an institutional investor as a lead plaintiff was \$1.6 billion compared to \$459.4 million for cases without institutional investor involvement.

*The proportion of settlements with a public pension plan as lead plaintiff reached its lowest level in the decade.*

- Over the last 10 years, institutional investor lead plaintiffs have also been associated with lower attorney fees in relation to “simplified tiered damages.” This may reflect their tendency to be involved in larger cases, in which attorney fees often represent a smaller percentage of the total settlement fund, as well as their potential ability to negotiate lower fees.<sup>12</sup>
- Among 2019 settled cases that do have an institutional investor as a lead plaintiff, 50 percent involved a parallel derivative action and 22 percent involved a corresponding SEC action.

Figure 11: Median Settlement Amounts and Public Pension Plans 2010–2019

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used.

# Time to Settlement and Case Complexity

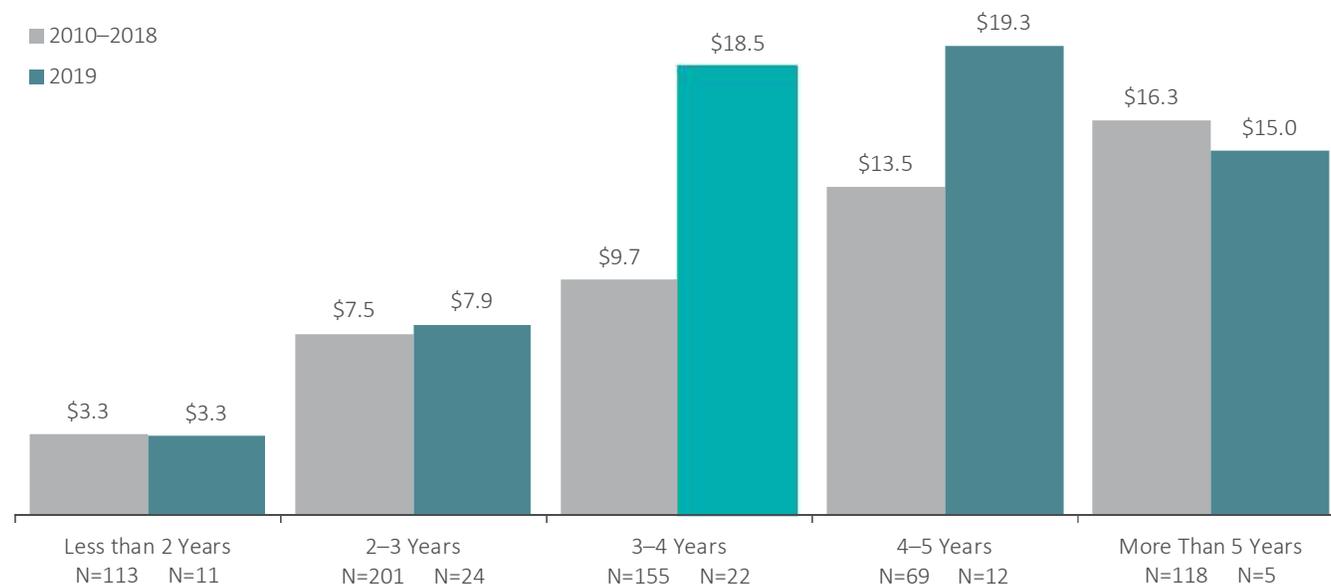
- In 2019, 15 percent of cases settled within two years of filing, consistent with the rate over the last 10 years. The average time from filing to settlement in 2019 was 3.3 years.
- Compared to cases that settled more quickly, cases that required three to five years to settle in 2019 had a higher frequency of factors such as a public pension as a lead plaintiff and/or the presence of a corresponding SEC action.
- Only 7 percent of cases in 2019 took more than five years to settle, the lowest rate in the past decade. Of these, 80 percent involved institutional investors. The median assets of the defendant firms in these cases were also substantially higher at \$68 billion, compared to a median of \$1.2 billion in other cases.
- In 2019, cases that took more than five years to settle had a lower median settlement amount than cases that took three to five years to settle. This is despite the higher median “simplified tiered damages” of \$602 million for cases that took more than five years to settle, compared to \$375 million for cases that took three to five years to settle.

*Median “simplified tiered damages” for Rule 10b-5 cases settling in less than two years were substantially smaller compared to settlements that took longer to resolve.*

- The number of docket entries as of the settlement may reflect case complexity. This factor has also been used in prior research as a proxy for attorney effort.<sup>13</sup> The number of docket entries is highly correlated with the duration from filing to settlement hearing date, issuer size, criminal allegations, accounting allegations, as well as the size of “simplified tiered damages.” Median docket entries for cases settled in 2019 were largely unchanged from prior years, but the average number of docket entries reached its highest level in the past decade.

Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2010–2019

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. N refers to the number of observations.

# Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),<sup>14</sup> this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

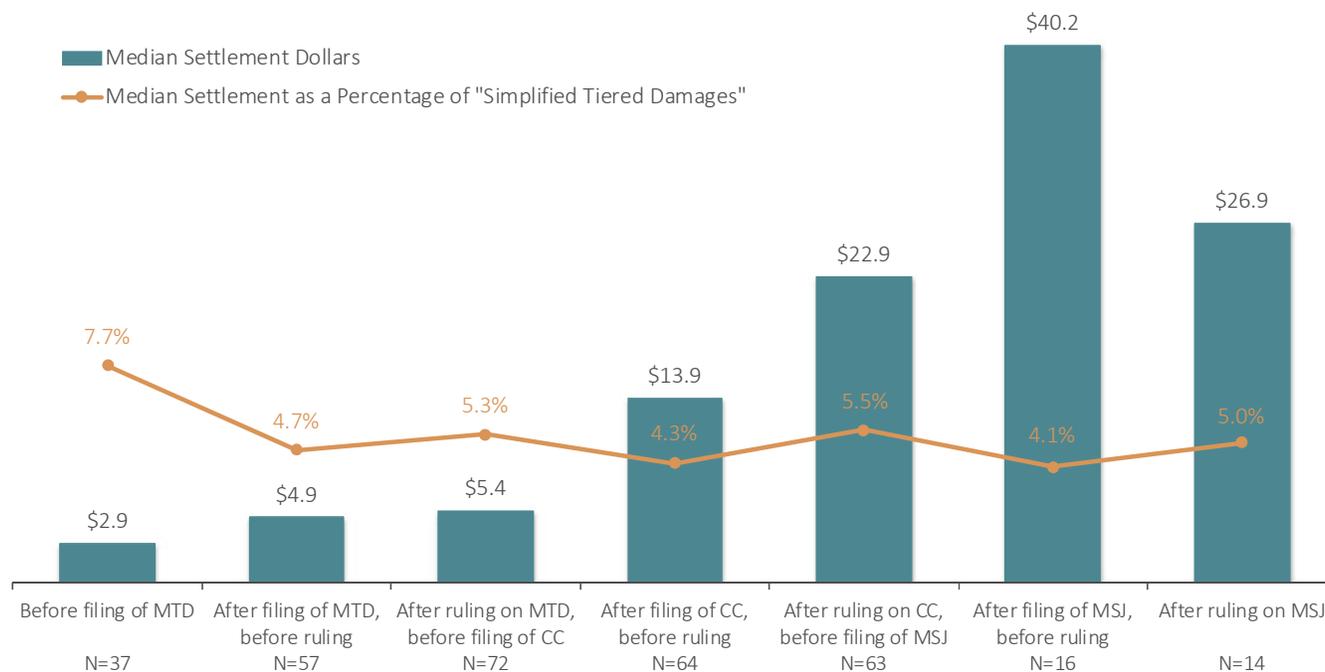
- In 2019, cases settled after a motion to dismiss (MTD) was filed but prior to a ruling on the MTD had a median settlement of \$8.5 million, significantly lower than for cases settled at later stages.
- In addition, among 2019 settlements, median total assets of issuer defendants at the time of settlement were almost 50 percent larger for cases settled following a ruling on a MTD than for cases where the MTD was pending at the time of settlement.

*The average time to reach a ruling on a motion for class certification among settlements was 2.3 years.*

- In the five-year period from 2015 to 2019, median “simplified tiered damages” for cases settled after a filing of a motion for summary judgment (MSJ) was over four times the median for cases settled before a MSJ filing. This contributed to higher settlement amounts but lower settlements as a percentage of “simplified tiered damages” for cases settled at this stage.

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement 2015–2019

(Dollars in millions)



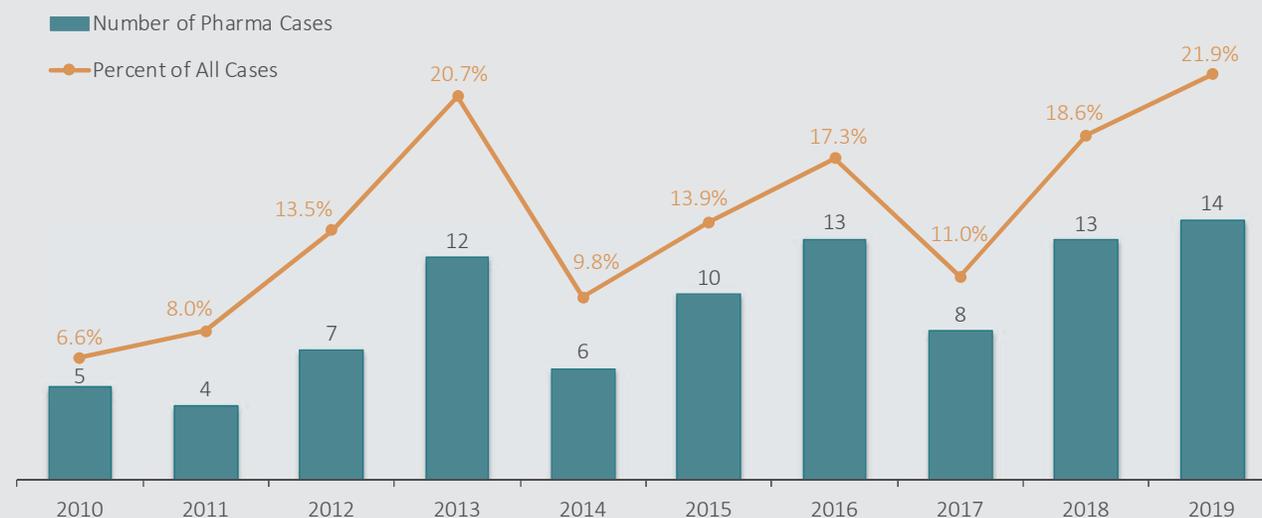
Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

# Spotlight: Settlements in the Pharmaceutical Industry

Cases with issuer defendants in the pharmaceutical industry, as defined by their SIC code (pharma cases), reached an all-time high in 2019, both in the absolute number and percentage of cases. While in prior years pharma cases tended to involve relatively large “simplified tiered damages,” in 2019, the median was \$163 million—36 percent lower than the median for all cases in 2019. Settlements for cases in this sector have a number of characteristics that differ from the overall sample, including several of those that are important determinants of settlement outcomes. (See Appendix 2 for additional information on settlements by industry.)

- Pharma cases are less likely to have a public pension acting as a lead plaintiff. From 2010 to 2019, only 22 percent of pharma cases had a public pension as lead plaintiff compared to 39 percent for non-pharma cases.
- Violations of GAAP are also less likely among pharma cases than non-pharma cases. From 2010 to 2019, only 19 percent of pharma cases alleged violations of GAAP compared to 62 percent of non-pharma cases.
- Restatements of financials were also less common among pharma cases—14 percent—compared to 30 percent in non-pharma cases from 2010 to 2019.
- Pharma cases are less likely to involve ‘33 Act claims related to an offering. During 2010–2019, only 17 percent of pharma cases involved ‘33 Act claims, whereas such claims were alleged in 28 percent of non-pharma cases.

Figure 14: Settlements in the Pharmaceutical Industry 2010–2019



These differences explain, in part, why pharma cases with Rule 10b-5 allegations tend to settle for smaller percentages of “simplified tiered damages.” The median settlement as a percentage of “simplified tiered damages” for pharma cases over the past 10 years is 3.7 percent while for non-pharma cases that figure is 5.8 percent.<sup>15</sup>

# Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain security case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It is also helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

## Determinants of Settlement Outcomes

Based on the research sample of post-Reform Act cases that settled through December 2019, the factors that were important determinants of settlement amounts included the following:

- “Simplified tiered damages”
- Maximum Dollar Loss (MDL)—market capitalization change from its peak to post-disclosure value
- Most recently reported total assets of the issuer defendant firm
- A measure of how long the issuer defendant has been a public company
- Number of entries on the lead case docket
- The year in which the settlement occurred
- Whether there were accounting allegations related to the alleged class period
- Whether there was a corresponding SEC action against the issuer, other defendants, or related parties
- Whether there was a criminal indictment/charge against the issuer, other defendants, or related parties related to similar allegations in the complaint
- Whether an outside auditor or underwriter was named as a codefendant
- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether a public pension was a lead plaintiff
- Whether the plaintiffs alleged that securities other than common stock were damaged

Regression analyses show that settlements were higher when “simplified tiered damages,” MDL, issuer defendant asset size, the length of time the company has been public, or the number of docket entries was larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving financial restatements, a corresponding SEC action, a public pension involved as lead plaintiff, a third party such as an outside auditor or underwriter that was named as a codefendant, or securities other than common stock that were alleged to be damaged.

Settlements were lower if the settlement occurred in 2012 or later, or if the issuer was distressed.

More than 70 percent of the variation in settlement amounts can be explained by the factors discussed above.

## Research Sample

- The database used in this report contains cases alleging fraudulent inflation in the price of a corporation's common stock (i.e., excluding cases with alleged classes of only bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent depression in price and M&A cases).
- The sample 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. 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 1,849 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2019. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).<sup>16</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>17</sup> Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.<sup>18</sup>

## Data Sources

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, SSLA, Securities Class Action Clearinghouse (SCAC), and public press.

# Endnotes

- <sup>1</sup> See, e.g., “Where Have All the Public Companies Gone?,” *Bloomberg Opinion*, April 9, 2018.
- <sup>2</sup> See Stephen J. Choi, Jessica Erickson, and Adam C. Pritchard, “Risk and Reward: The Securities Fraud Class Action Lottery,” U.S. Chamber Institute for Legal Reform, February 2019.
- <sup>3</sup> See *Securities Class Action Filings—2019 Year in Review*, Cornerstone Research (2020).
- <sup>4</sup> See Charles Silver and Sam Dinkin, “Incentivizing Institutional Investors to Serve as Lead Plaintiffs in Securities Fraud Class Actions,” *DePaul Law Review* 57, no. 2 (2008): 471–508.
- <sup>5</sup> See Stephen J. Choi, Jessica Erickson, and Adam C. Pritchard, “Risk and Reward: The Securities Fraud Class Action Lottery,” U.S. Chamber Institute for Legal Reform, February 2019.
- <sup>6</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 outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.
- <sup>7</sup> See Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017).
- <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 security price on the first complaint filing 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. Shares subject to a lock-up period are not added to the float for purposes of this calculation.
- <sup>9</sup> The three categories of accounting issues analyzed in Figure 8 of this report are: (1) GAAP violations; (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.
- <sup>10</sup> See *Accounting Class Action Filings and Settlements—2018 Review and Analysis*, Cornerstone Research (2019). Update forthcoming in March 2020.
- <sup>11</sup> 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>12</sup> See, e.g., Lynn A. Baker, Michael A. Perino, and Charles Silver, “Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” *Vanderbilt Law Review* 66, no. 6 (2013): 1677–1718.
- <sup>13</sup> Docket entries reflect the number of entries on the court docket for events in the litigation and have been used in prior research as a proxy for the amount of plaintiff attorney effort involved in resolving securities cases. See Laura Simmons, “The Importance of Merit-Based Factors in the Resolution of 10b-5 Litigation,” University of North Carolina at Chapel Hill Doctoral Dissertation, 1996; Michael A. Perino, “Institutional Activism through Litigation: An Empirical Analysis of Public Pension Fund Participation in Securities Class Actions,” St. John’s Legal Studies Research Paper No. 06-0055, 2006.
- <sup>14</sup> Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private, shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice. 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>15</sup> These results do not hold when looking at pharma cases with only ’33 Act claims from 2010 to 2019, which had a median settlement as a percentage of “simplified statutory damages” of 7.5 percent compared to 7.4 percent for the rest of the sample.
- <sup>16</sup> Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>.
- <sup>17</sup> Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- <sup>18</sup> This categorization is based on the timing of the settlement approval. If a new partial settlement equals or exceeds 50 percent of the then-current settlement fund amount, the entirety of the settlement amount is recategorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50 percent 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)

	Average	10th	25th	Median	75th	90th
2010	\$42.4	\$2.3	\$5.0	\$13.2	\$29.3	\$93.3
2011	\$23.8	\$2.1	\$3.0	\$6.5	\$20.5	\$47.5
2012	\$68.2	\$1.3	\$3.0	\$10.5	\$39.5	\$128.0
2013	\$79.4	\$2.1	\$3.3	\$7.1	\$24.3	\$90.5
2014	\$19.7	\$1.8	\$3.1	\$6.5	\$14.2	\$54.0
2015	\$42.5	\$1.4	\$2.3	\$7.0	\$17.5	\$101.4
2016	\$75.2	\$2.0	\$4.5	\$9.1	\$35.2	\$155.5
2017	\$19.0	\$1.6	\$2.7	\$5.2	\$15.6	\$36.0
2018	\$66.1	\$1.5	\$3.7	\$11.5	\$25.2	\$53.0
2019	\$27.4	\$1.5	\$5.6	\$11.5	\$20.0	\$50.0
1996–2019	\$45.5	\$1.8	\$3.7	\$8.9	\$22.3	\$74.4

Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used.

## Appendix 2: Select Industry Sectors 2010–2019

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Financial	103	\$19.8	\$472.5	4.7%
Technology	102	\$8.7	\$212.2	5.3%
Pharmaceuticals	91	\$8.6	\$237.0	3.7%
Retail	37	\$9.1	\$211.7	3.9%
Telecommunications	34	\$9.6	\$270.8	4.4%
Healthcare	15	\$8.5	\$132.8	6.4%

Note: Settlement dollars and “simplified tiered damages” are adjusted for inflation; 2019 dollar equivalent figures are used. “Simplified tiered damages” are calculated only for cases involving Rule 10b-5 claims.

**Appendix 3: Settlements by Federal Circuit Court  
2010–2019**

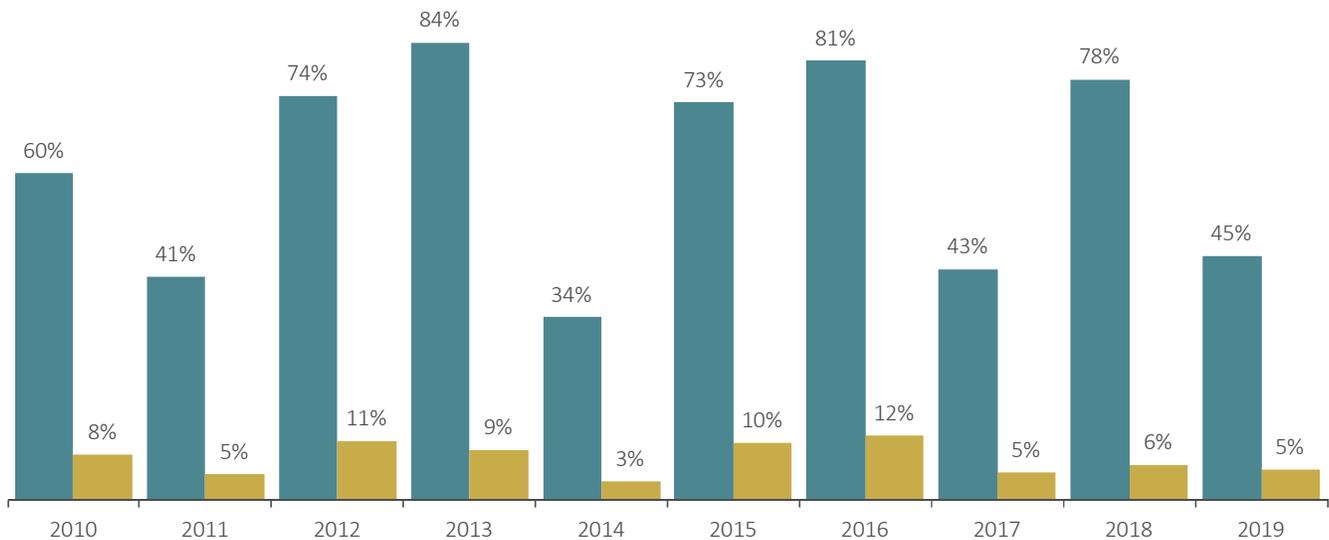
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	22	\$8.5	3.3%
Second	180	\$10.2	4.8%
Third	49	\$8.6	5.0%
Fourth	27	\$14.5	3.6%
Fifth	34	\$9.9	4.5%
Sixth	29	\$13.2	7.3%
Seventh	39	\$11.3	4.4%
Eighth	13	\$13.8	6.1%
Ninth	189	\$8.0	4.9%
Tenth	16	\$6.7	6.0%
Eleventh	35	\$6.3	5.2%
DC	3	\$29.5	1.9%

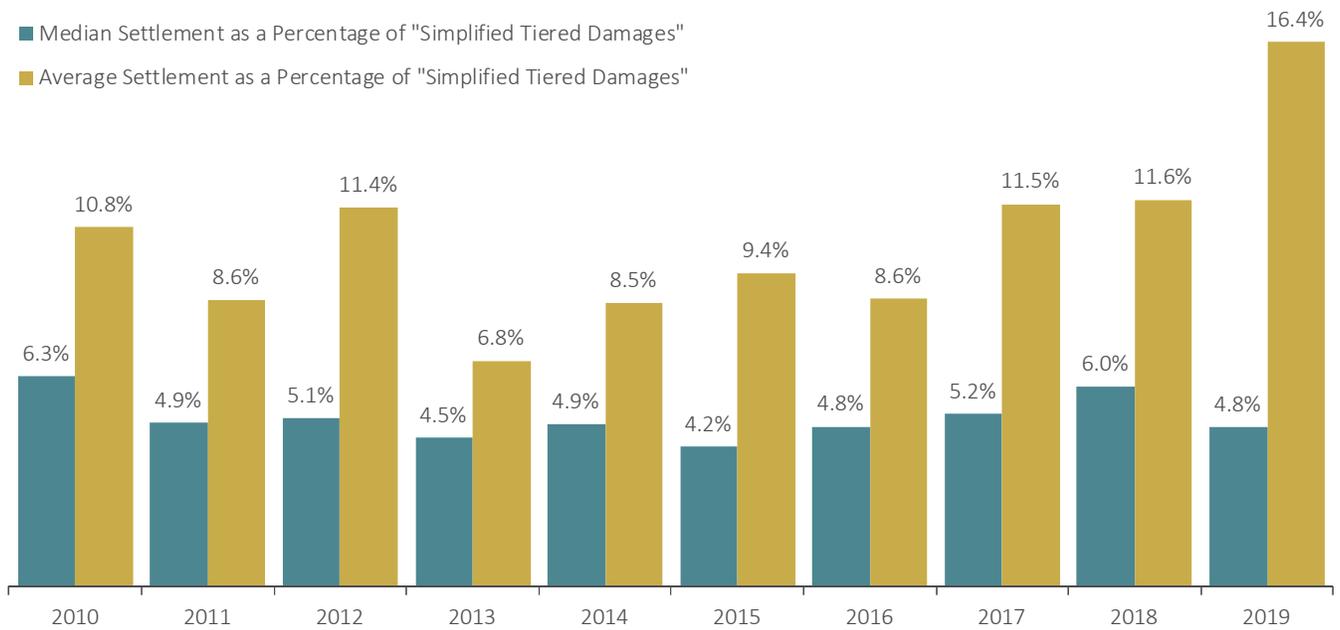
Note: Settlement dollars are adjusted for inflation; 2019 dollar equivalent figures are used. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

**Appendix 4: Mega Settlements  
2010–2019**

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



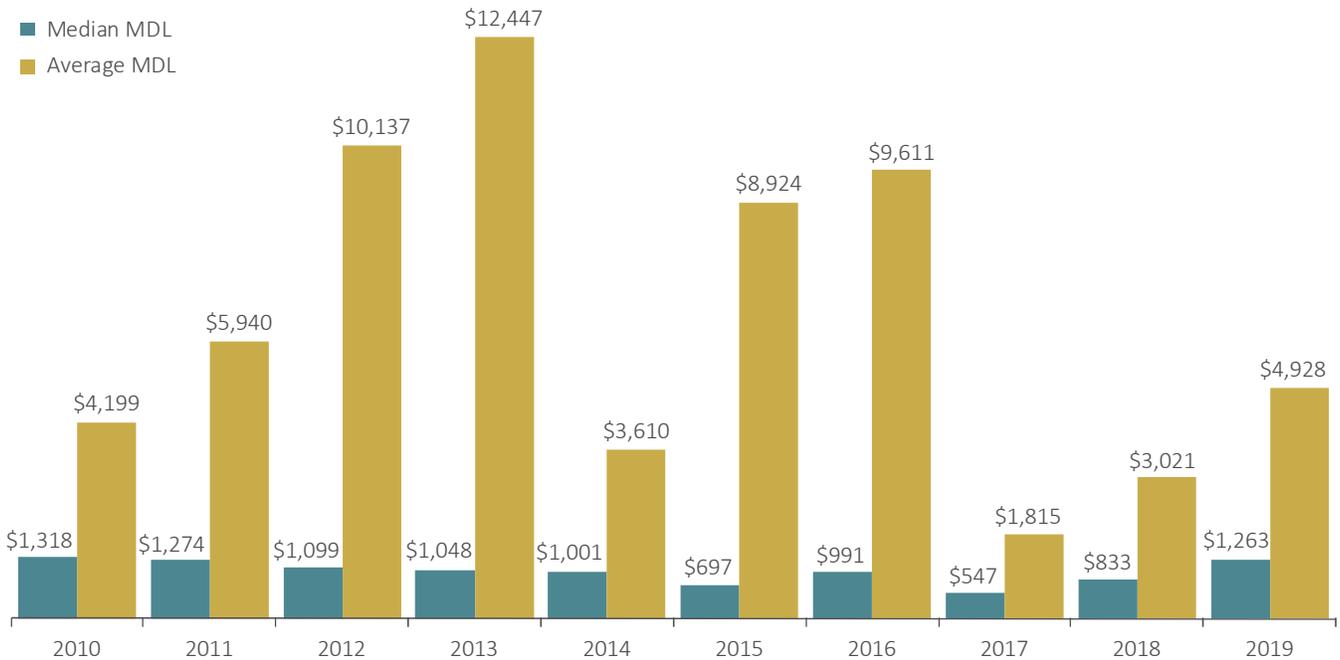
Appendix 5: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”  
2010–2019



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

Appendix 6: Median and Average Maximum Dollar Loss (MDL)  
2010–2019

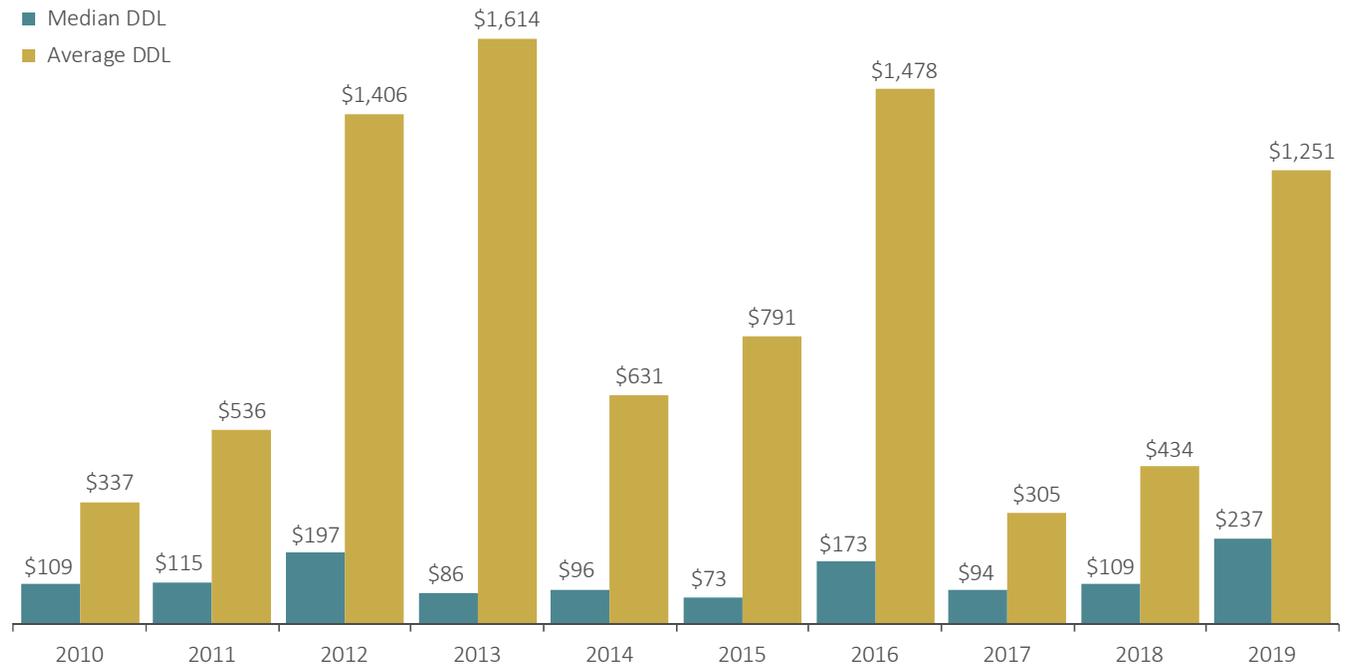
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates. MDL is the dollar value change in the defendant firm’s market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

**Appendix 7: Median and Average Disclosure Dollar Loss (DDL)  
2010–2019**

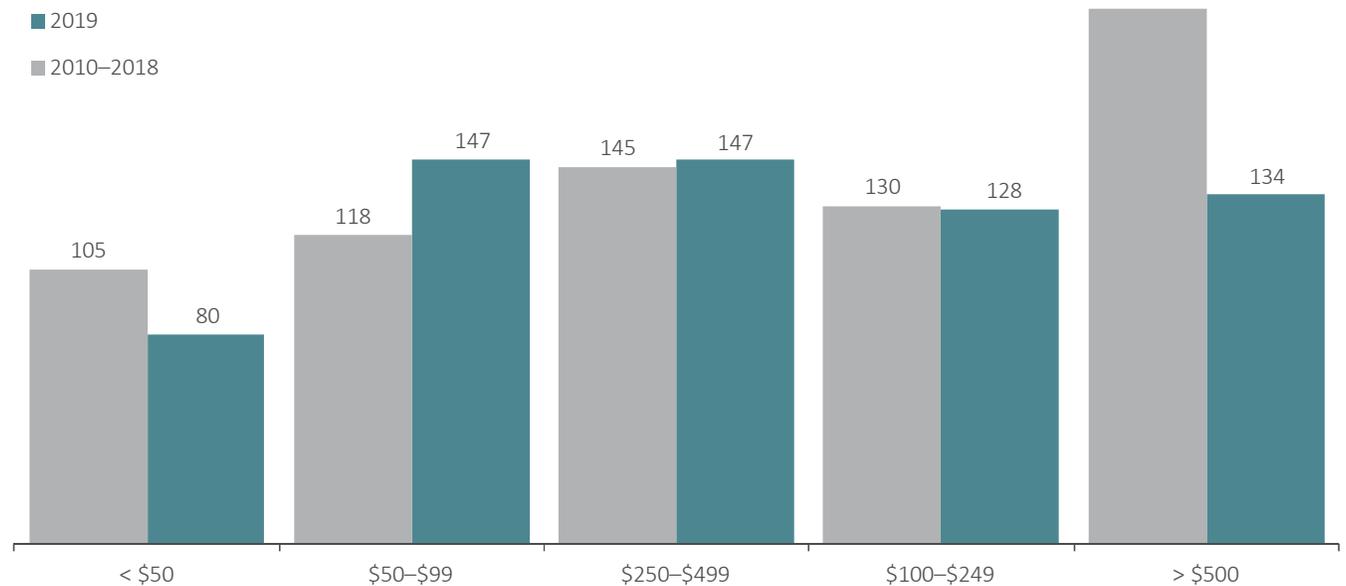
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates. DDL is the dollar value change in the defendant firm’s market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging ‘33 Act claims only.

**Appendix 8: Median Docket Entries by “Simplified Tiered Damages” Range  
2010–2019**

(Dollars in millions)



Note: “Simplified tiered damages” are calculated only for cases alleging Rule 10b-5 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 damages and class certification issues, insider trading, merger valuation, risk management, market manipulation and trading behavior, and real estate markets. She has also consulted on cases related to financial institutions and the credit crisis, municipal bond mutual funds, asset-backed commercial paper conduits, credit default swaps, foreign exchange, and securities clearing and settlement.

Dr. Bulan has published several 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 is a certified public accountant and has more than 25 years of experience in accounting practice and economic and financial consulting. Dr. Simmons has focused on damage and liability issues in securities and ERISA litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. 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 acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research in the writing and preparation of this annual update.

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**Boston**

617.927.3000

**Chicago**

312.345.7300

**London**

+44.20.3655.0900

**Los Angeles**

213.553.2500

**New York**

212.605.5000

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415.229.8100

**Silicon Valley**

650.853.1660

**Washington**

202.912.8900

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# Exhibit 3

29 January 2019



# Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth

Average Case Size Surges to Record High

Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh

## Foreword

I am excited to share NERA's *Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review* with you. This year's edition builds on work carried out over numerous years by many members of NERA's Securities and Finance Practice. In this year's report, we continue our analyses of trends in filings and settlements and present new analyses, such as how post-class-period stock price movements relate to voluntary dismissals. While space does not permit us to present all the analyses the authors have undertaken while working on this year's edition, or to provide details on the statistical analysis of settlement amounts, we hope you will contact us if you want to learn more about our work related to securities litigation. On behalf of NERA's Securities and Finance Practice, I thank you for taking the time to review our work and hope you find it informative.

Dr. David Tabak  
Managing Director

A handwritten signature in white ink, appearing to read 'D. Tabak', is positioned below the typed name and title.

## Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth  
Average Case Size Surges to Record High  
Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh<sup>1</sup>

29 January 2019

### Introduction and Summary<sup>2</sup>

In 2018, the pace of securities class action filings was the highest since the aftermath of the 2000 dot-com crash, with 441 new cases. While merger objections constituted about half the total, filing growth of such cases slowed versus 2017, indicating that the explosion in filings sparked by the *Trulia* decision may have run its course.<sup>3</sup> Filings alleging violations of Rule 10b-5, Section 11, and/or Section 12 of the Securities Act of 1933 (“Securities Act”) were roughly unchanged compared to 2017, but accelerated over the second half of the year, with the fourth quarter being one of the busiest on record.

The steady pace of new securities class actions masked fundamental changes in filing characteristics. Aggregate NERA-defined Investor Losses, a measure of total case size, came to a record \$939 billion, nearly four times the preceding five-year average. Even excluding substantial litigation against General Electric (GE), aggregate Investor Losses doubled versus 2017. Most growth in Investor Losses stemmed from cases alleging issues with accounting, earnings, or firm performance, contrasting with prior years when most growth was tied to regulatory allegations. Filings against technology firms jumped nearly 70% from 2017, primarily due to cases alleging accounting issues or missed earnings guidance.

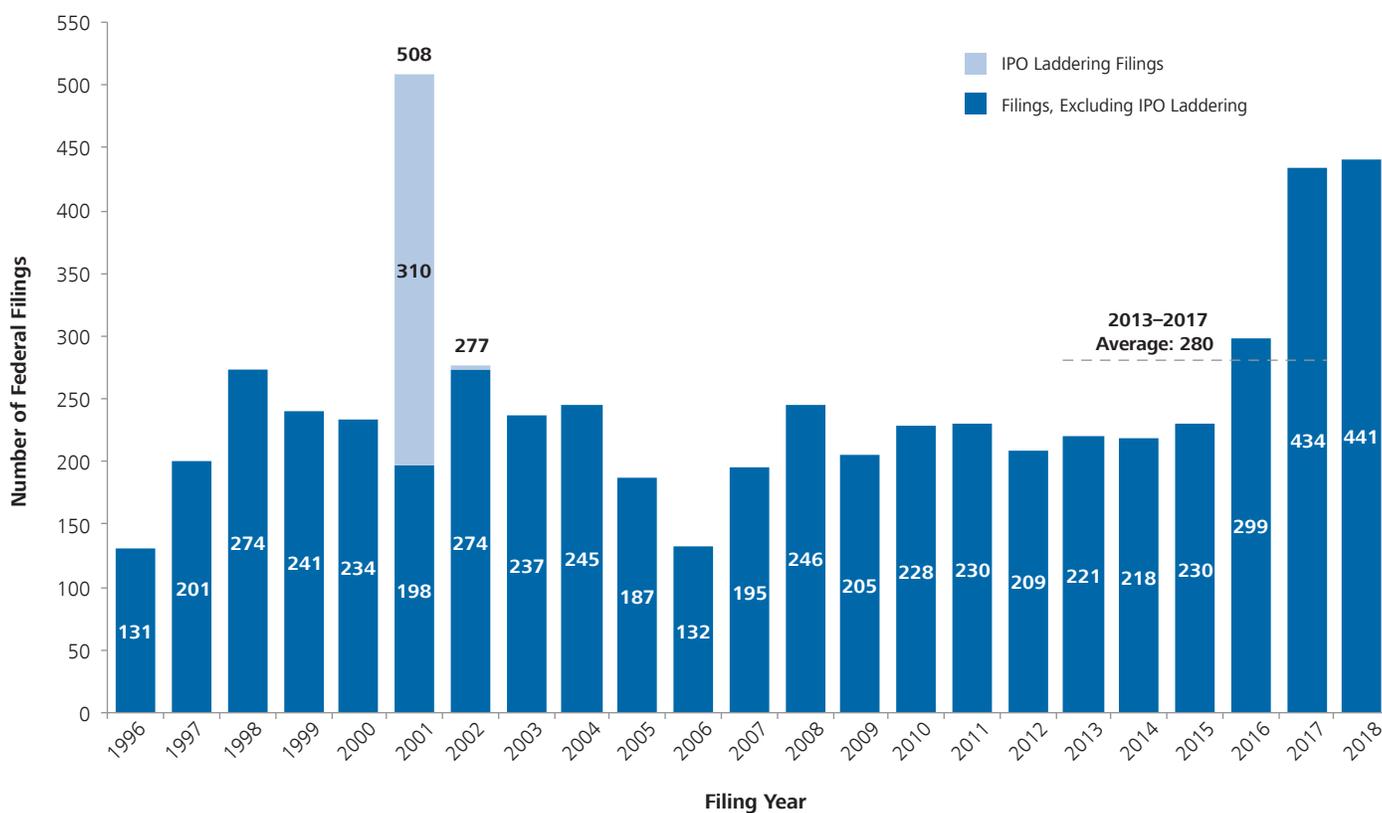
The average settlement value rebounded from the 2017 near-record low, mostly due to the \$3 billion settlement against *Petróleo Brasileiro S.A.—Petrobras*. The median settlement nearly doubled, primarily due to higher settlements of many moderately sized cases. Despite a rebound in settlement values in 2018, the number of settlements remained low, with dismissals outnumbering settlements more than two-to-one. An adverse number of cases were voluntarily dismissed, which can partially be explained by positive returns of targeted securities during the PSLRA bounce-back periods. The robust rate of case resolutions has not kept up with the record filing rate, driving pending litigation up more than 6%.

## Trends in Filings

### Number of Cases Filed

There were 441 federal securities class actions filed in 2018, the fourth consecutive year of growth (see Figure 1). The filing rate was the highest since passage of the PSLRA, with the exception of 2001 when new IPO laddering cases dominated federal dockets. The dramatic year-over-year growth seen in each of the past few years resulted in a near doubling of filings since 2015, but growth moderated considerably in 2018 to 1.6%. The 2018 filing rate is well above the post-PSLRA average of approximately 253 cases per year, and solidifies a departure from the generally stable filing rate in the years following the 2008 financial crisis.

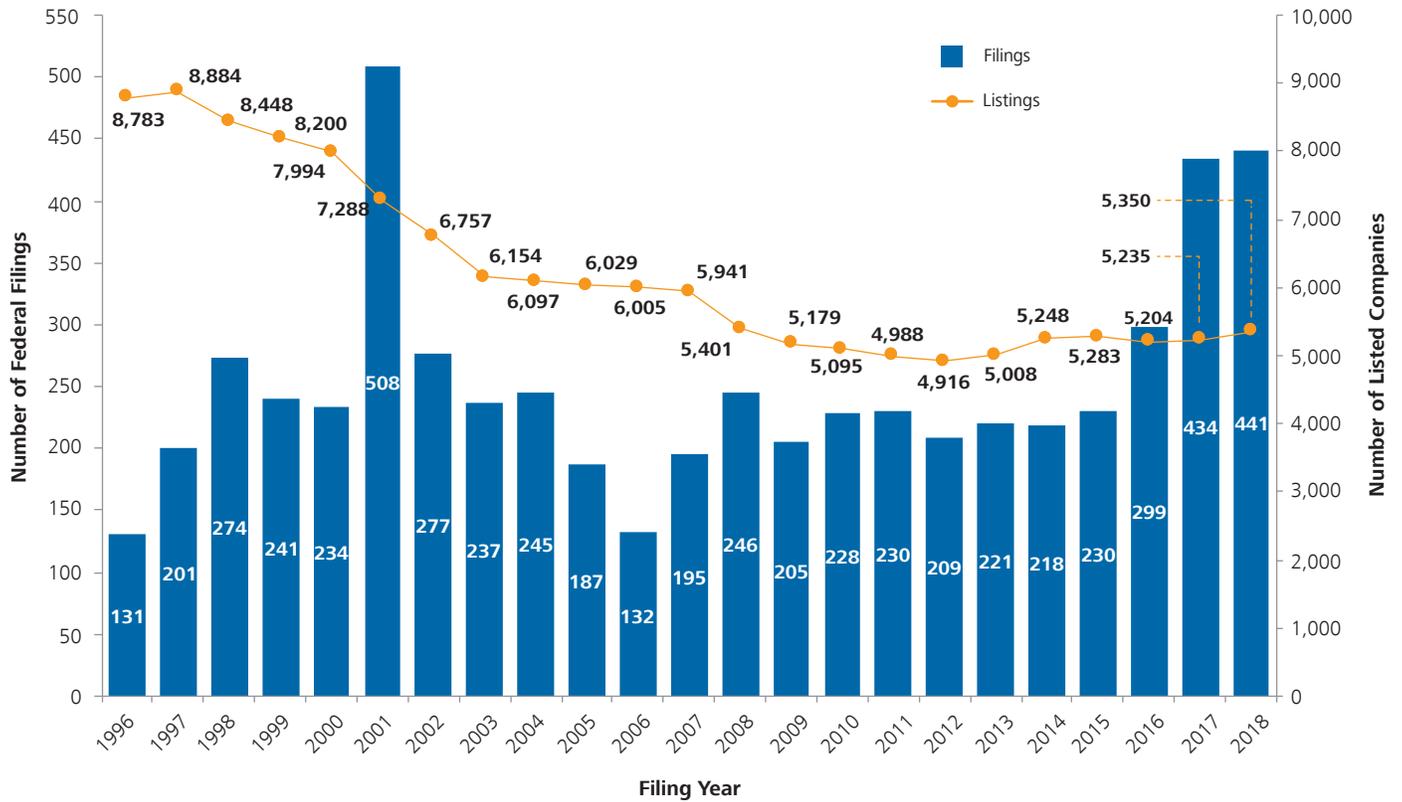
Figure 1. **Federal Filings**  
January 1996–December 2018



As of November 2018, there were 5,350 companies listed on the major US securities exchanges (see Figure 2). The 441 federal securities class action suits filed in 2018 involved approximately 8.2% of publicly listed companies. The overall risk of litigation to listed firms has increased substantially since early in the decade, when only about 4.0% of public companies listed on US exchanges were subject to a securities class action.

Broadly, the chance of a publicly listed company being subject to securities litigation depends on the number of filings relative to the number of listed companies. While the number of listed companies has increased by 7% over the last five years, the longer-term trend is toward fewer listings. Since the passage of the PSLRA in 1995, the number of listings on major US exchanges has steadily declined by about 3,000, or nearly 40%. Recent research attributed this decline to fewer new listings and an increase in delistings, mostly through mergers and acquisitions.<sup>4</sup>

Figure 2. **Federal Filings and Number of Companies Listed in the United States**  
January 1996–December 2018



Note: Listed companies include those listed on the NYSE and Nasdaq. Listings data from 2016 through 2018 were obtained from World Federation of Exchanges (WFE). The 2018 listings data is as of November 2018. Data for prior years was obtained from Meridian Securities Markets and WFE.

Despite the long-term drop in the number of listed companies, the average number of securities class action filings has *increased* from 216 per year over the first five years after the PSLRA to about 324 per year over the past five years. The long-term trend toward fewer listed companies coupled with more class actions implies that the average probability of a listed firm being subject to such litigation has increased from about 2.6% after passage of the PSLRA to 3.7% over the past five years, and 8.0% over the past two years.

Recently, the rising average risk of class action litigation was driven by dramatic growth in merger-objection cases that, prior to 2016, were mostly filed in various state courts. Since then, state court rulings have driven such litigation onto federal dockets. Hence the increase in the typical firm's litigation risk might be less than indicated above, since 1) the risk of merger-objection litigation is specific to firms planning or engaged in M&A activity and 2) many merger-objection cases would otherwise have been filed in state courts.

The average probability of a firm being targeted by what is often regarded as a "Standard" securities class action—one that alleges violations of Rule 10b-5, Section 11, and/or Section 12—was only 4.0% in 2018, albeit higher than the average probability of about 2.6% following the PSLRA and 3.5% between 2013 and 2017.

### **Filings by Type**

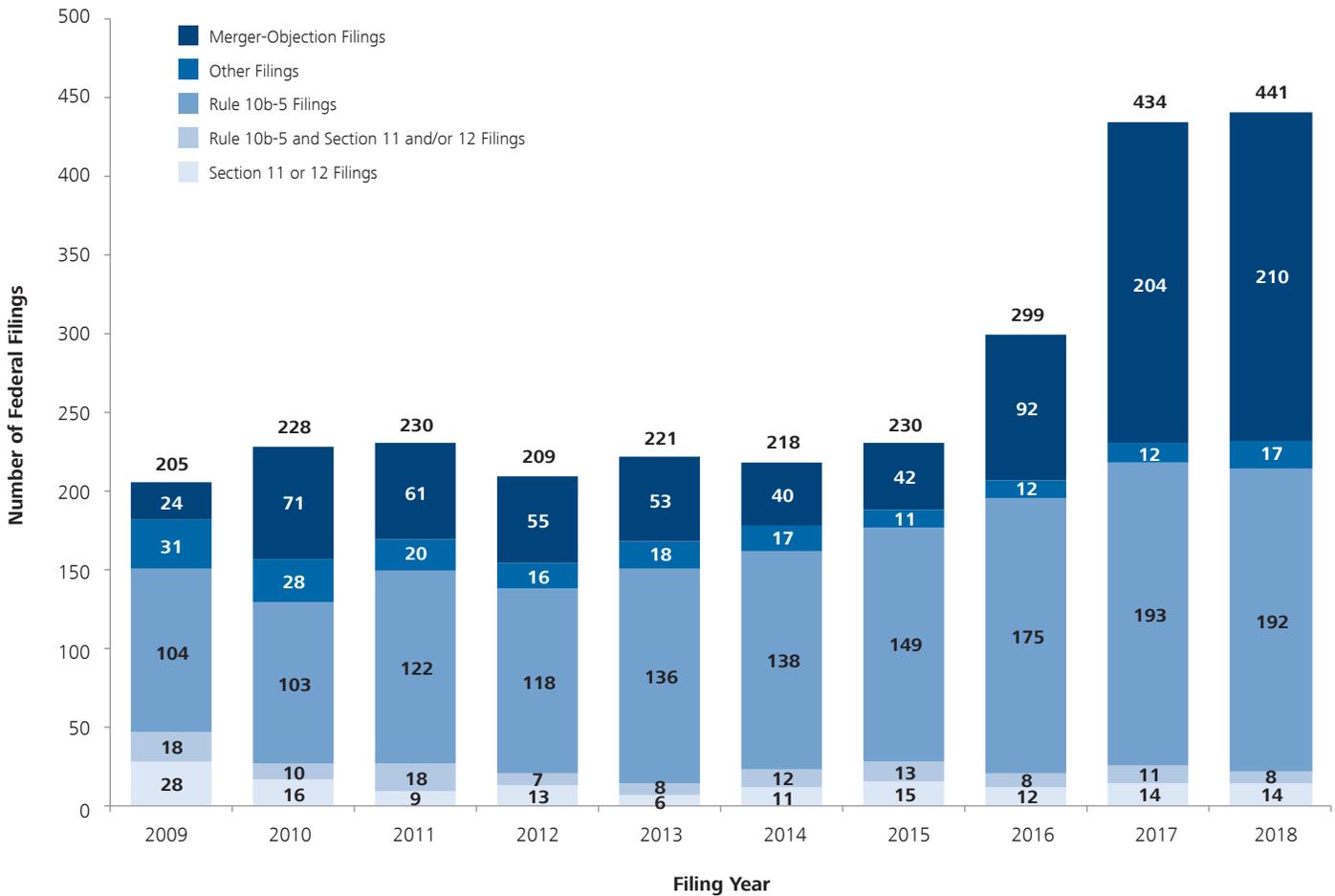
In 2018, the 441 securities class action filings were about evenly split between Standard securities class actions and merger objections, roughly matching the number seen in 2017 (see Figure 3). There were 214 Standard securities cases filed, down slightly from 2017. Prior to 2018, Standard filings grew for five consecutive years, the longest expansion on record, and by over 50% since 2013. Despite the slowdown in 2018, monthly filing growth over the second half of the year was robust, and capped by 64 filings in the fourth quarter, one of the busiest quarters on record.

Despite the 210 merger-objection filings in 2018 making up about half of all filings, yearly filing growth of such cases slowed to almost zero, as the number of filings roughly matched the level seen in 2017. The tepid filing growth implies that the rapid growth following various state-level decisions limiting "disclosure-only" settlements (including the *Trulia* decision) has likely run its course.<sup>5</sup> Rather, the stagnant growth in federal merger-objection filings was likely driven by relatively stagnant M&A activity.<sup>6</sup>

Although aggregate merger-objection filings (including those at the state level) may correspond with the rate of mergers and acquisitions, such deal activity does not appear to have historically been the primary driver of federal merger-objection filings over multiple years. The number of federal merger-objection filings generally fell between 2010 and 2015, despite increased M&A activity. The higher filing counts in 2016 and 2017 likely stemmed from trends in the choice of jurisdiction rather than trends in deal volume.<sup>5</sup>

Besides Standard and merger-objection cases, a variety of other filings rounded out 2018. Several filings alleged fraudulent initial coin and cryptocurrency offerings, manipulation of derivatives (e.g., VIX products and metals futures), and breaches of fiduciary duty (including client-broker disputes involving churning and improper asset allocation).

Figure 3. **Federal Filings by Type**  
January 2009–December 2018



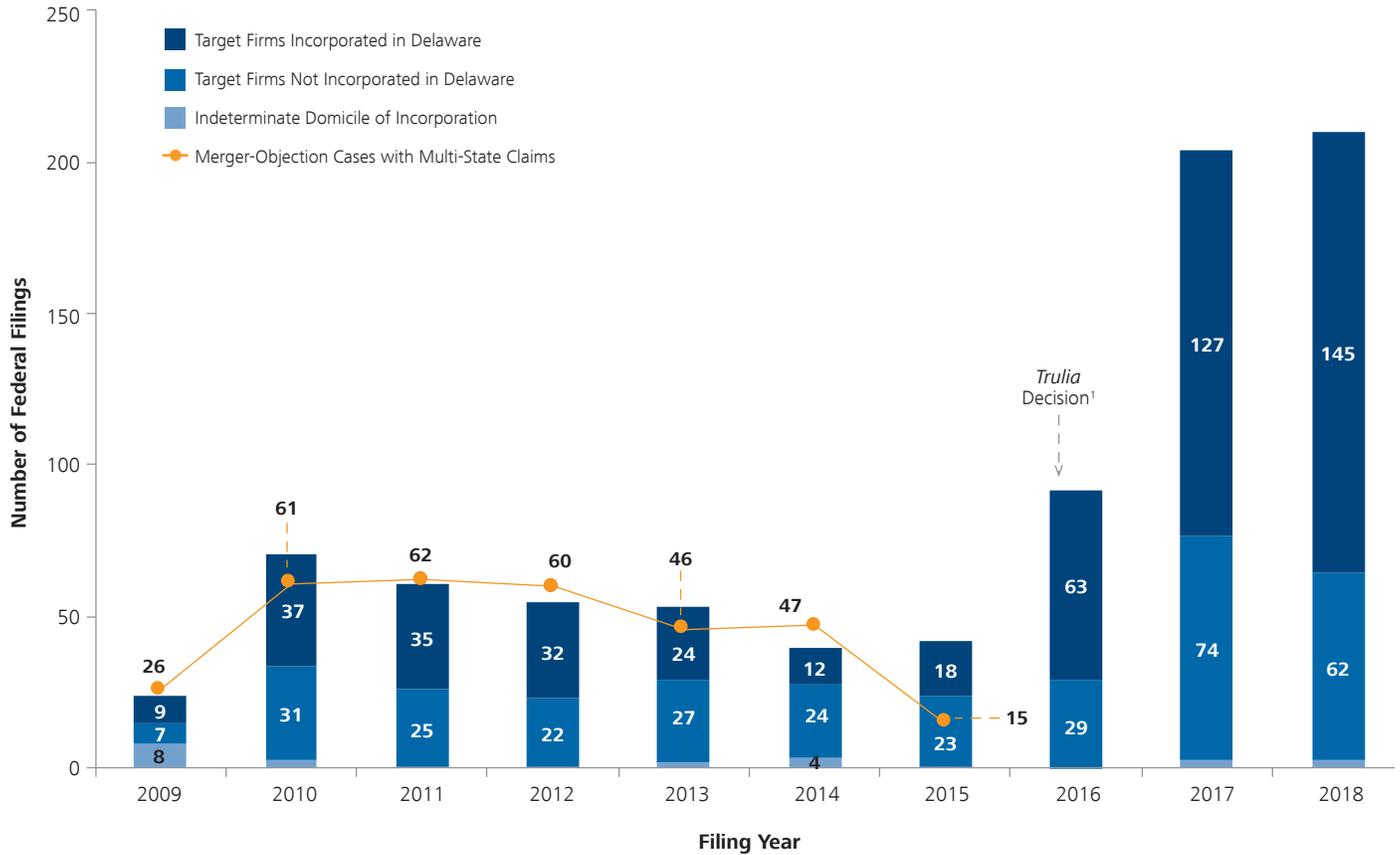
### Merger-Objection Filings

In 2018, federal merger-objection filings were relatively unchanged versus 2017 (see Figure 4). Growth in federal merger-objection filings in 2016 and 2017 largely followed various state court rulings barring disclosure-only settlements, the most notable being the 22 January 2016 *Trulia* decision in the Delaware Court of Chancery.<sup>7</sup> Research suggested that such state court decisions would simply drive merger objections to alternative jurisdictions, such as federal courts.<sup>8</sup> This has largely been borne out thus far.

The dramatic slowdown in merger-objection filings growth implies that plaintiff forum selection is less of a growth factor; in 2018 and going forward, merger and acquisition activity will likely be the primary driver of federal merger-objection litigation. This assumes, however, that corporations don't increasingly adopt forum selection bylaws, and that federal courts don't increasingly follow the Delaware Court of Chancery's lead on rejecting disclosure-only settlements.<sup>9</sup> For instance, after the Seventh Circuit ruled strongly against a disclosure-only settlement in *In re: Walgreen Co. Stockholder Litigation*, the proportion of merger objections filed in that circuit fell by more than 60% the following year.<sup>10</sup>

Federal merger-objection filings typically allege a violation of Section 14(a), 14(d), and/or 14(e) of the Securities Exchange Act of 1934, and/or a breach of fiduciary duty by managers of a firm being acquired. Such filings are frequently voluntarily dismissed.

Figure 4. **Federal Merger-Objection Cases and Merger-Objection Cases with Multi-State Claims**  
January 2009–December 2018



Notes: Counts of merger-objection cases with multi-state claims based on data obtained from Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016. Data on multi-state claims unavailable for 2016–2018. State of incorporation obtained from the Securities and Exchange Commission.

<sup>1</sup>In re Trulia, Inc. Stockholder Litigation, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

### **Filings Targeting Foreign Companies**

Foreign companies with securities listed on US exchanges have been disproportionately targeted in Standard securities class actions since 2010 (see Figure 5).<sup>11</sup> In 2018, foreign companies were targeted in about 25% fewer cases than in 2017, and in only about 20% of complaints, just above the share of listings. This contrasts with persistent growth in foreign firm exposure to securities litigation over the preceding four years.

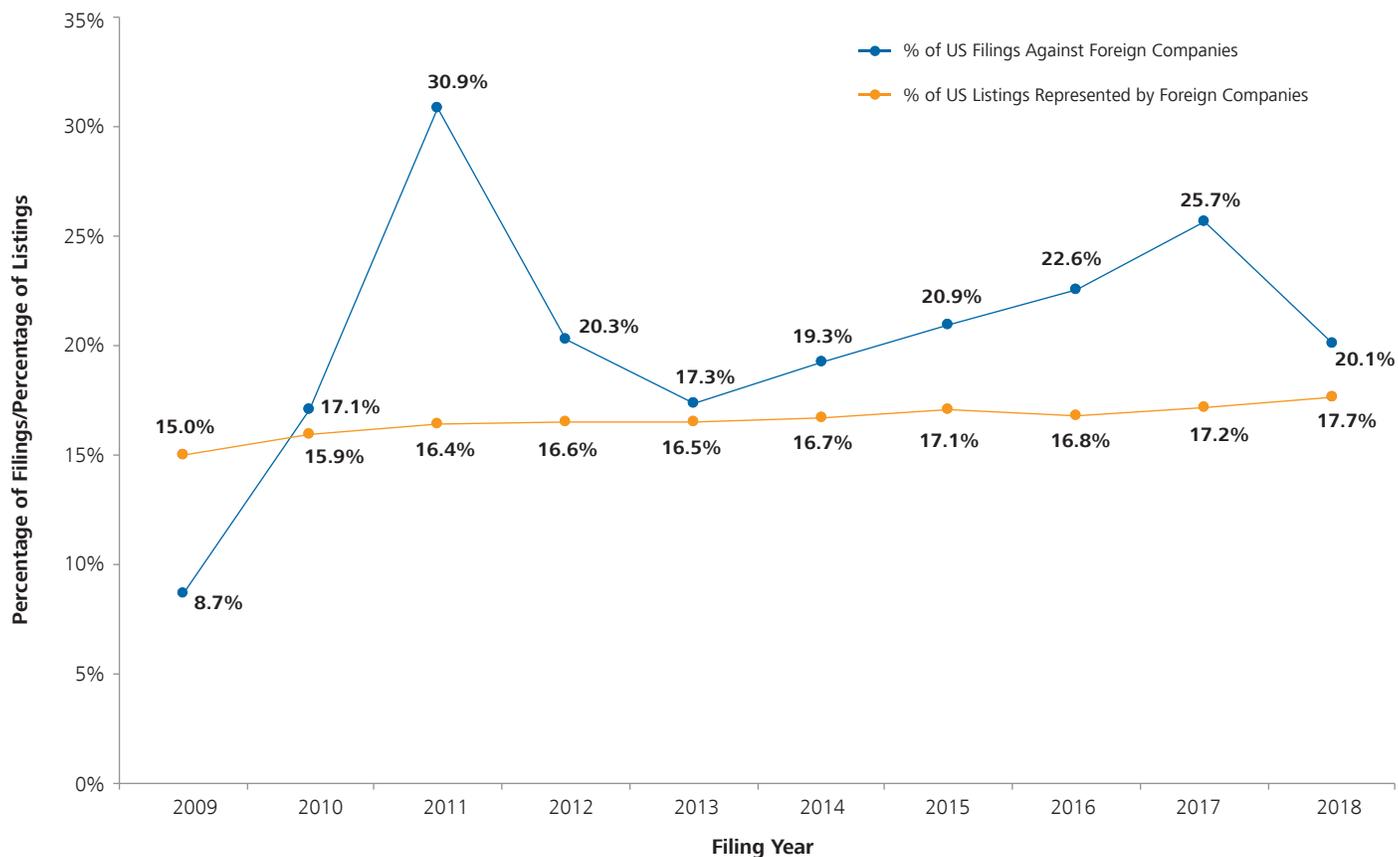
The reversion in claims against foreign firms mirrors a wider slowdown in filings with regulatory allegations. Over the last few years, growth in regulatory filings explained much of the growth in foreign filings, with 50% to 80% of new foreign cases including such allegations. That trend has reversed; in 2018, 75% of the drop in foreign filings stemmed from fewer claims related to regulation.

The slowdown in foreign regulatory filings can also be tied to fewer complaints in 2018 alleging similar regulatory violations, which adversely targeted foreign firms and particularly those domiciled in Europe. For instance, in 2017 there were multiple filings related to pharmaceutical price fixing, emissions defeat devices, and financing schemes by Kalani Investments Limited.

Filings against foreign companies spanned several economic sectors, led by a considerable jump against firms in the Electronic Technology and Technology Services sector (accounting issues were most common). Filings against foreign companies in the Health Technology and Services sector dropped by half. In past years, such filings usually claimed regulatory violations; none did in 2018.

In 2011, a record 31% of filings targeted foreign companies, mostly due to a surge in litigation against Chinese companies, which was mainly related to a proliferation in so-called “reverse mergers” years earlier. A reverse merger is a merger in which a private company merges with a publicly traded company listed in the US, thereby enabling access to US capital markets without going through the process of obtaining a new listing.

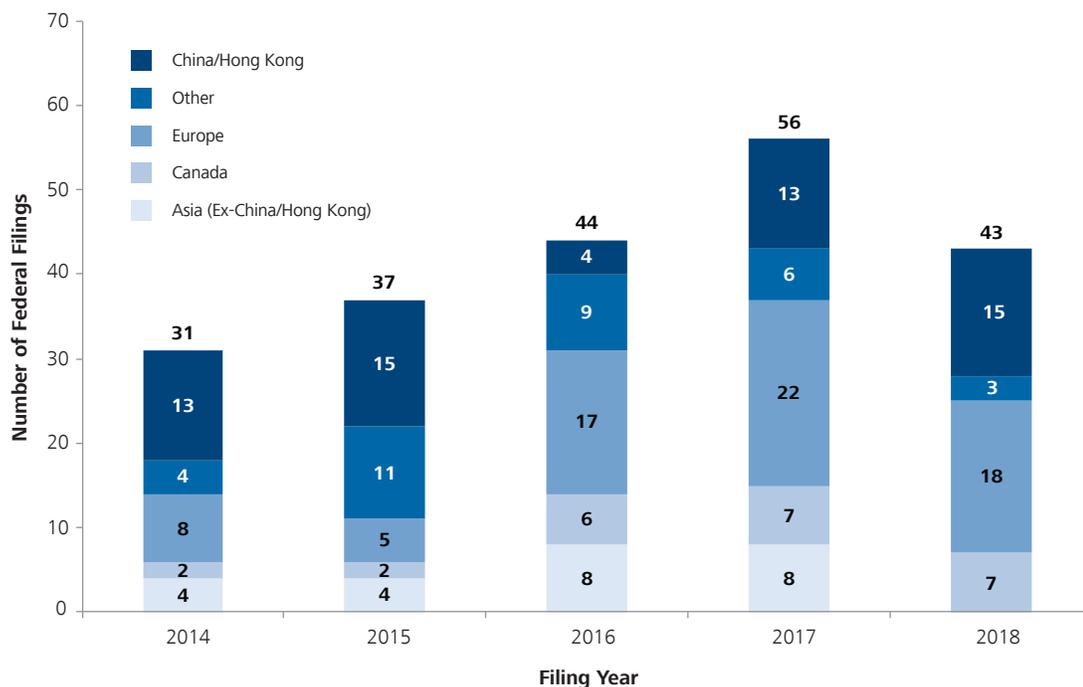
Figure 5. **Foreign Companies: Share of Filings and Share of Companies Listed on US Exchanges**  
 Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12  
 January 2009–December 2018



Note: Foreign issuer status determined based on location of principal executive offices.

Internationally, only Chinese firms listed on US exchanges were subject to more securities class actions in 2018 than in 2017 (see Figure 6). Filings against European firms slowed, partially due to fewer regulatory filings. There were zero filings against Israeli companies, despite an increase in listings and litigation against such companies in previous years.

Figure 6. **Filings Against Foreign Companies**  
 Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12 by Region  
 January 2014–December 2018



Note: Foreign issuer status determined based on location of principal executive offices.

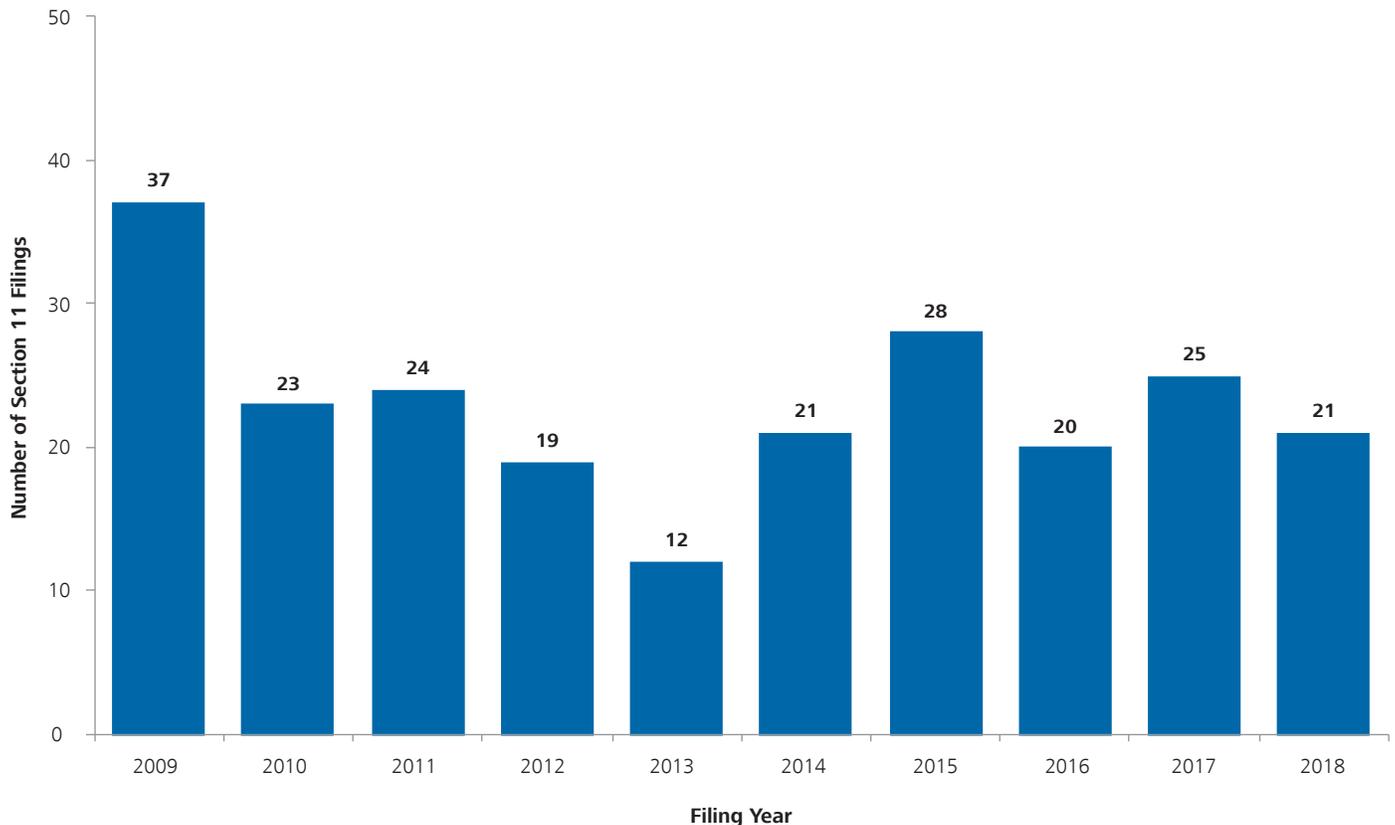
### Section 11 Filings

There were 21 federal filings alleging violations of Section 11 in 2018, which approximates the five-year average (see Figure 7).

On 20 March 2018, the US Supreme Court ruled in *Cyan, Inc. v. Beaver County Employees Retirement Fund* that state courts have jurisdiction over class actions with claims brought under the Securities Act.<sup>12</sup> The ruling allows plaintiffs to litigate Section 11 claims in state courts, including plaintiff-friendly California state courts.

The full effect of the *Cyan* decision on federal filing trends remains to be seen, but of the 21 Section 11 filings in 2018, 14% involved firms headquartered in California, down from a quarter in 2016 (prior to the US Supreme Court granting certiorari). Of the three California firms, at least two have stated in filings with the SEC that claims under the Securities Act must only be brought in federal courts.<sup>12</sup>

Figure 7. **Section 11 Filings**  
January 2009–December 2018



### Aggregate NERA-Defined Investor Losses

In addition to the number of cases filed, we also consider the total potential size of these cases using a metric we label “NERA-defined Investor Losses.”

NERA’s Investor Losses variable is a proxy for the aggregate amount that investors lost from buying the defendant’s stock, rather than investing in the broader market during the alleged class period. Note that the Investor Losses variable is not a measure of damages because any stock that underperforms the S&P 500 would have Investor Losses over the period of underperformance; rather, it is a rough proxy for the relative size of investors’ potential claims. Historically, Investor Losses have been a powerful predictor of settlement size. Investor Losses can explain more than half of the variance in the settlement values in our database.

We do not compute NERA-defined Investor Losses for all cases included in this publication. For instance, class actions in which only bonds and not common stock are alleged to have been damaged are not included. The largest excluded groups are IPO laddering cases and merger-objection cases.

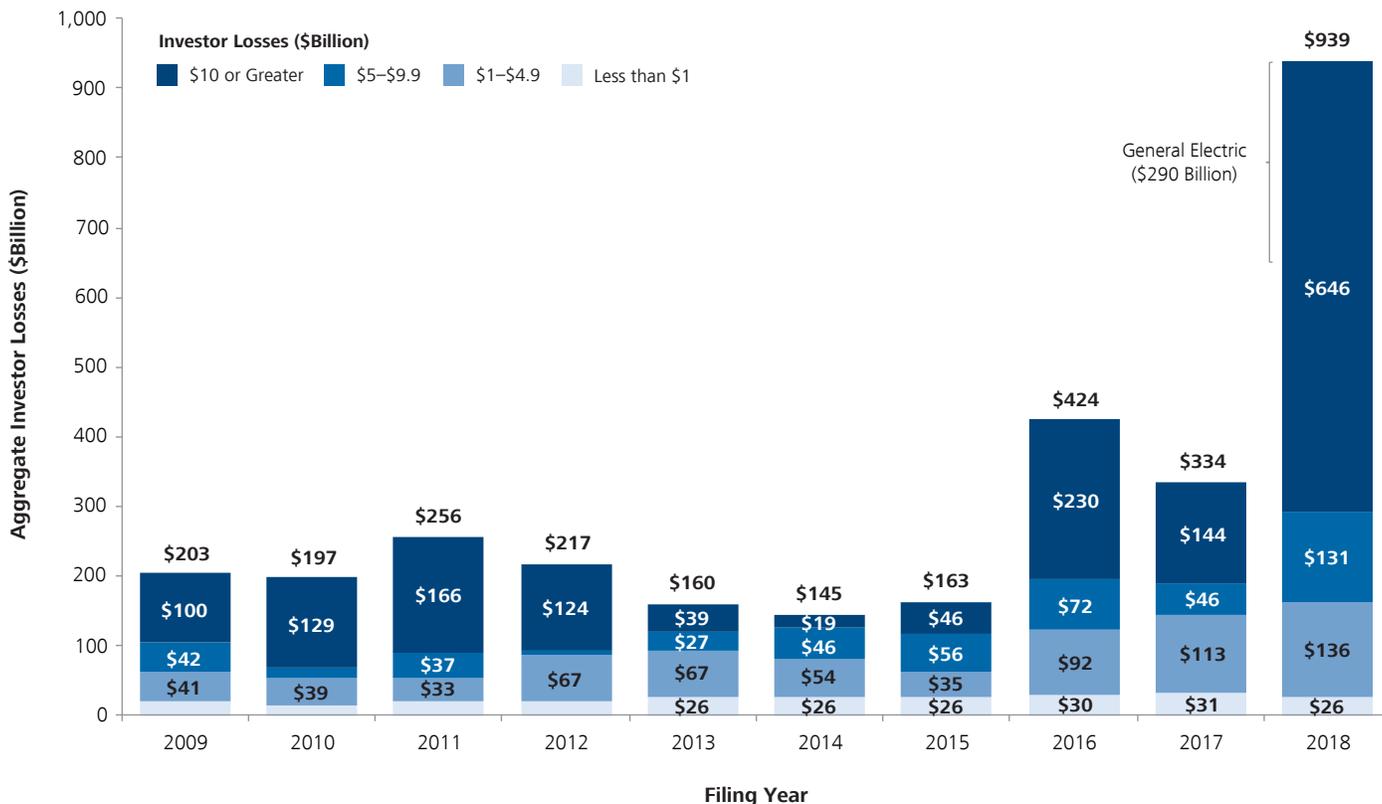
Despite a relatively constant rate of Standard filings in 2018, the size of those filings (as measured by NERA-defined Investor Losses) surged to nearly \$1 trillion (see Figure 8). Total Investor Losses were dominated by litigation against GE, equal to about 45% of Investor Losses from all other cases combined, an especially impressive metric given the record aggregate case size.

NERA-defined Investor losses in 2018 totaled \$939 billion, more than double that of any prior year and nearly four times the preceding five-year average of \$245 billion. The total size of filings in all but the smallest strata grew, led by cases with more than \$10 billion in Investor Losses. Coupled with the relatively stable overall filing rate, this suggests a systematic shift toward larger filings. In 2018, there were a record number of filings in each of the three largest strata, while only 88 cases had Investor Losses less than \$1 billion, a record low.

Once again, there were several very large filings alleging regulatory violations, including a stock drop case against Johnson & Johnson related to claims of allegedly carcinogenic talcum powder, and a data privacy case against Facebook. Besides cases alleging regulatory violations, other very large cases included a filing against NVIDIA regarding excess inventory of GPUs (used for cryptocurrency mining) and large drug development cases against Bristol-Myers Squibb and Celgene.

Figure 8. **Aggregate NERA-Defined Investor Losses**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12  
January 2009–December 2018



Over the past couple of years, growth in aggregate Investor Losses was concentrated in filings alleging regulatory violations, a substantial number of which were also *event-driven* securities cases (i.e., stock drop cases stemming from a specific event or occurrence). Between 2015 and 2017, growth in the total size of regulatory cases was due to an increased filing rate (from 31 to 57 cases) and higher median Investor Losses (from \$308 million to \$811 million).

In 2018, regulatory cases were again large (half had Investor Losses greater than \$4 billion), but the vast majority of total Investor Losses stemmed from what have historically been more typical securities cases, namely those that allege accounting issues, misleading earnings guidance, and/or firm performance issues.<sup>14</sup> This was led by litigation related to accounting issues at GE. Excluding GE, aggregate Investor Losses of such cases nearly doubled to a record \$258 billion (see Figure 9).

Growth in the total size of cases alleging accounting, earnings, and/or performance issues primarily stems from growth in individual case size, as opposed to more filings. The median case with such allegations had more than \$650 million in Investor Losses, about twice the average of \$322 million over the preceding five years.

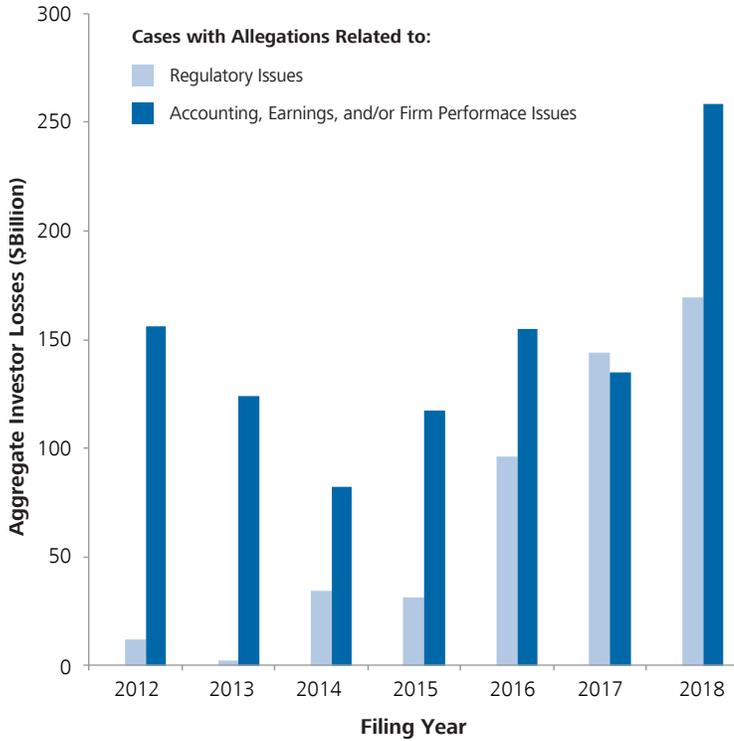
Details of the size of cases with specific types of allegations are discussed in the *Allegations* section below.

Figure 9. **NERA-Defined Investor Losses**

Filings Alleging Accounting Issues, Missed Earnings Guidance, and/or Misleading Future Performance  
Excludes 2018 GE Filings

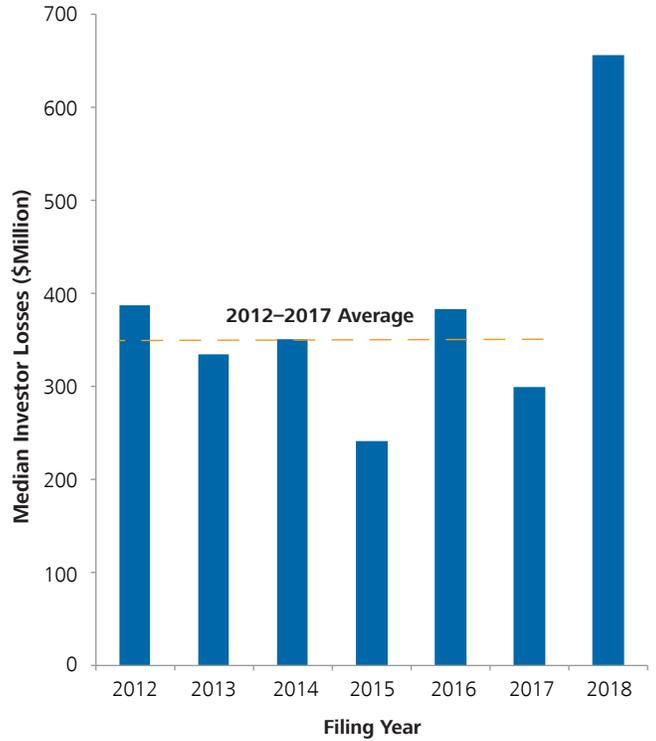
**Aggregate NERA-Defined Investor Losses**

January 2012–December 2018



**Median NERA-Defined Investor Losses**

January 2012–December 2018



Note: Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.

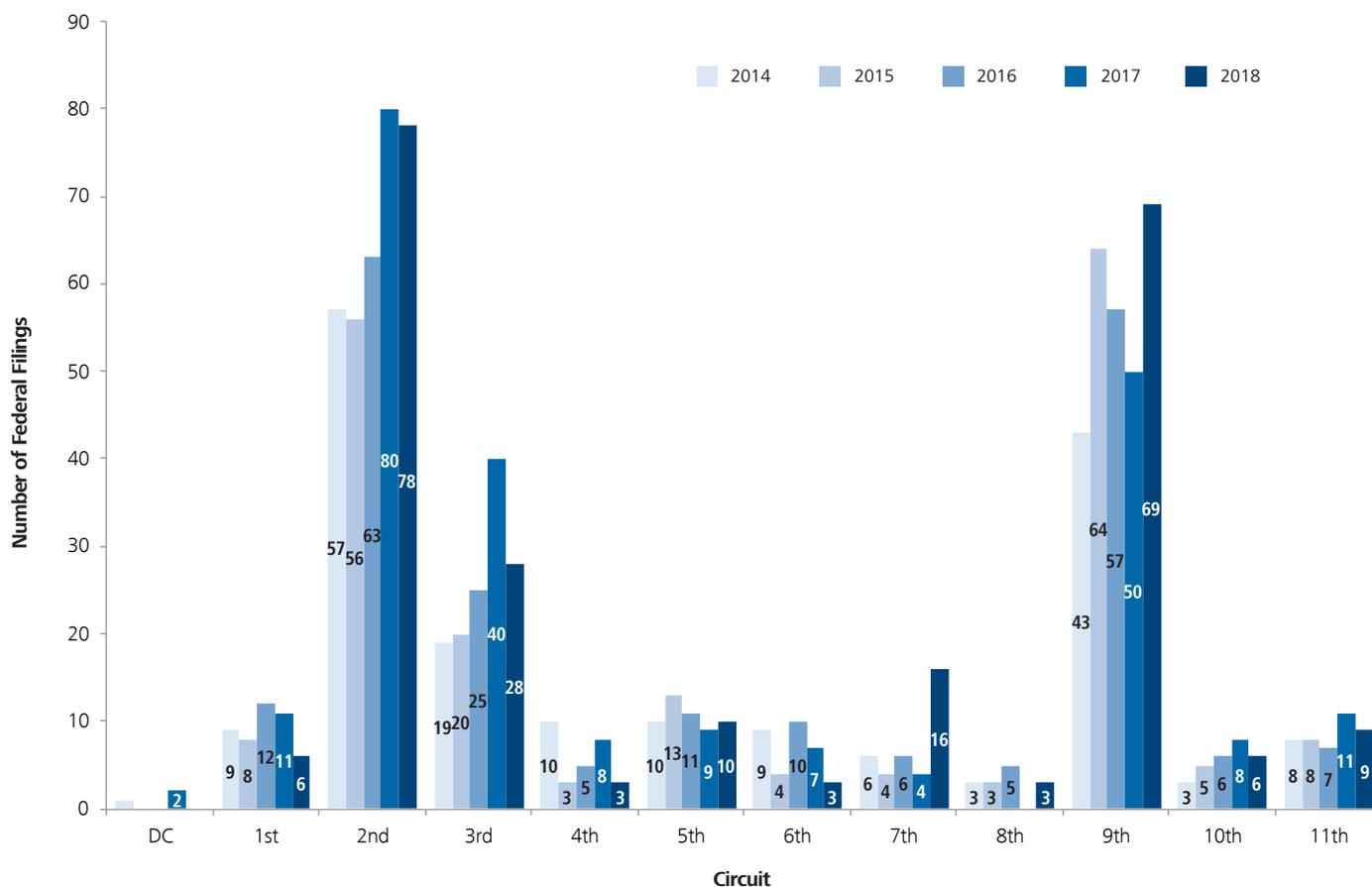
### Filings by Circuit

Filings in 2018 (excluding merger objections) were again concentrated in the Second and Ninth Circuits. The concentration of filings in these circuits has increased in 2018, during which they received 64% of filings, up from an average of 57% over the prior two years (see Figure 10). While the Second Circuit received the most filings, the most growth was in the Ninth Circuit, which includes Silicon Valley, mostly due to more litigation against firms in the Electronic Technology and Technology Services sector.

Merger-objection filings, not included in Figure 10, have become increasingly active in the Third Circuit, which includes Delaware. The Third Circuit received 82 merger-objection cases in 2018, double the number in 2017 and more than an eightfold increase over 2016. Nearly four-in-ten merger-objection cases were filed in the Third Circuit, twice the concentration of 2017 and coming amidst only a slight increase in the percentage of target firms incorporated in Delaware (see Figure 4). This corresponds with a decline in filings in every other circuit except the Second Circuit, where filings increased from 15 to 26.

Figure 10. **Federal Filings by Circuit and Year**

Excludes Merger Objections  
January 2014–December 2018



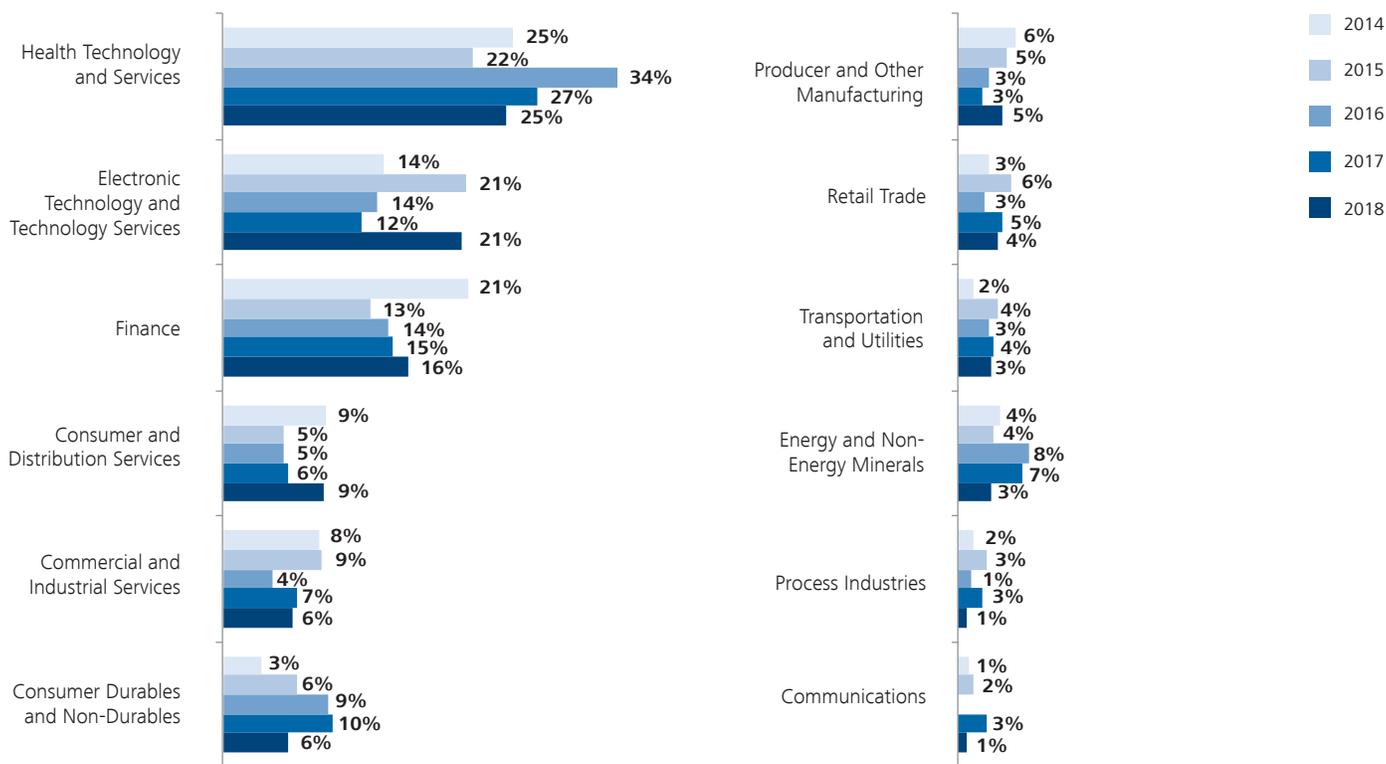
### Filings by Sector

In 2018, filing counts were highest in the three historically dominant sectors, which include firms involved in health care, technology, and financial services (see Figure 11). The share of filings in these sectors increased to 62% in 2018 from about 54% in 2017, primarily due to a surge in filings against firms in the technology sector. Despite the drop in the percentage of health care companies targeted, the percentage of targeted firms in the Drugs industry (SIC 283) was nearly unchanged from 2017.

Firms in technological industries were especially at risk of securities class actions alleging accounting issues, misleading earnings guidance, or firm performance issues.<sup>15</sup> The industry with the highest percentage of constituent companies targeted with such allegations was the Computer and Office Equipment industry (SIC 357), with more than 9% of listed companies subject to litigation. This was followed by the Electronic Components and Accessories industry (SIC 367), with 6% of firms targeted. In the Drugs industry (SIC 283), 5% of firms were targeted with a filing with such claims (mostly related to misleading announcements regarding future performance).

Figure 11. **Percentage of Filings by Sector and Year**

Excludes Merger Objections  
January 2014–December 2018



Note: This analysis is based on the FactSet Research Systems, Inc. economic sector classification. Some of the FactSet economic sectors are combined for presentation.

### **Allegations**

In contrast with growth observed in recent years, filings with regulatory claims (i.e., those alleging a failure to disclose a regulatory issue) slowed to 41 in 2018 from 57 in 2017, a drop from 26% of Standard cases to 19% (see Figure 12). While fewer regulatory cases were filed, the median case size grew fourfold to over \$4 billion (as measured by NERA-defined Investor Losses). The slowdown in regulatory filings was partially offset by more allegations of accounting issues and missed earnings guidance, which grew 8% and 13%, respectively.

While the size of filed cases (as measured by NERA-defined Investor Losses) grew in each allegation category, those alleging accounting issues and missed earnings guidance were especially large and more frequently targeted technology firms. The median size of accounting claims exceeded \$600 million in 2018 (a level not seen since 2008), with filings over the second half of the year being especially large. Firms in the technology sector had the most accounting claims, making up 29% of the total (up from 21% in 2017). Moreover, more than one-in-three filings against firms in the technology sector alleged accounting issues.

Filings claiming missed earnings guidance grew for the second straight year. Although the percentage of filings alleging missed guidance roughly matched that of 2015, the median case size (as measured by Investor Losses) was three times larger in 2018 than in 2015. Filings against firms in the technology sector with missed earnings guidance claims grew 70% since 2017 and constituted the largest share of such claims (at 27%).

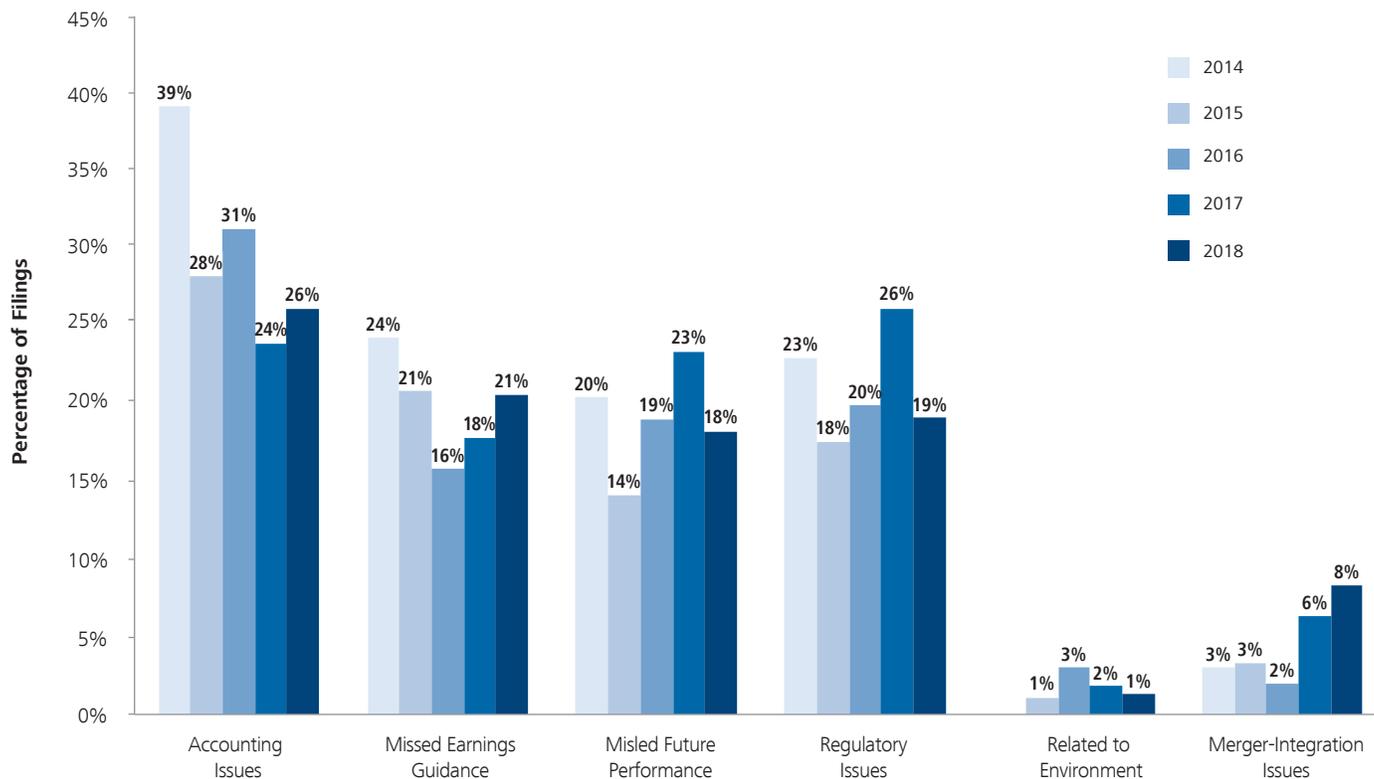
In 2018, 8% of filings included merger integration allegations (i.e., claims of misrepresentations by a firm involved in a merger or acquisition). The substantial increase in litigation in 2017 corresponded with a 14% increase in announced M&A deals with US targets.<sup>16</sup> However, in 2018, despite a 12% slowdown in announced deal activity over the first three quarters, the number of federal merger integration filings rose.<sup>17</sup> The largest merger integration filing related to the failed Tribune Media/Sinclair merger, making up 20% of total Investor Losses.

As in prior years, most allegations related to misleading firm performance in 2018 were against firms in the health care sector. Within health care, firms in the Drugs industry (SIC 283) were subject to two-in-three filings.

Most complaints include a wide variety of allegations, not all of which are depicted here. Due to multiple types of allegations in complaints, the same case may be included in multiple categories.

Figure 12. **Allegations**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12  
January 2014–December 2018

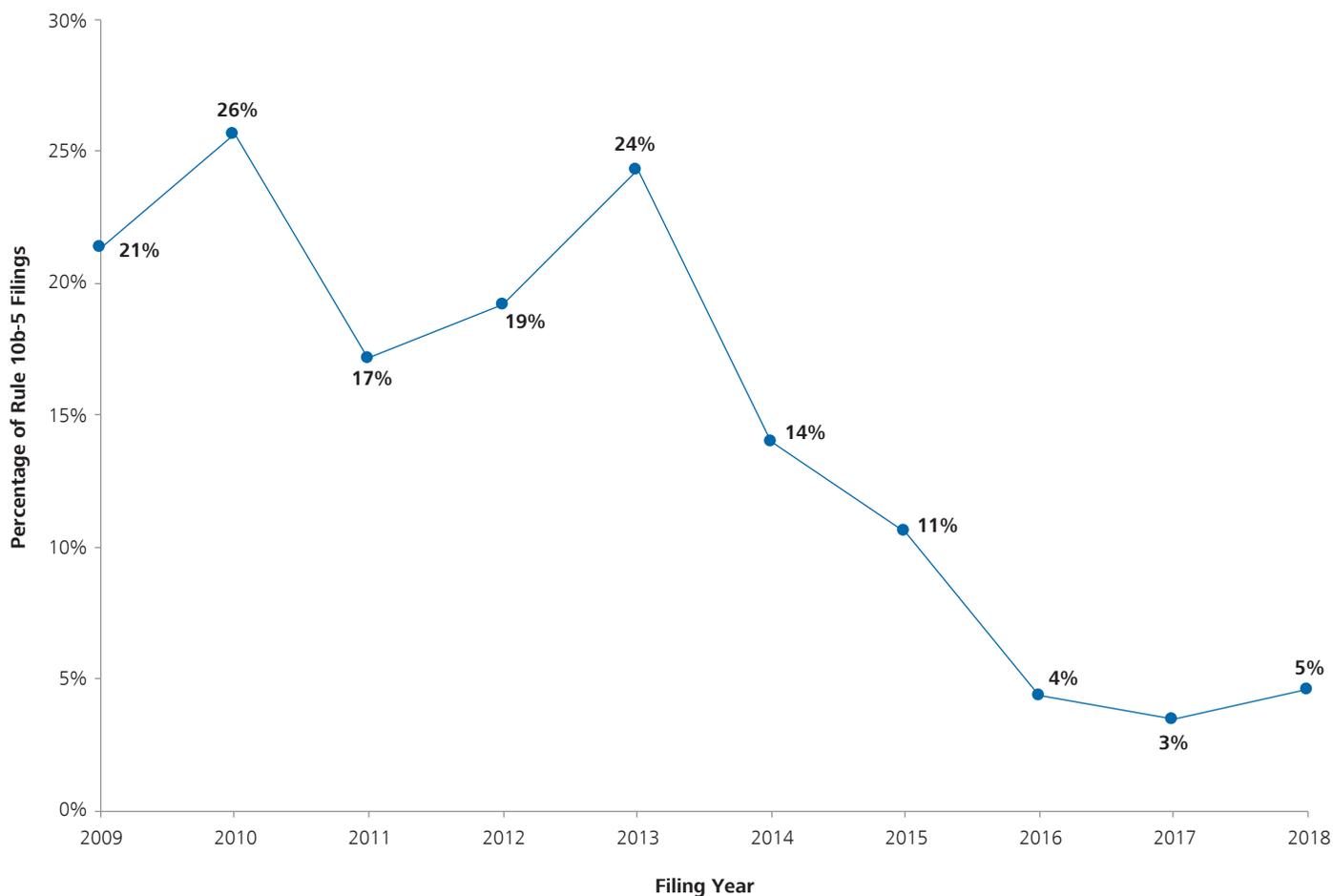


### Alleged Insider Sales

Historically, Rule 10b-5 class action complaints have frequently alleged insider sales by directors and officers, usually as part of a scienter argument. Since 2013, in the wake of a multiyear crackdown on insider trading by prosecutors, the percentage of 10b-5 class actions that alleged insider sales has decreased nearly every year (see Figure 13).<sup>18</sup> This trend also corresponds with increased corporate adoption of 10b5-1 trading plans, allowing insiders to plan share sales while purportedly not in possession of material non-public information.<sup>19</sup>

Cases alleging insider sales were more common in the aftermath of the financial crisis, when a quarter of filings included insider trading claims. In 2005, half of class actions filed included such claims.

Figure 13. **Percentage of Rule 10b-5 Filings Alleging Insider Sales by Filing Year**  
January 2009–December 2018



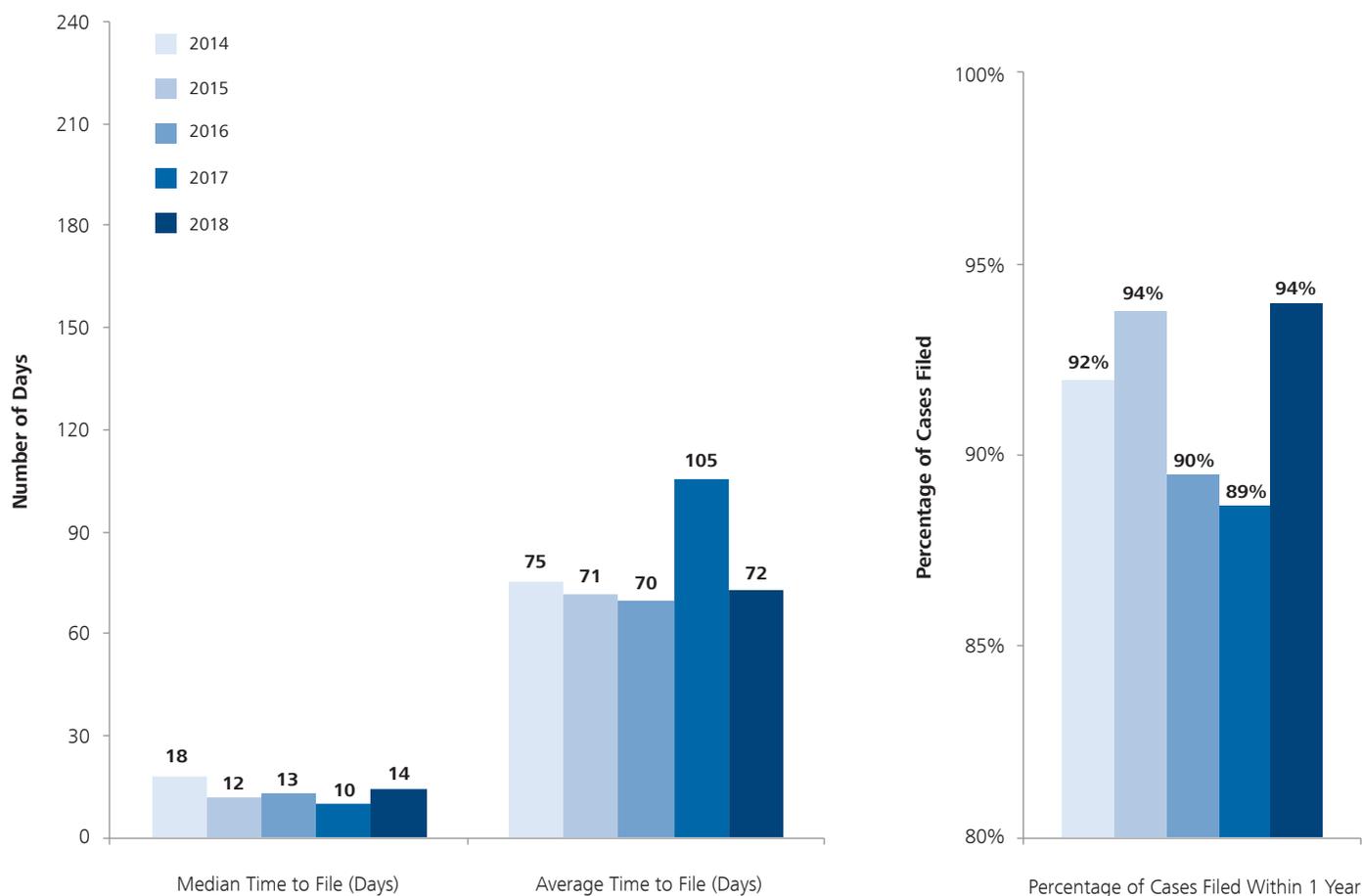
### Time to File

The term “time to file” denotes the time that has elapsed between the end of the alleged class period and the filing date of the first complaint. Figure 14 illustrates how the median time and average time to file Rule 10b-5 cases (in days) have changed over the past five years.

The median time to file fell by about half over the last decade, to 14 days in 2018, indicating that it took 14 days or less to file a complaint in 50% of cases. Since the beginning of the decade, there has been a lower frequency of cases with long periods between the point when an alleged fraud was revealed and the filing of a related claim. The average time to file has followed a similar trajectory, but in 2017 was affected by 10 cases with very long filing delays. In 2017, one case against Rio Tinto, regarding the valuation of mining assets in Mozambique, took more than 4.5 years to file and boosted the average time to file by nearly 9%.<sup>20</sup>

Despite the small minority of cases with very long times to file, the data generally point toward a lower incidence of cases with long periods between revelations of alleged fraud and the date a related claim is filed.

Figure 14. **Time to File Rule 10b-5 Cases from End of Alleged Class Period to File Date**  
January 2014–December 2018



Note: This analysis excludes cases where the alleged class period could not be unambiguously determined.

## Analysis of Motions

NERA's statistical analysis has found robust relationships between settlement amounts and the stage of the litigation at which settlements occur. We track filings and decisions on three types of motions: motion to dismiss, motion for class certification, and motion for summary judgment. For this analysis, we include securities class actions in which purchasers of common stock are part of the class and in which a violation of Rule 10b-5, Section 11, and/or Section 12 is alleged (i.e., Standard cases).

As shown in the figures below, we record the status of any motion as of the resolution of the case. For example, a motion to dismiss that had been granted but was later denied on appeal is recorded as denied.

Motions for summary judgment were filed by defendants in 7.1%, and by plaintiffs in only 1.9%, of the securities class actions filed and resolved over the 2000–2018 period, among those we tracked.<sup>21</sup>

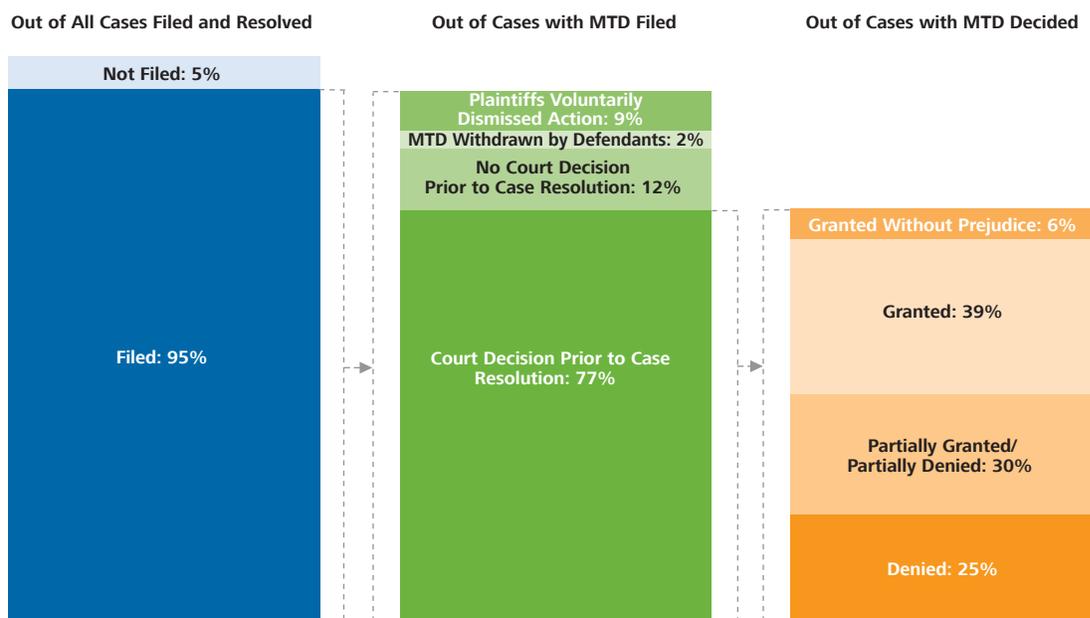
Outcomes of motions to dismiss and motions for class certification are discussed below.

**Motion to Dismiss**

A motion to dismiss was filed in 95% of the securities class actions tracked. However, the court reached a decision on only 77% of the motions filed. In the remaining 23% of cases, either the case resolved before a decision was reached, plaintiffs voluntarily dismissed the action, or the motion to dismiss was withdrawn by defendants (see Figure 15).

Out of the motions to dismiss for which a court decision was reached, the following three outcomes classify all of the decisions: granted with or without prejudice (45%), granted in part and denied in part (30%), and denied (25%).

Figure 15. **Filing and Resolutions of Motions to Dismiss**  
Cases Filed and Resolved January 2000–December 2018



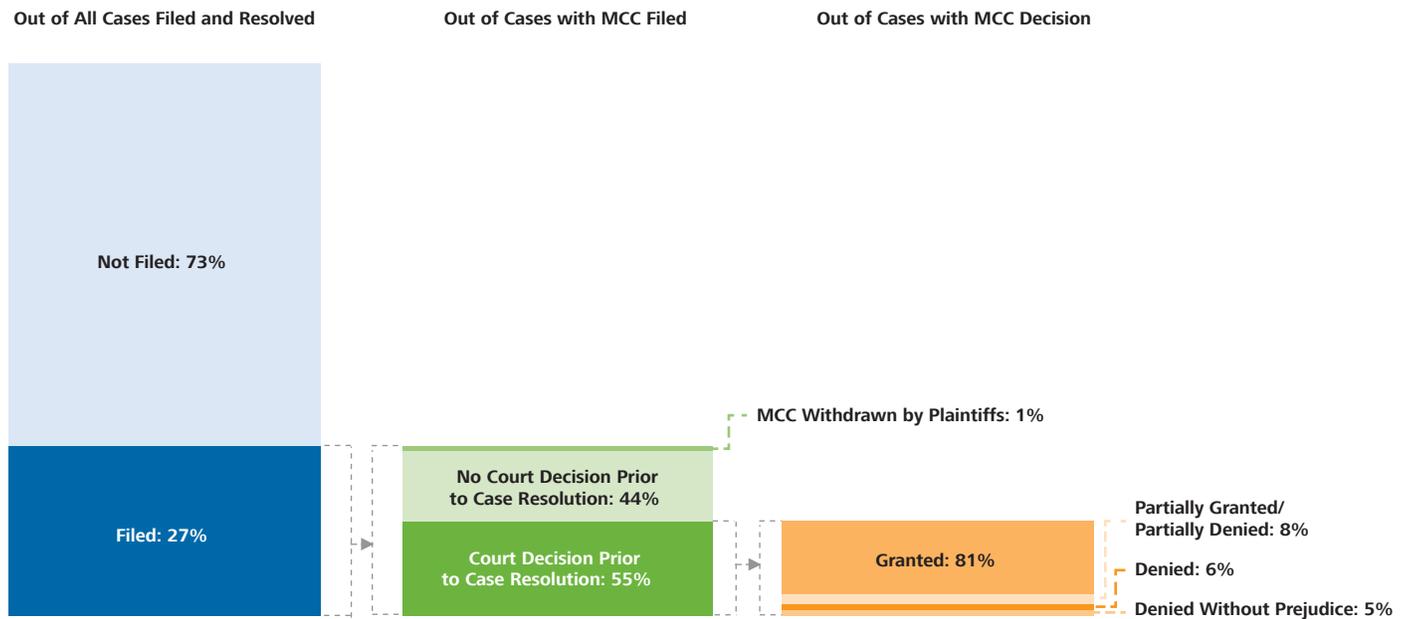
Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO laddering cases.

**Motion for Class Certification**

Most cases were settled or dismissed before a motion for class certification was filed: 73% of cases fell into this category. Of the remaining 27% (in which a motion for class certification was filed), the court reached a decision in only 55% of cases. Overall, only 15% of the securities class actions filed (or 55% of the 27%) reached a decision on the motion for class certification (see Figure 16).

According to our data, 89% of the motions for class certification that were decided were granted partially or in full.

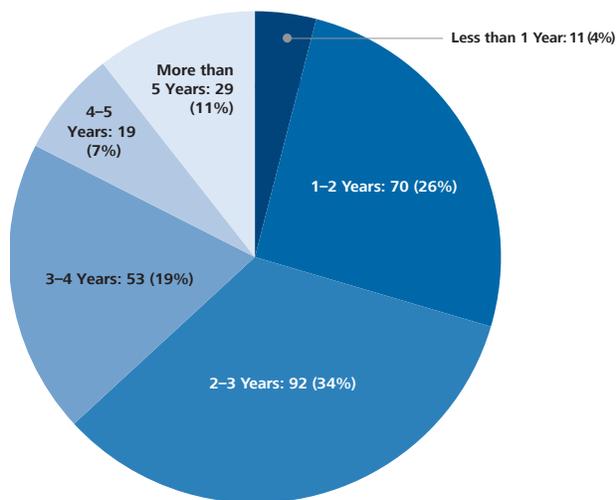
Figure 16. **Filing and Resolutions of Motions for Class Certification**  
Cases Filed and Resolved January 2000–December 2018



Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO laddering cases.

Approximately 64% of the decisions handed down on motions for class certification were reached within three years of the complaint’s original filing date (see Figure 17). The median time was about 2.5 years.

Figure 17. **Time from First Complaint Filing to Class Certification Decision**  
Cases Filed and Resolved January 2000–December 2018



Note: Includes cases in which holders of common stock are part of the class and a 10b-5 or Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO laddering cases.

## Trends in Case Resolutions

### Number of Cases Settled or Dismissed

In total, 351 securities class actions were resolved in 2018, the second consecutive year in which a record number of cases concluded (see Figure 18). Resolution numbers were once again dominated by a record number of dismissals, which outnumbered settlements two-to-one for the first time.

Of the 351 resolutions, slightly less than half were resolutions of merger-objection cases (most of which were voluntarily dismissed). The uptick in resolutions over the last few years is largely due to the surge of federal merger-objection cases in the wake of the *Trulia* decision in early 2016.<sup>22</sup> Prior to *Trulia*, only about 13% of resolutions concerned merger-objection litigation. Merger objections had an outsized impact on resolution statistics: despite making up only about 33% of all active cases, they constituted 44% of resolutions.<sup>23</sup>

In 2018, 196 resolutions were of “Standard” securities class actions—those alleging violations of Rule 10b-5, Section 11, and/or Section 12. Standard settlement and dismissal counts closely matched those of 2017, and again more cases were dismissed than settled.

For the second consecutive year, an inordinate number of Standard cases were dismissed within a year of filing, most of which were voluntary dismissals. As shown in Figure 31, the decision to voluntarily dismiss litigation may change with the size of estimated damages to the class. For instance, plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases during the PSLRA bounce-back period.

Figure 18. **Number of Resolved Cases: Dismissed or Settled**  
January 2009–December 2018



### Case Status by Year

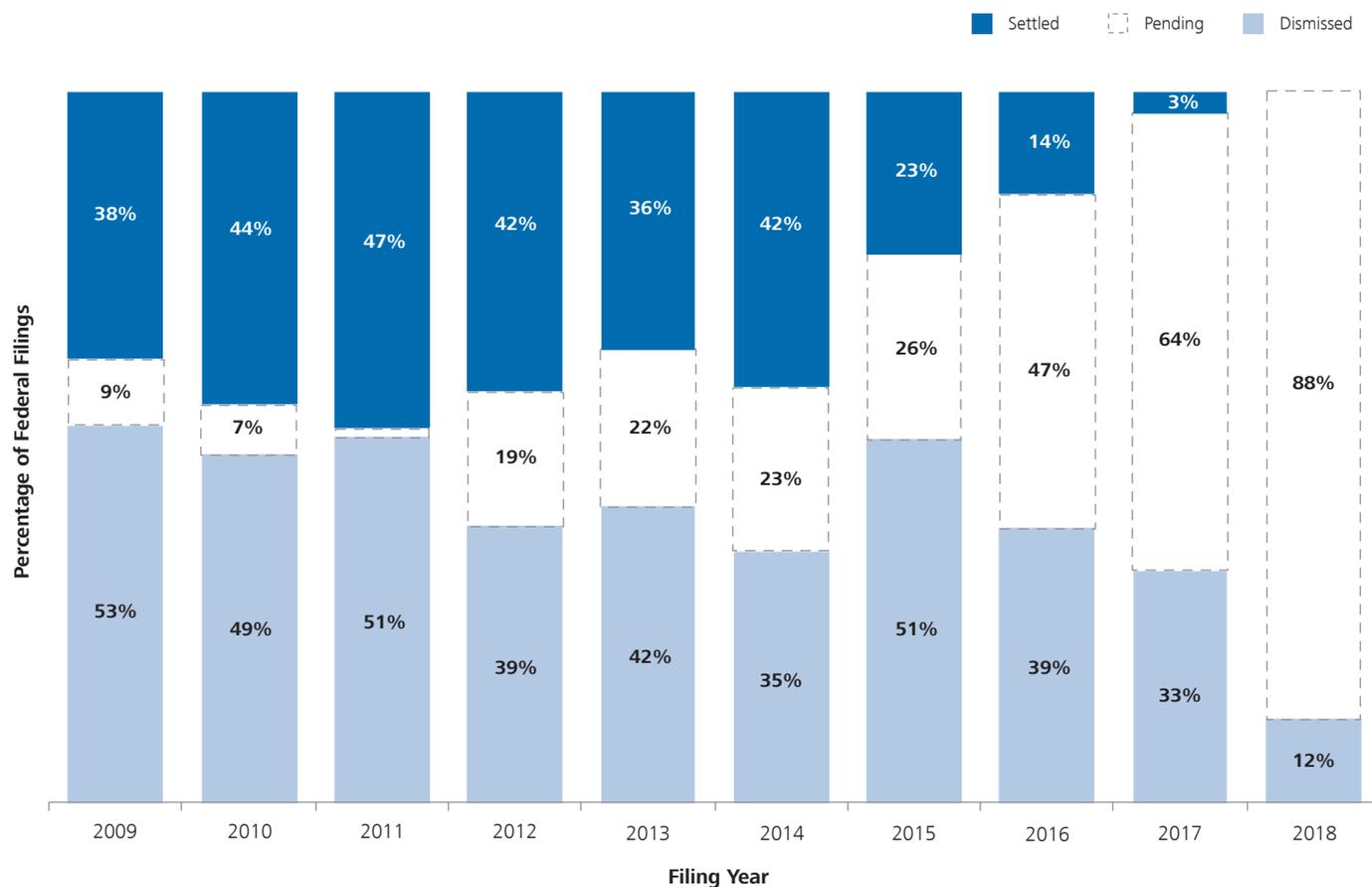
Figure 19 shows the current resolution status of cases by filing year. Each percentage represents the current resolution status of cases filed in each year as a proportion of all cases filed in that year. Merger-objection cases are excluded, as are verdicts.

Historically, more cases settled than were dismissed. However, the rate of case dismissal has steadily increased. While only about a third of cases filed between 2000 and 2002 were dismissed, in 2015, the most recent year with substantial resolution data, at least half of filed cases were dismissed.<sup>24</sup>

While dismissal rates have been climbing since 2000, the ultimate dismissal rate for cases filed in more recent years is less certain. On one hand, the dismissal rate may increase further, as there are more pending cases awaiting resolution. On the other hand, it may decrease because recent dismissals have more potential than older ones to be appealed or re-filed, and cases that were recently dismissed without prejudice may ultimately result in settlements.

Figure 19. **Status of Cases as Percentage of Federal Filings by Filing Year**

Excludes Merger Objections and Verdicts  
January 2009–December 2018



Note: Dismissals may include dismissals without prejudice and dismissals under appeal.

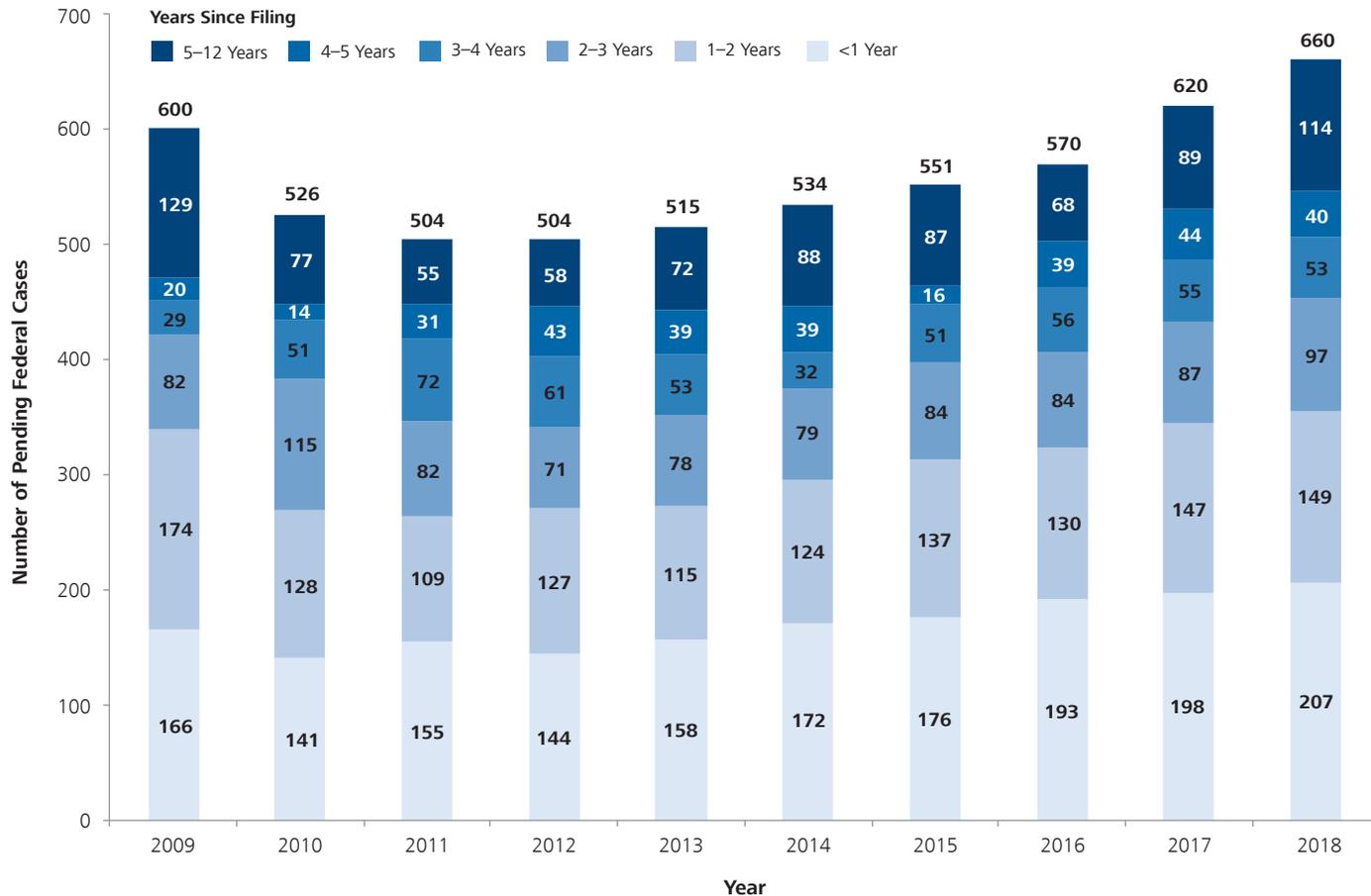
### Number of Cases Pending

The number of Standard securities class actions pending in the federal system has steadily increased from a post-PSLRA low of 504 in 2012 (see Figure 20).<sup>25</sup> Since then, pending case counts have increased between 2% and 9% annually. In 2018, the number of pending Standard cases on federal dockets increased to 660, up 6% from 2017 and 31% from 2012.

Generally, since cases are either pending or resolved, a change in filing rate or a lengthening of the time to case resolution potentially contributes to changes in the number of cases pending. If the number of new filings is constant, the change in the number of pending cases can be indicative of whether the time to case resolution is generally shortening or lengthening.

About 50% of the long-term growth in pending litigation can be explained by recent filing growth (filed over the past two years), the vast majority of which is simply due to more cases being filed that have yet to be resolved. Delayed resolution of older filings (i.e., cases filed before 2017) explains the other 50% or so of growth in pending litigation since 2011. More old cases on federal dockets has driven the median age of pending cases up 14% since 2015 to about 1.9 years, the highest since 2010.<sup>26</sup>

Figure 20. **Number of Pending Federal Cases**  
 Excludes Merger Objections  
 January 2009–December 2018



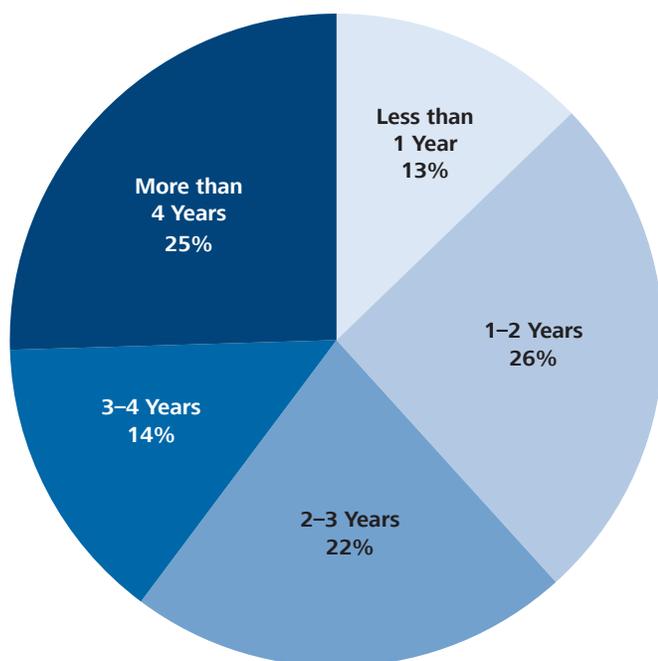
Note: The figure excludes, in each year, cases that had been filed more than 12 years earlier. Years since filing are end-of-year calculations. The figure also excludes IPO laddering cases. The 12-year limit ensure that all pending cases were filed post-PSLRA.

### Time to Resolution

The term “time to resolution” denotes the time between the filing of the first complaint and resolution (whether through settlement or dismissal). Figure 21 illustrates the time to resolution for all securities class actions filed between 2001 and 2014, and shows that about 39% of cases are resolved within two years of initial filing and about 61% are resolved within three years.<sup>27</sup>

The median time to resolution for cases filed in 2016 (the last year with sufficient resolution data) was 2.3 years, similar to the range over the preceding five years. Over the past decade, the median time to resolution declined by more than 10%, primarily due to an increase in the dismissal rate (dismissals are generally resolved faster than settlements).

Figure 21. **Time from First Complaint Filing to Resolution**  
Cases Filed January 2001–December 2014



## Trends in Settlements

We present several settlement metrics to highlight attributes of cases that settled in 2018 and to compare them with cases settled in past years. We discuss two ways of measuring average settlement amounts and calculate the median settlement amount. Each calculation excludes merger-objection cases and cases that settle with no cash payment to the class, as settlements of such cases may obscure trends in what have historically been more typical cases.

In 2018, the average settlement rebounded to \$69 million from a near-record low in 2017, largely due to the \$3 billion settlement involving *Petróleo Brasileiro S.A.—Petrobras*, the fifth-highest settlement ever. Even excluding *Petrobras* (the only settlement of the year exceeding \$1 billion), the average settlement exceeded \$30 million, which is about average in the post-PSLRA era (after adjusting for inflation). The median settlement in 2018 was more than twice that of 2017, primarily due to higher settlements of many moderately sized cases and, generally, fewer very small settlements.

The upswing in 2018 settlement metrics may be a prelude to higher settlements in the future. Aggregate NERA-defined Investor Losses of pending cases, a factor that has historically been significantly correlated with settlement amounts, increased for the third consecutive year and currently exceeds \$1.4 trillion (or \$1.1 trillion excluding 2018 litigation against GE). Excluding GE, average Investor Losses of pending Standard cases have also increased for the third consecutive year to \$2.4 billion, but have receded from a 10-year high of \$3.8 billion in 2011.

To illustrate how many cases settled over various ranges in 2017 compared with prior years, we provide a distribution of settlements over the past five years. We also tabulated the 10 largest settlements of the year.

### Average and Median Settlement Amounts

The average settlement exceeded \$69 million in 2018, somewhat less than three times the \$25 million average settlement in 2017 (see Figure 22). Infrequent large settlements, such as the 2018 Petrobras settlement, are generally responsible for the wide variability in average settlements over the past decade. Similar spikes to the one observed this year were also seen in 2010, 2013, and 2016, each primarily stemming from mega-settlements.

Figure 22. **Average Settlement Value**  
 Excludes Merger Objections and Settlements for \$0 to the Class  
 January 2009–December 2018

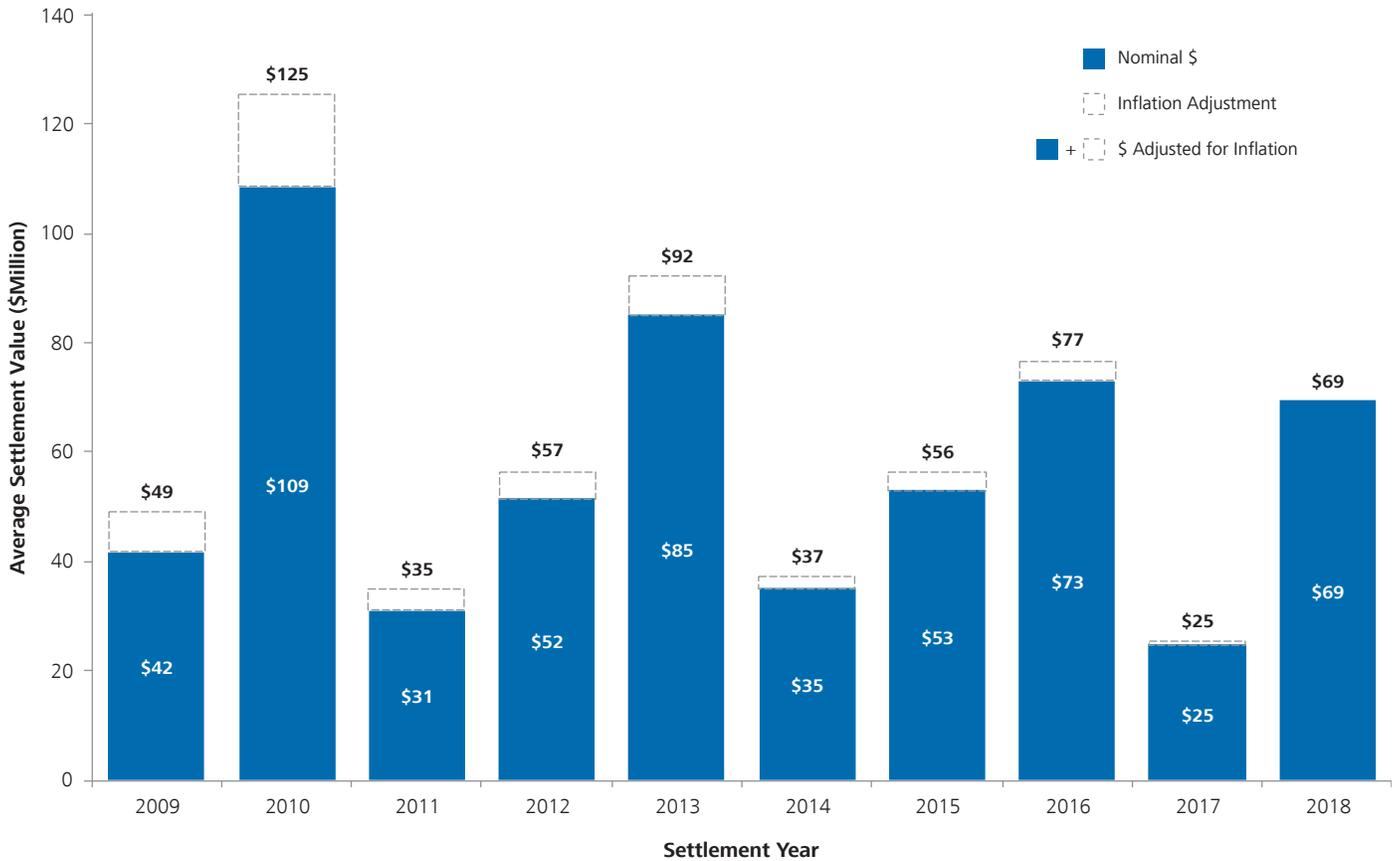
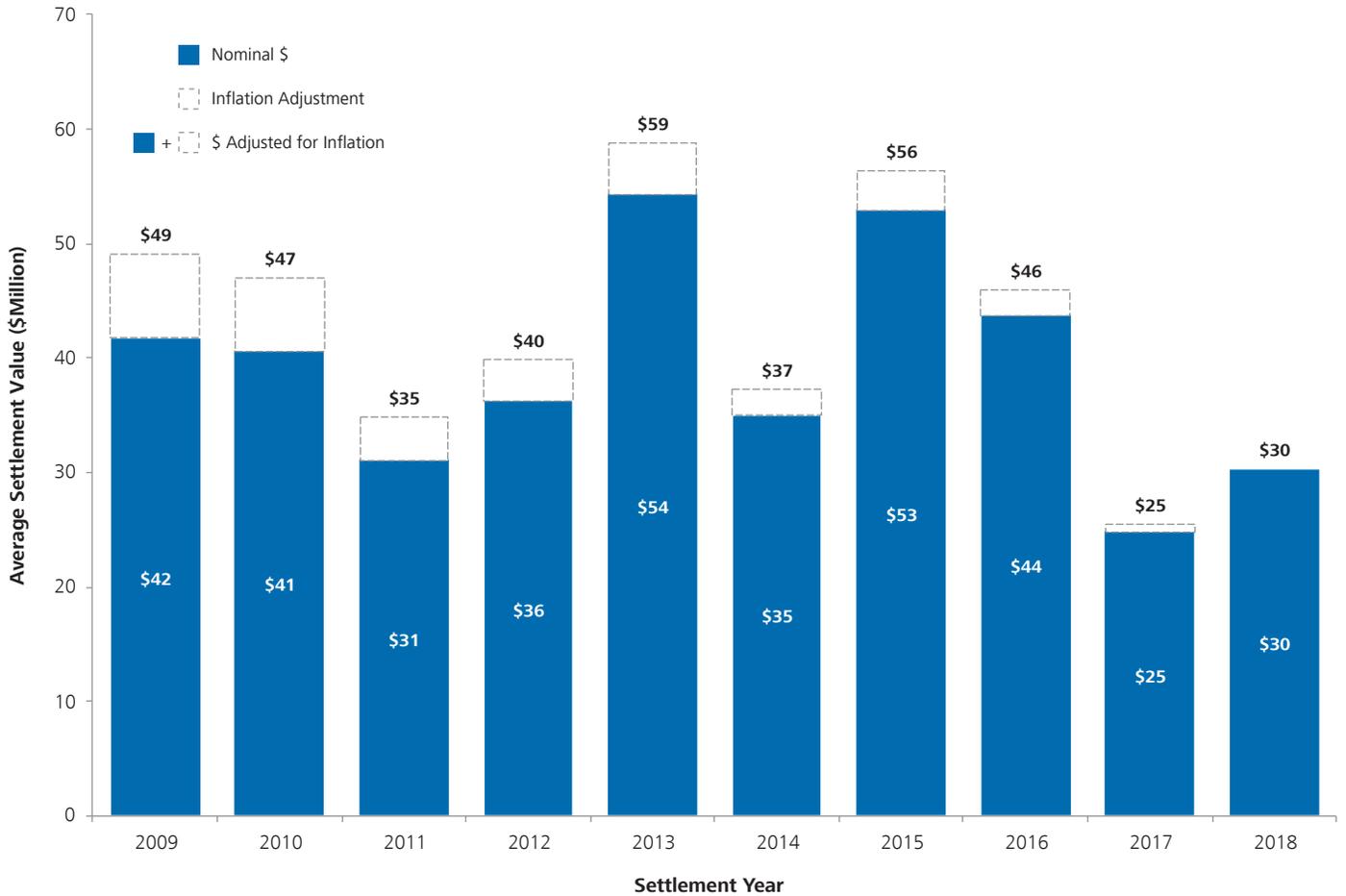


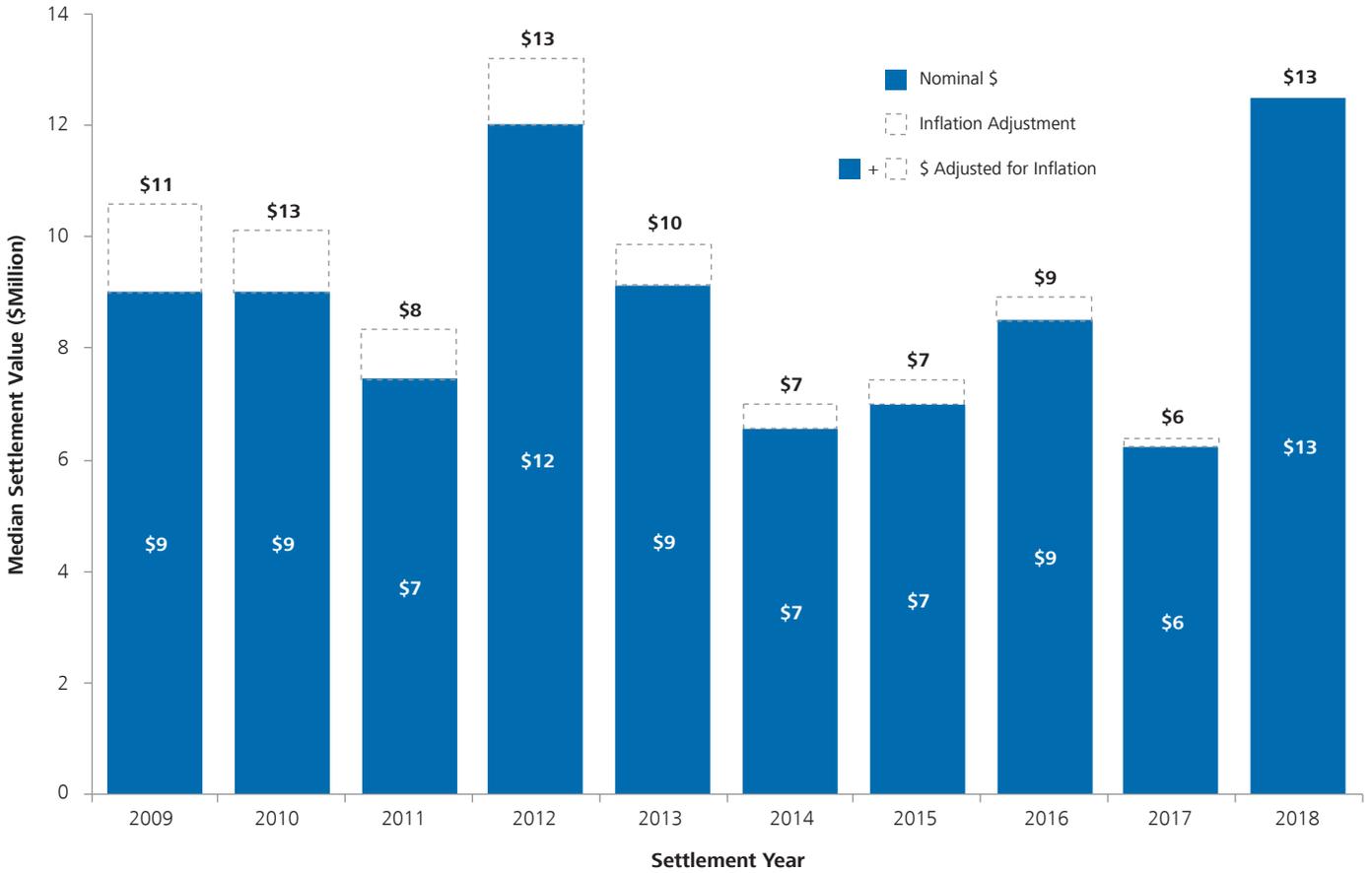
Figure 23 illustrates that, excluding settlements over \$1 billion, the average settlement rebounded from the record low seen in 2017 to \$30 million. Despite this rebound, and setting aside the \$3 billion Petrobras settlement, the 2018 average settlement remained below average compared to the past decade. The metric would have roughly matched the near-record low seen in 2017 but for the \$480 million Wells Fargo settlement that was finalized in mid-December 2018.

Figure 23. **Average Settlement Value**  
 Excludes Settlements over \$1 Billion, Merger Objections, and Settlements for \$0 to the Class  
 January 2009–December 2018



The 2018 median settlement was a near-record \$13 million. This was driven primarily by relatively high settlements of moderately sized cases (as measured by NERA-defined Investor Losses). Cases of moderate size not only made up the bulk of settlements in 2018 but also had a median ratio of settlement to Investor Losses more than 50% higher than in past years. Moreover, unlike 2017, there were generally few very small settlements.

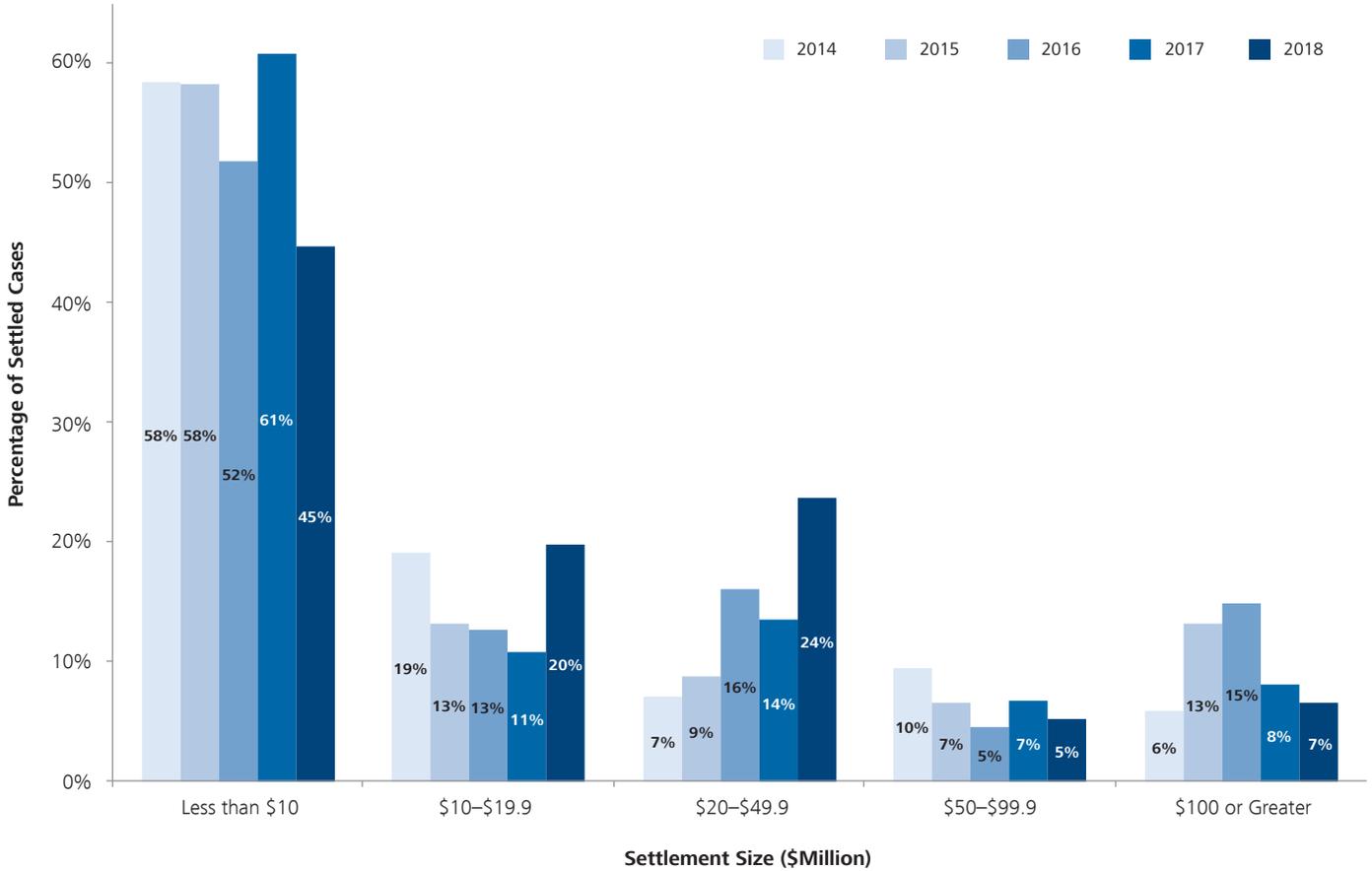
Figure 24. **Median Settlement Value**  
 Excludes Settlements over \$1 Billion, Merger Objections, and Settlements for \$0 to the Class  
 January 2009–December 2018



**Distribution of Settlement Amounts**

The relatively high settlements of moderately sized cases in 2018 are also captured in the distribution of settlement values (see Figure 25). In 2018, fewer than 45% of settlements were for less than \$10 million (the lowest rate since 2010), which stands in stark contrast with 2017, when more than 60% of settlements were in the smallest strata (the highest rate since 2011).

Figure 25. **Distribution of Settlement Values**  
 Excludes Merger Objections and Settlements for \$0 to the Class  
 January 2014–December 2018



### The 10 Largest Settlements of Securities Class Actions of 2018

The 10 largest securities class action settlements of 2018 are shown in Table 1. The two largest settlements, against Petrobras and Wells Fargo & Company, are among many large regulatory cases filed in recent years. Three of the 10 largest settlements involved defendants in the Finance sector. Overall, these 10 cases accounted for about \$4.4 billion in settlement value, a near-record 84% of the \$5.3 billion in aggregate settlements.

Despite the size of the Petrobras settlement, it is not even half the size of the second-largest settlement since passage of the PSLRA, WorldCom, Inc., at \$6.2 billion (see Table 2).

Table 1. **Top 10 2018 Securities Class Action Settlements**

Ranking	Case Name	Total Settlement Value (\$Million)	Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)
1	Petróleo Brasileiro S.A.—Petrobras (2014)	\$3,000.0	\$205.0
2	Wells Fargo & Company (2016)	\$480.0	\$96.4
3	Allergan, Inc.	\$290.0	\$71.0
4	Wilmington Trust Corporation	\$210.0	\$66.3
5	LendingClub Corporation	\$125.0	\$16.8
6	Yahoo! Inc. (2017)	\$80.0	\$14.8
7	SunEdison, Inc.	\$73.9	\$19.0
8	Marvell Technology Group Ltd. (2015)	\$72.5	\$14.1
9	3D Systems Corporation	\$50.0	\$15.5
10	Medtronic, Inc. (2013)	\$43.0	\$8.6
	<b>Total</b>	<b>\$4,424.4</b>	<b>\$527.4</b>

Table 2. **Top 10 Securities Class Action Settlements**  
As of 31 December 2018

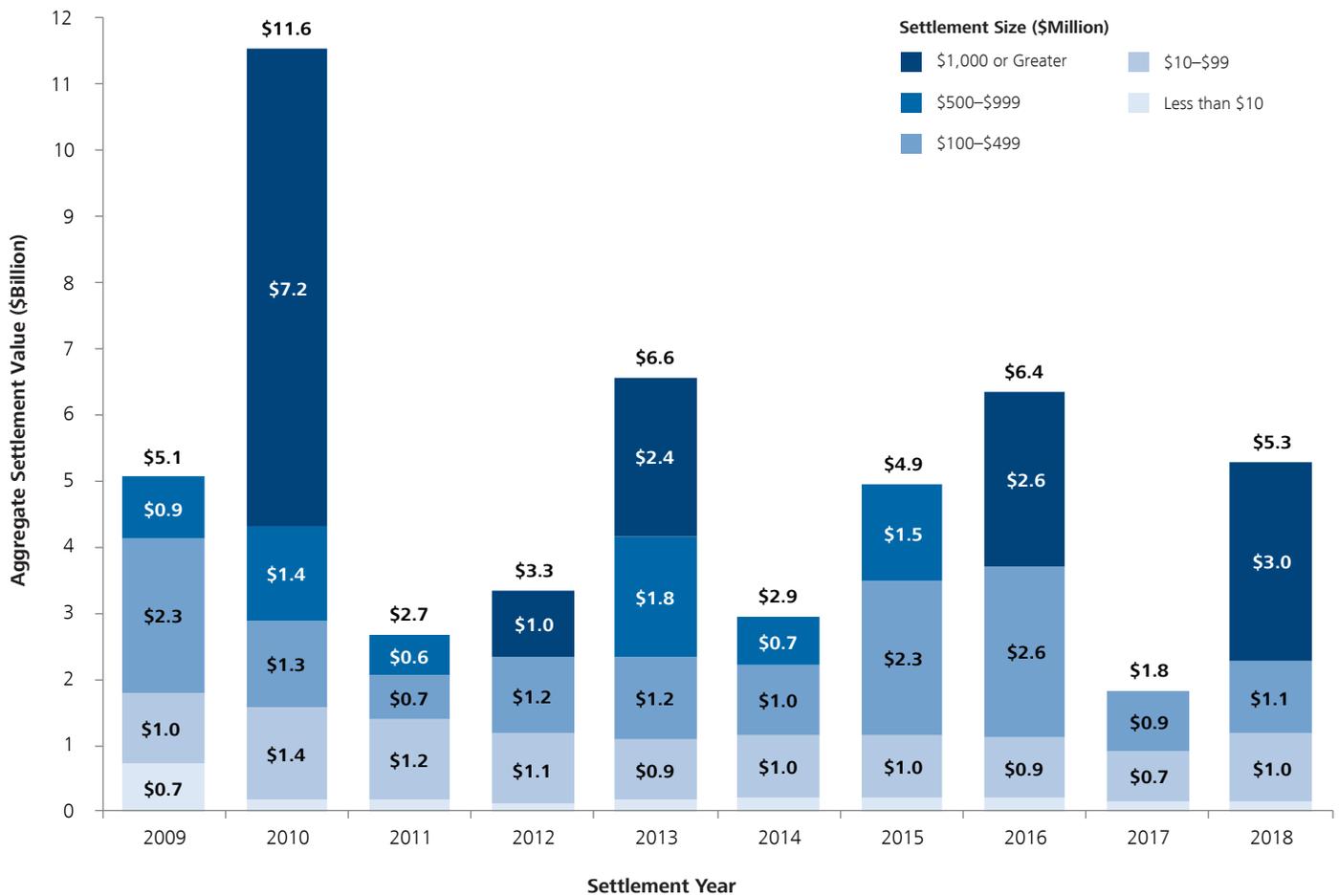
Ranking	Defendant	Settlement Year(s)	Total Settlement Value (\$Million)	Codefendant Settlements		Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)
				Financial Institutions Value (\$Million)	Accounting Firms Value (\$Million)	
1	ENRON Corp.	2003–2010	\$7,242	\$6,903	\$73	\$798
2	WorldCom, Inc.	2004–2005	\$6,196	\$6,004	\$103	\$530
3	Cendant Corp.	2000	\$3,692	\$342	\$467	\$324
4	Tyco International, Ltd.	2007	\$3,200	No codefendant	\$225	\$493
5	Petróleo Brasileiro S.A.—Petrobras	2018	\$3,000	\$0	\$50	\$205
6	AOL Time Warner Inc.	2006	\$2,650	No codefendant	\$100	\$151
7	Bank of America Corp.	2013	\$2,425	No codefendant	No codefendant	\$177
8	Household International, Inc.	2006–2016	\$1,577	Dismissed	Dismissed	\$427
9	Nortel Networks (I)	2006	\$1,143	No codefendant	\$0	\$94
10	Royal Ahold, NV	2006	\$1,100	\$0	\$0	\$170
	<b>Total</b>		<b>\$32,224</b>	<b>\$13,249</b>	<b>\$1,017</b>	<b>\$3,368</b>

### Aggregate Settlements

We use the term “aggregate settlements” to denote the total amount of money to be paid to settle litigation by (non-dismissed) defendants based on the court-approved settlements during a year.

Aggregate settlements rebounded to nearly \$5.3 billion in 2018, more than double the 2017 total (see Figure 26). More than 80% of the growth stems from the \$3.0 billion Petrobras settlement. Excluding Petrobras and Wells Fargo, aggregate settlements are near the 2017 record low, reflecting a persistent slowdown in overall settlement activity.

Figure 26. **Aggregate Settlement Value by Settlement Size**  
January 2009–December 2018



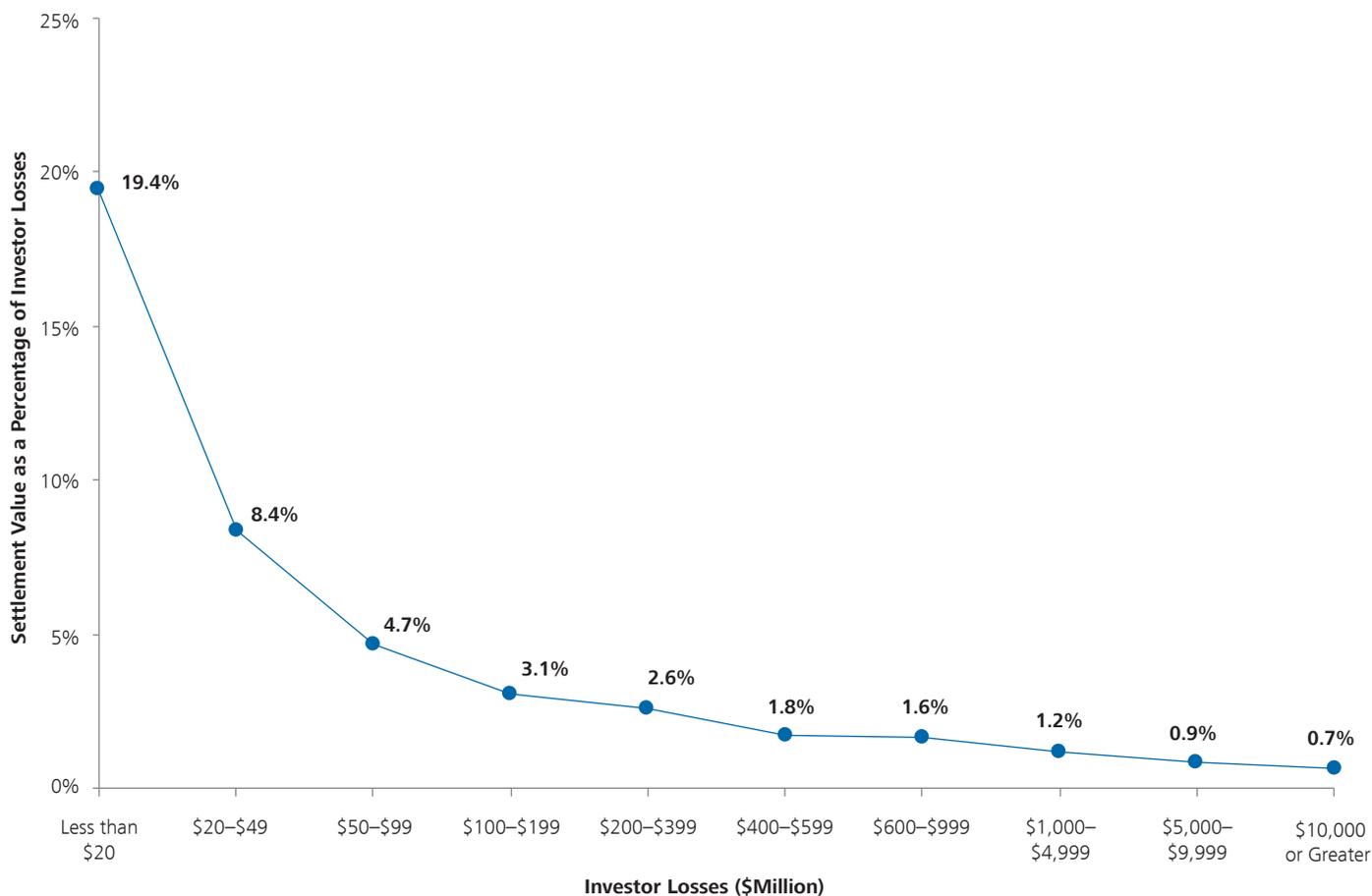
**NERA-Defined Investor Losses vs. Settlements**

As noted above, our proxy for case size, NERA-defined Investor Losses, is a measure of the aggregate amount investors lost from buying the defendant’s stock rather than investing in the broader market during the alleged class period.

In general, settlement size grows as NERA-defined Investor Losses grow, but the relationship is not linear. Based on our analysis of data from 1996 to 2018, settlement size grows less than proportionately with Investor Losses. In particular, small cases typically settle for a higher fraction of Investor Losses (i.e., more cents on the dollar) than larger cases. For example, the ratio of settlement to Investor Loss for the median case was 19.4% for cases with Investor Losses of less than \$20 million, while it was 0.7% for cases with Investor Losses over \$10 billion (see Figure 27).

Our findings about the ratio of settlement amount to NERA-defined Investor Losses should not be interpreted as the share of damages recovered in settlement, but rather as the recovery compared to a rough measure of the “size” of the case. Notably, the percentages given here apply *only* to NERA-defined Investor Losses. Using a different definition of investor losses would result in a different ratio. Also, the use of the ratio alone to forecast the likely settlement amount would be inferior to a proper all-encompassing analysis of the various characteristics shown to impact settlement amounts, as discussed in the section *Explaining Settlement Values*.

Figure 27. **Median of Settlement Value as a Percentage of NERA-Defined Investor Losses by Level of Investor Losses**  
 Excludes Settlements for \$0 to the Class  
 January 1996–December 2018

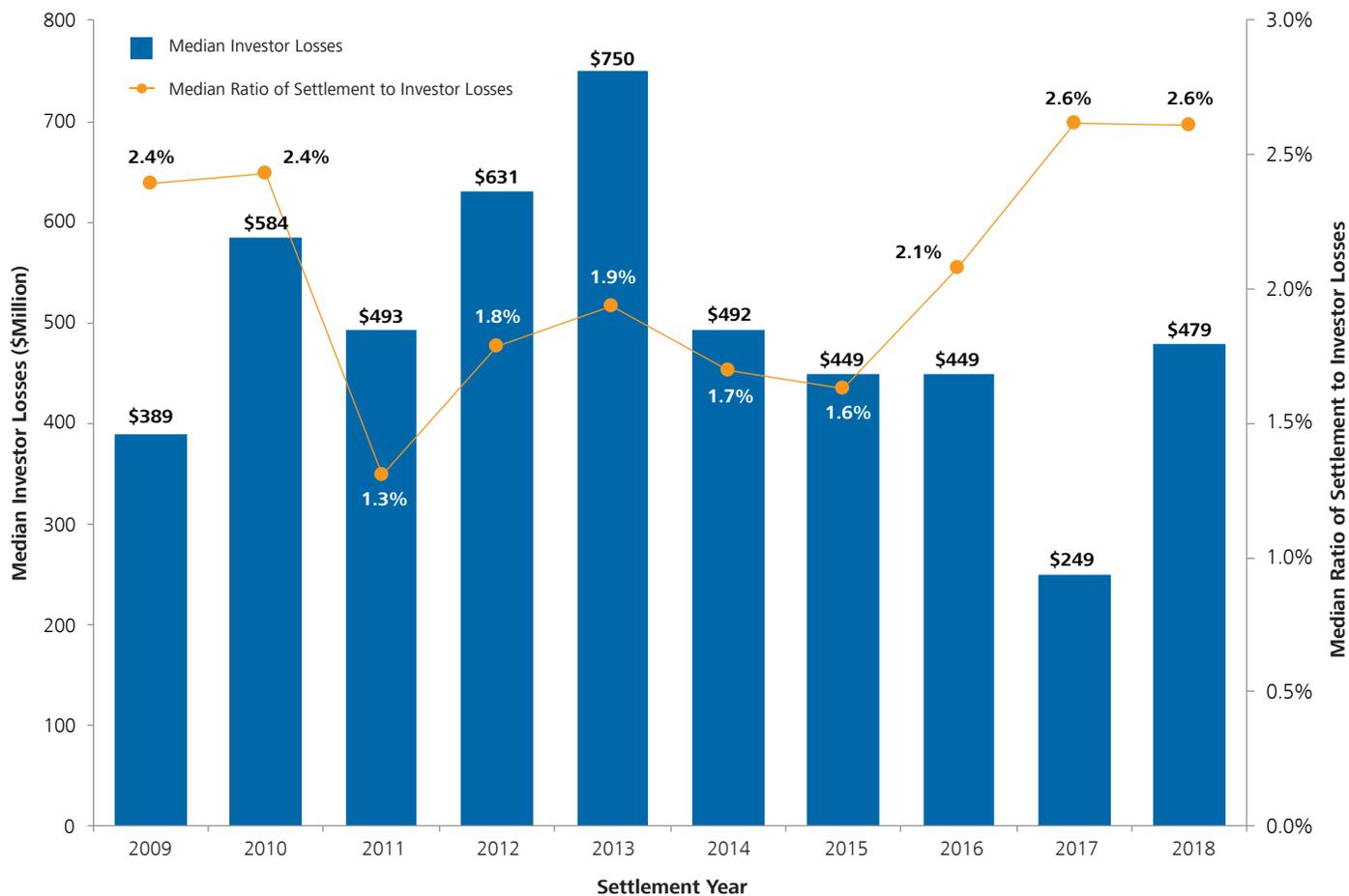


### Median NERA-Defined Investor Losses over Time

Prior to 2014, median NERA-defined Investor Losses for settled cases had been on an upward trajectory since the passage of the PSLRA. As described above, the median ratio of settlement size to Investor Losses generally decreases as Investor Losses increase. Over time, the increase in median Investor Losses coincided with a decreasing trend in the median ratio of settlement to Investor Losses. Of course, there are also year-to-year fluctuations.

As shown in Figure 28, the median ratio of settlements to NERA-defined Investor Losses was 2.6% in 2018. This was the third consecutive year of at least a short-term reversal of a long-term downtrend of the ratio between passage of the PSLRA and 2015.

Figure 28. **Median NERA-Defined Investor Losses and Median Ratio of Settlement to Investor Losses by Settlement Year**  
January 2009–December 2018



### Explaining Settlement Amounts

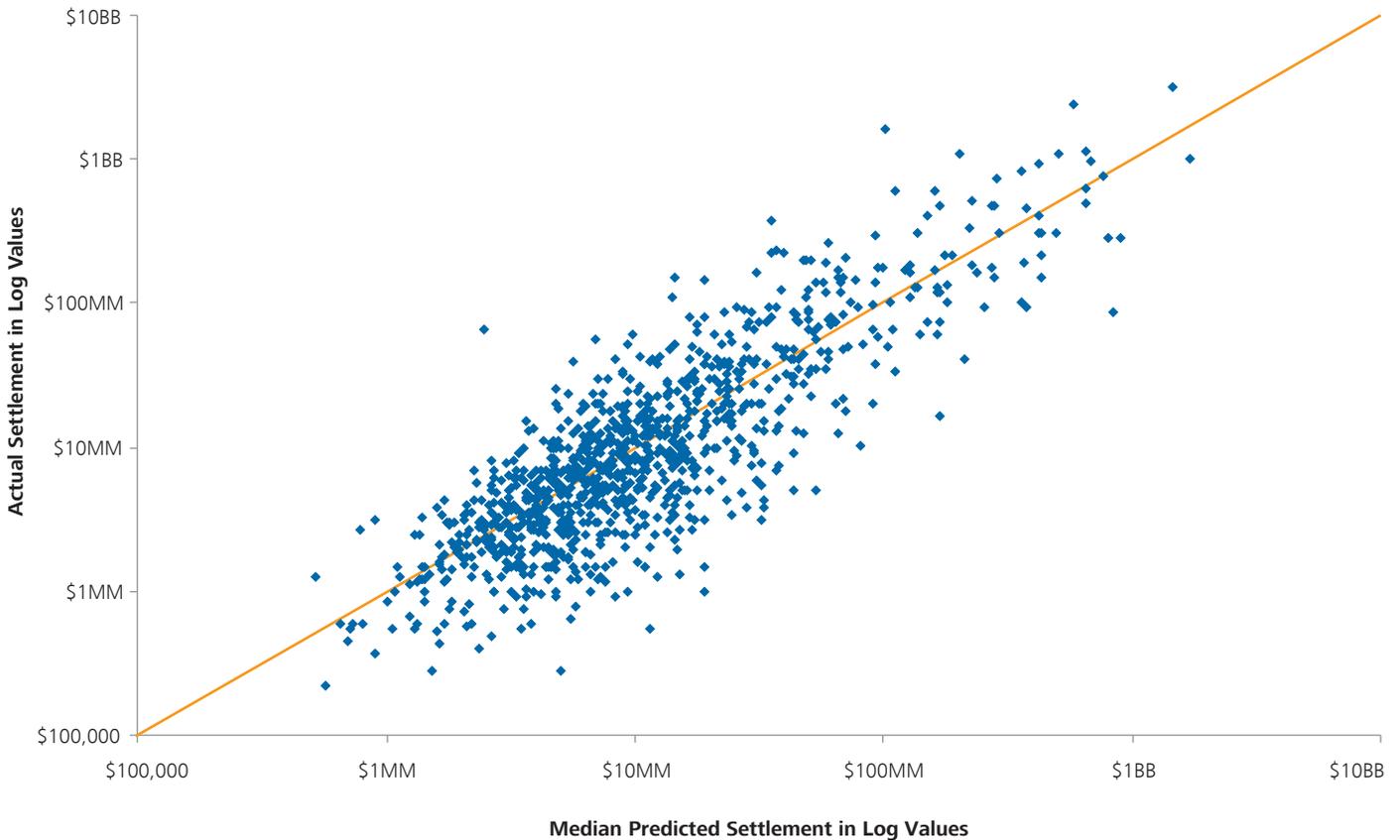
The historical relationship between case attributes and other case- and industry-specific factors can be used to measure the factors correlated with settlement amounts. NERA has examined settlements in more than 1,000 securities class actions and identified key drivers of settlement amounts, many of which have been summarized in this report.

Generally, we find that the following factors have historically been significantly correlated with settlements:

- NERA-defined Investor Losses (a proxy for the size of the case);
- The market capitalization of the issuer;
- Types of securities alleged to have been affected by the fraud;
- Variables that serve as a proxy for the “merit” of plaintiffs’ allegations (such as whether the company has already been sanctioned by a governmental or regulatory agency or paid a fine in connection with the allegations);
- Admitted accounting irregularities or restated financial statements;
- The existence of a parallel derivative litigation; and
- An institution or public pension fund as lead plaintiff.

Together, these characteristics and others explain most of the variation in settlement amounts, as illustrated in Figure 29.<sup>28</sup>

Figure 29. **Predicted vs. Actual Settlements**

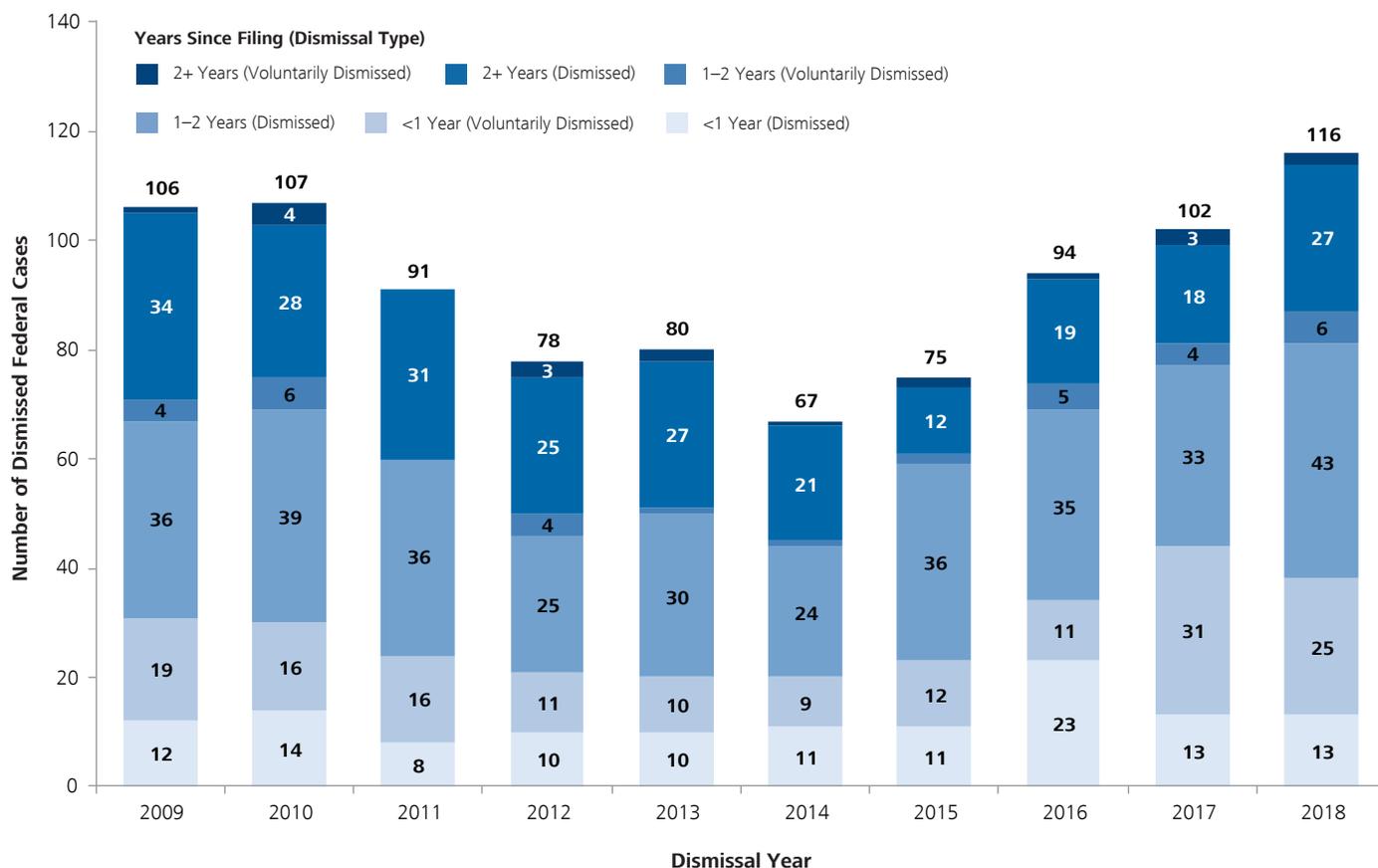


## Trends in Dismissals

The elevated rate of case dismissal persisted in 2018 (excluding merger objections), with more than 100 dismissals for the second consecutive year (see Figure 30). This partially stems from more cases being filed over the past couple of years, as 75% of dismissals are of cases less than two years old. Additionally, there were 25 voluntary dismissals within a year of filing, an elevated rate for the second year in a row.

Figure 30. **Number of Dismissed Cases by Case Age**

Excludes Merger Objections  
January 2009–December 2018



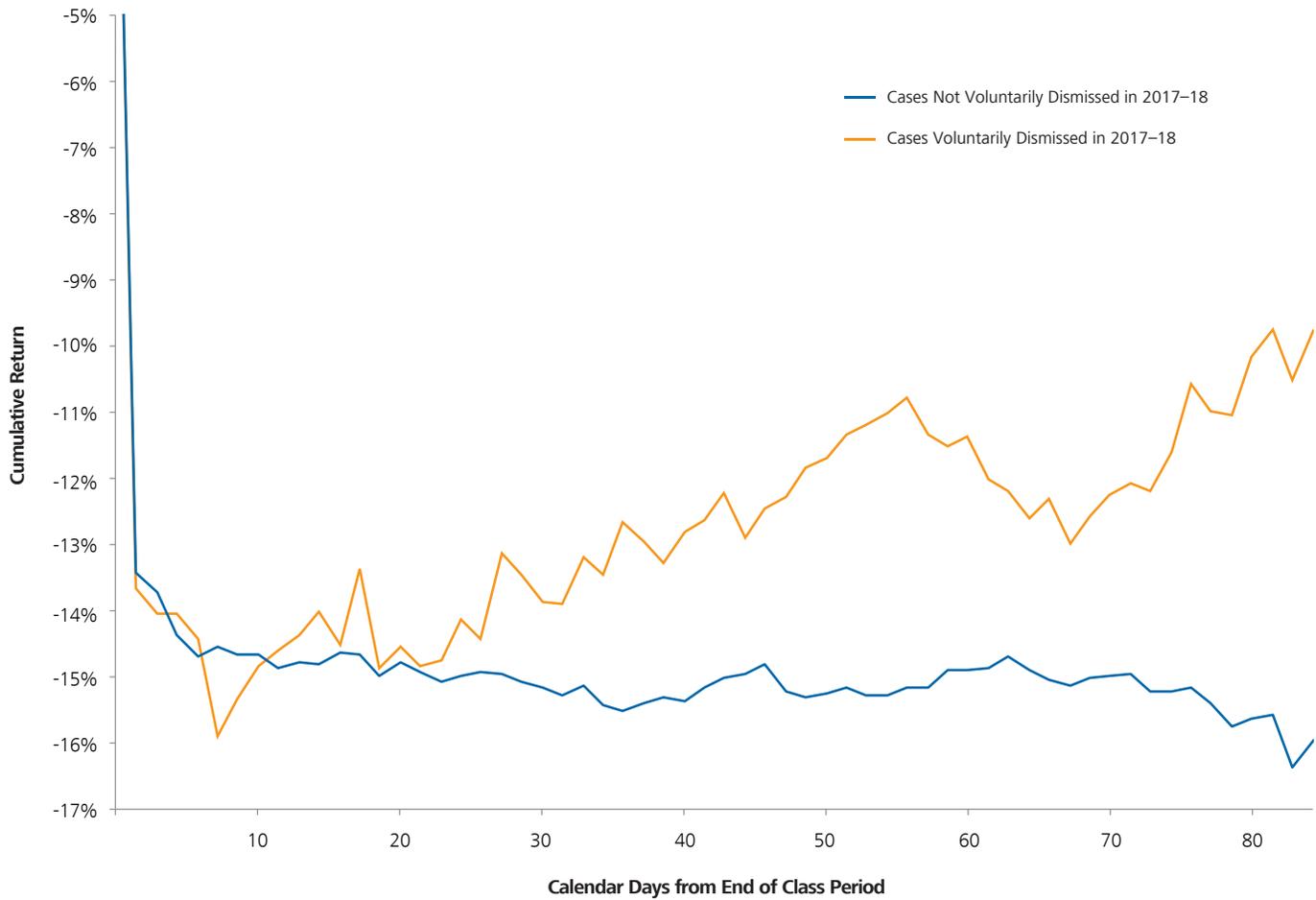
In 2018, about 12% of Standard cases were filed and resolved within the same calendar year, the second-highest rate in at least a decade (after 2017). By the end of the year, 8% of cases were voluntarily dismissed (down from 11% in 2017, but double the 2012–2016 average). Plaintiffs' voluntary dismissal of a case may be a result of perceived case weakness or changes in financial incentives. Recent research also documented forum selection by plaintiffs as a driver of voluntary dismissal without prejudice.<sup>29</sup>

The incentive for plaintiffs (and/or their counsel) to proceed with litigation may change with estimated damages to the class and expected recoveries since filing. For instance, the PSLRA 90-day bounce-back provision caps the award of damages to plaintiffs by the difference between the purchase price of a security and the mean trading price of the security during the 90-day period beginning on the date of the alleged corrective disclosure.

Since most securities class actions are filed well before the end of the bounce-back period (see Figure 14 for time-to-file metrics), plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases. As shown in Figure 31, in 2017 and 2018, the 90-day return of securities underlying cases voluntarily dismissed was about seven percentage points greater, on average, than securities underlying cases not voluntarily dismissed.<sup>30</sup>

The rate of voluntary dismissals was not particularly concentrated in terms of jurisdiction or the specific allegations we track.

Figure 31. **Average PSLRA Bounce-Back Period Returns of Voluntary Dismissals**  
 Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, or Section 12  
 January 2017–December 2018



Note: To control for the impact of outliers on the average of each group, for each day the most extreme 5% of cumulative returns are dropped. Observations on the three final trading days of the bounce-back period for each category are dropped due to incomplete return data.

## Trends in Attorneys’ Fees

### Plaintiffs’ Attorneys’ Fees and Expenses

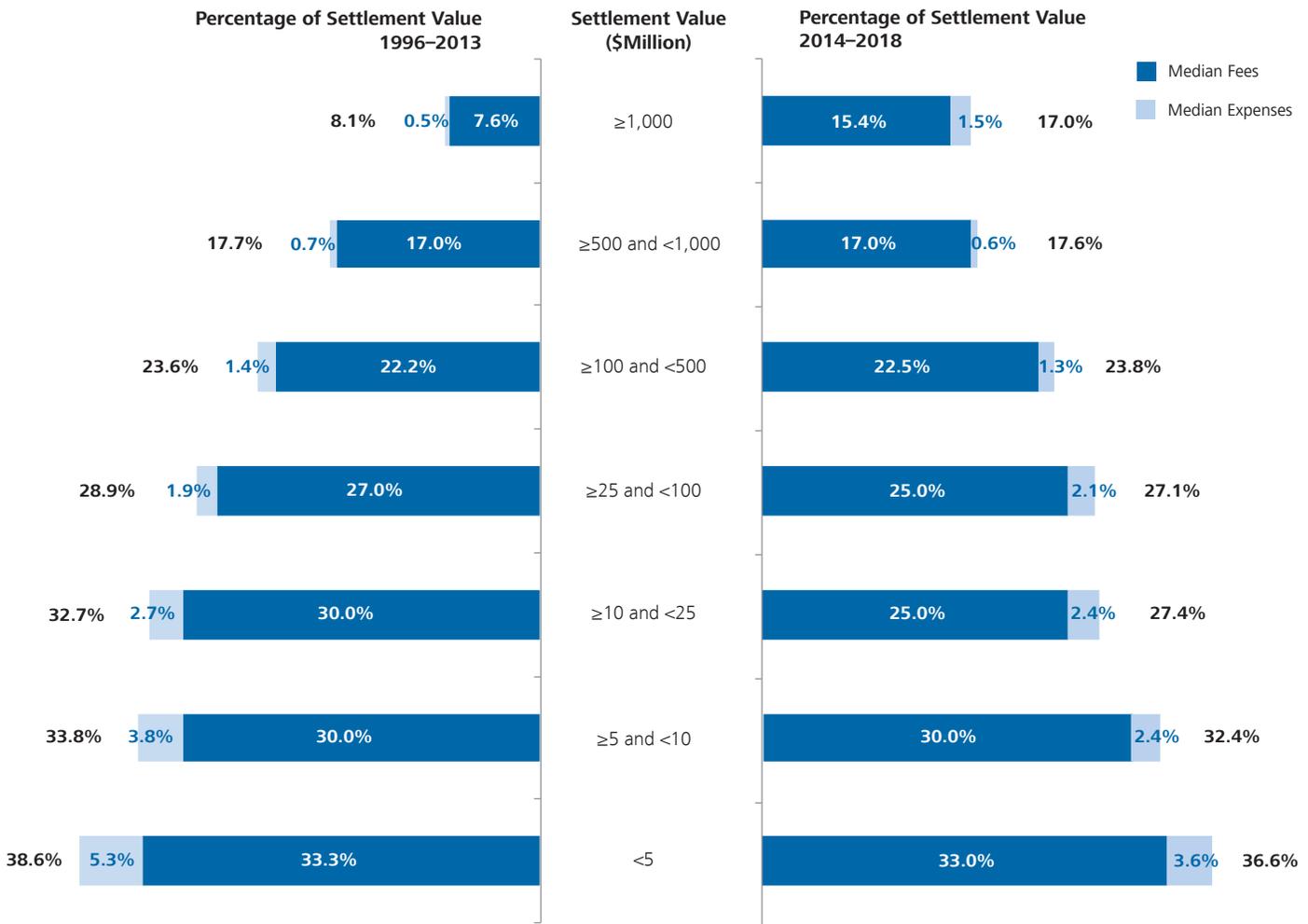
Usually, plaintiffs’ attorneys’ remuneration is determined as a fraction of any settlement amount in the form of fees, plus expenses. Figure 32 depicts plaintiffs’ attorneys’ fees and expenses as a proportion of settlement values over ranges of settlement amounts. The data shown in this figure excludes settlements for merger-objection cases and cases with no cash payment to the class.

A strong pattern is evident in Figure 32; typically, fees grow with settlement size, but less than proportionally (i.e., the fee percentage shrinks as the settlement size grows).

To illustrate that the fee percentage typically shrinks as settlement size grows, we grouped settlements by settlement value and reported the median fee percentage for each group. While fees are stable at around 30% of settlement values for settlements below \$10 million, this percentage declines as settlement size increases.

We also observe that fee percentages have been decreasing over time, except for fees awarded on very large settlements. For settlements above \$1 billion, fee rates have increased.

Figure 32. **Median of Plaintiffs’ Attorneys’ Fees and Expenses by Size of Settlement**  
 Excludes Merger Objections and Settlements for \$0 to the Class



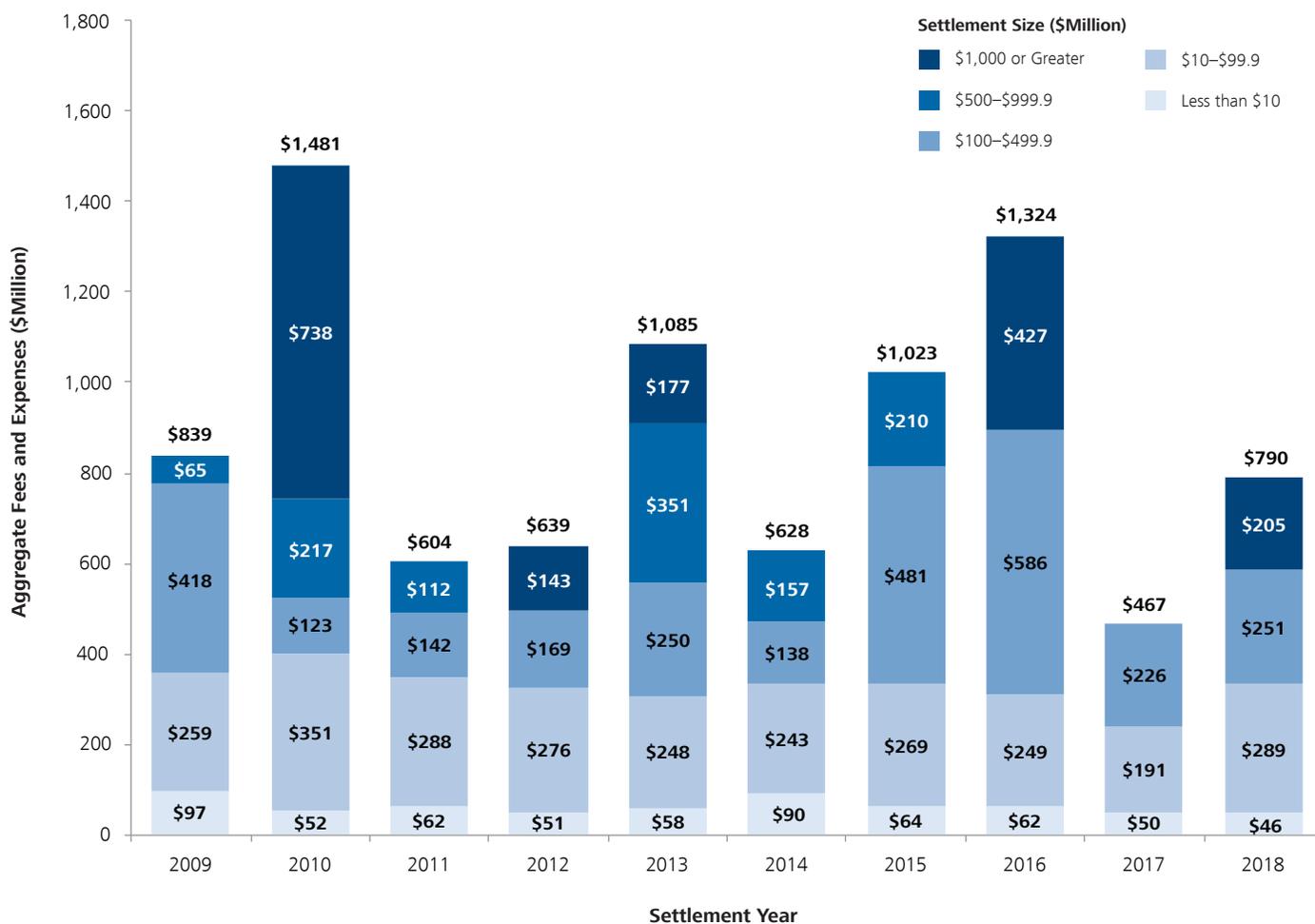
### Aggregate Plaintiffs’ Attorneys’ Fees and Expenses

Aggregate plaintiffs’ attorneys’ fees and expenses are the sum of all fees and expenses received by plaintiffs’ attorneys for all securities class actions that receive judicial approval in a given year.

In 2018, aggregate plaintiffs’ attorneys’ fees and expenses were \$790 million, about 70% higher than in 2017 (see Figure 33). The increase in fees partially reflects the rebound in settlements, but fees grew substantially less than the near-tripling of aggregate settlements. This is partially due to the outsized impact of the \$3 billion Petrobras settlement, one of several mega-settlements that historically generates lower fees as a percentage of settlement value.

Note that Figure 33 differs from the other figures in this section because the aggregate includes fees and expenses that plaintiffs’ attorneys receive for settlements in which no cash payment was made to the class.

Figure 33. **Aggregate Plaintiffs’ Attorneys’ Fees and Expenses by Settlement Size**  
January 2009–December 2018



## Notes

- <sup>1</sup> This edition of NERA's report on recent trends in securities class action litigation expands on previous work by our colleagues Lucy Allen, Dr. Vinita Juneja, Dr. Denise Neumann Martin, Dr. Jordan Milev, Robert Patton, Dr. Stephanie Planchich, and others. The authors also thank Dr. Milev for helpful comments on this edition. These individuals receive credit for improving this paper; all errors and omissions are ours.
- <sup>2</sup> Data for this report are collected from multiple sources, including Institutional Shareholder Services Inc., complaints, case dockets, Dow Jones Factiva, Bloomberg Finance L.P., FactSet Research Systems, Inc., Nasdaq, Inc., Intercontinental Exchange, Inc., US Securities and Exchange Commission (SEC) filings, and public press reports.
- <sup>3</sup> *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- <sup>4</sup> Craig Doidge, G. Andrew Karolyi, and René M. Stulz, "The U.S. Listing Gap," National Bureau of Economic Research Working Paper No. 21181, May 2015.
- <sup>5</sup> *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- <sup>6</sup> For M&A statistics, see "Mergers & Acquisitions Review: First Nine Months 2018," Thomson Reuters, October 2018, available at [http://dmi.thomsonreuters.com/Content/Files/3Q2018\\_MA\\_Legal\\_Advisor\\_Review.pdf](http://dmi.thomsonreuters.com/Content/Files/3Q2018_MA_Legal_Advisor_Review.pdf).
- <sup>7</sup> *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- <sup>8</sup> Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016.
- <sup>9</sup> Warren S. de Wied, "Delaware Forum Selection Bylaws After Trulia," Harvard Law School Forum on Corporate Governance and Financial Regulation, 25 February 2016.
- <sup>10</sup> *In re: Walgreen Co. Stockholder Litigation*, No. 15-3799 (7th Cir. Aug. 10, 2016).
- <sup>11</sup> Federal securities class actions that allege violations of Rule 10b-5, Section 11, and/or Section 12 have historically dominated federal securities class action dockets and often been referred to as "Standard" cases.
- <sup>12</sup> *Cyan, Inc. v. Beaver County Employees Retirement Fund*, Supreme Court No. 15-1439.
- <sup>13</sup> See Restoration Robotics Inc. SEC Form 8-K, filed 17 October 2017, and Snap, Inc. SEC Form S-1, filed 2 February 2017.
- <sup>14</sup> Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.
- <sup>15</sup> Industries with fewer than 25 firms listed on US exchanges are dropped.
- <sup>16</sup> For M&A statistics, see "Mergers & Acquisitions Review, Full Year 2017," Thomson Reuters, December 2017.
- <sup>17</sup> For M&A statistics, see "Mergers & Acquisitions Review, First Nine Months 2018," Thomson Reuters, October 2018.
- <sup>18</sup> "SAC to pay \$1.8 billion to settle insider trading charges," Chicago Tribune, 4 November 2013, available at <https://www.chicagotribune.com/business/ct-xpm-2013-11-04-chi-sac-to-pay-18-billion-to-settle-insider-trading-charges-20131104-story.html>.
- <sup>19</sup> Filings indicate that most firms in the SP 500 have adopted 10b5-1 plans as of 2014. See "Balancing Act: Trends in 10b5-1 Adoption and Oversight Article," Morgan Stanley, 2019.
- <sup>20</sup> This case was filed after the SEC filed a complaint, more than four years after the end of the proposed class period, which plaintiffs in the class action state first revealed the alleged fraud.
- <sup>21</sup> Outcomes of the motions for summary judgment are available from NERA but are not shown in this report.
- <sup>22</sup> *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- <sup>23</sup> Active cases equals the sum of pending cases at the beginning of 2018 plus those filed during the year.
- <sup>24</sup> Nearly 90% of cases filed before 2012 have been resolved, providing evidence of longer-term trends about dismissal and settlement rates. Data since then is inconclusive given pending litigation.
- <sup>25</sup> We only consider pending litigation filed after the PSLRA.
- <sup>26</sup> These metrics exclude merger objections.
- <sup>27</sup> Each of the metrics in the *Time to Resolution* sub-section exclude IPO laddering cases and merger-objection cases because the former usually take much longer to resolve and the latter are usually much shorter to resolve.
- <sup>28</sup> The axes are in logarithmic scale, and the two largest settlements are excluded from this figure.
- <sup>29</sup> Commentary regarding a 2017 ruling in the Southern District of New York indicated that "[p]laintiffs in [*Cheung v. Bristol-Myers Squibb*] had originally filed their lawsuits in a federal district court, but after the federal district court issued a ruling that was unfavorable for the plaintiffs, the plaintiffs voluntarily dismissed their lawsuits without prejudice and then refiled them in Delaware state court." See Colin E. Wrabley and Joshua T. Newborn, "Getting Your Company's Case Removed to Federal Court When Sued in Your 'Home' State," *The Legal Intelligencer*, 19 December 2017. The case referred to is *Cheung v. Bristol-Myers Squibb*, Case No. 17cv6223(DLC), (S.D.N.Y. Oct. 12, 2017).
- <sup>30</sup> To control for the impact of outliers on the average of each group, for each day the most extreme 5% of daily cumulative returns are dropped. Observations on the three final days of the bounce-back period for each category are dropped due to incomplete return data.

## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

## Contacts

For further information, please contact:

### **Dr. David Tabak**

Managing Director  
New York City: +1 212 345 2176  
[david.tabak@nera.com](mailto:david.tabak@nera.com)

### **Stefan Boettrich**

Senior Consultant  
New York City: +1 212 345 1968  
[stefan.boettrich@nera.com](mailto:stefan.boettrich@nera.com)

### **Svetlana Starykh**

Senior Consultant  
White Plains, NY: +1 914 448 4123  
[svetlana.starykh@nera.com](mailto:svetlana.starykh@nera.com)

*The opinions expressed herein do not necessarily represent the views of NERA Economic Consulting or any other NERA consultant.*



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# Exhibit 4



## Applied Optoelectronics, Inc. (NasdaqGM:AAOI) > Financials > Income Statement

In Millions of the reported currency, except per share items.

**Template:** Standard  
**Period Type:** Quarterly  
**Currency:** Reported Currency  
**Units:** S&P Capital IQ (Default)  
**Source:** Capital IQ & Proprietary Data

**Restatement:** Latest Filings  
**Order:** Latest on Right  
**Conversion:** Historical  
**Decimals:** Capital IQ (Default)

<b>Income Statement</b>									
For the Fiscal Period Ending	3 months	3 months	3 months	3 months	3 months	3 months	3 months	3 months	3 months
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Currency	Sep-30-2018	Dec-31-2018	Mar-31-2019	Jun-30-2019	Sep-30-2019	Dec-31-2019	Mar-31-2020	Jun-30-2020	Sep-30-2019
	USD	USD	USD	USD	USD	USD	USD	USD	USD
Revenue	56.4	58.0	52.7	43.4	46.1	48.7	40.5	65.2	
Other Revenue	-	-	-	-	-	-	-	-	
<b>Total Revenue</b>	<b>56.4</b>	<b>58.0</b>	<b>52.7</b>	<b>43.4</b>	<b>46.1</b>	<b>48.7</b>	<b>40.5</b>	<b>65.2</b>	
Cost Of Goods Sold	38.8	47.5	40.4	32.9	34.1	37.3	34.1	51.5	
<b>Gross Profit</b>	<b>17.5</b>	<b>10.5</b>	<b>12.4</b>	<b>10.5</b>	<b>12.0</b>	<b>11.3</b>	<b>6.3</b>	<b>13.7</b>	
Selling General & Admin Exp.	13.0	11.5	13.0	13.2	12.5	12.8	13.6	14.0	
R & D Exp.	14.2	11.3	11.2	11.2	10.5	10.6	10.6	10.8	
Depreciation & Amort.	-	-	-	-	-	-	-	-	
Other Operating Expense/(Income)	-	-	-	-	-	-	-	-	
<b>Other Operating Exp., Total</b>	<b>27.1</b>	<b>22.8</b>	<b>24.2</b>	<b>24.4</b>	<b>23.0</b>	<b>23.4</b>	<b>24.1</b>	<b>24.8</b>	
<b>Operating Income</b>	<b>(9.6)</b>	<b>(12.3)</b>	<b>(11.9)</b>	<b>(13.8)</b>	<b>(11.0)</b>	<b>(12.1)</b>	<b>(17.8)</b>	<b>(11.1)</b>	
Interest Expense	(0.3)	(0.5)	(1.0)	(1.5)	(1.5)	(1.4)	(1.5)	(1.5)	
Interest and Invest. Income	0.1	0.1	0.1	0.3	0.3	0.2	0.1	0.0	
<b>Net Interest Exp.</b>	<b>(0.2)</b>	<b>(0.4)</b>	<b>(0.9)</b>	<b>(1.2)</b>	<b>(1.2)</b>	<b>(1.2)</b>	<b>(1.3)</b>	<b>(1.4)</b>	
Currency Exchange Gains (Loss)	0.5	(0.1)	(0.2)	0.2	0.3	(0.3)	0.1	0.1	
Other Non-Operating Inc. (Exp.)	0.2	0.6	0.1	0.2	1.1	0.4	0.1	0.9	
<b>EBT Excl. Unusual Items</b>	<b>(9.0)</b>	<b>(12.2)</b>	<b>(12.9)</b>	<b>(14.6)</b>	<b>(10.7)</b>	<b>(13.2)</b>	<b>(18.8)</b>	<b>(11.6)</b>	
Impairment of Goodwill	-	-	-	-	-	-	-	-	
Gain (Loss) On Sale Of Assets	-	0	0	-	-	0	-	0	
Other Unusual Items	-	-	-	-	-	-	-	-	
<b>EBT Incl. Unusual Items</b>	<b>(9.0)</b>	<b>(12.2)</b>	<b>(12.9)</b>	<b>(14.6)</b>	<b>(10.7)</b>	<b>(13.2)</b>	<b>(18.8)</b>	<b>(11.6)</b>	
Income Tax Expense	(5.3)	(3.6)	(2.5)	(3.2)	(1.9)	22.3	(2.0)	7.0	
<b>Earnings from Cont. Ops.</b>	<b>(3.7)</b>	<b>(8.6)</b>	<b>(10.5)</b>	<b>(11.4)</b>	<b>(8.8)</b>	<b>(35.4)</b>	<b>(16.8)</b>	<b>(18.6)</b>	
Earnings of Discontinued Ops.	-	-	-	-	-	-	-	-	
Extraord. Item & Account. Change	-	-	-	-	-	-	-	-	
<b>Net Income to Company</b>	<b>(3.7)</b>	<b>(8.6)</b>	<b>(10.5)</b>	<b>(11.4)</b>	<b>(8.8)</b>	<b>(35.4)</b>	<b>(16.8)</b>	<b>(18.6)</b>	
Minority Int. in Earnings	-	-	-	-	-	-	-	-	
<b>Net Income</b>	<b>(3.7)</b>	<b>(8.6)</b>	<b>(10.5)</b>	<b>(11.4)</b>	<b>(8.8)</b>	<b>(35.4)</b>	<b>(16.8)</b>	<b>(18.6)</b>	
Pref. Dividends and Other Adj.	-	-	-	-	-	-	-	-	
<b>NI to Common Incl Extra Items</b>	<b>(3.7)</b>	<b>(8.6)</b>	<b>(10.5)</b>	<b>(11.4)</b>	<b>(8.8)</b>	<b>(35.4)</b>	<b>(16.8)</b>	<b>(18.6)</b>	

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<b>NI to Common Excl. Extra Items</b>	<b>(3.7)</b>	<b>(8.6)</b>	<b>(10.5)</b>	<b>(11.4)</b>	<b>(8.8)</b>	<b>(35.4)</b>	<b>(16.8)</b>	<b>(18.6)</b>
<b>Per Share Items</b>								
Basic EPS	(\$0.19)	(\$0.43)	(\$0.53)	(\$0.57)	(\$0.44)	(\$1.76)	(\$0.83)	(\$0.89)
Basic EPS Excl. Extra Items	(0.19)	(0.43)	(0.53)	(0.57)	(0.44)	(1.76)	(0.83)	(0.89)
Weighted Avg. Basic Shares Out.	19.7	19.8	19.9	19.9	20.0	20.1	20.2	20.9
Diluted EPS	(\$0.19)	(\$0.43)	(\$0.53)	(\$0.57)	(\$0.44)	(\$1.76)	(\$0.83)	(\$0.89)
Diluted EPS Excl. Extra Items	(0.19)	(0.43)	(0.53)	(0.57)	(0.44)	(1.76)	(0.83)	(0.89)
Weighted Avg. Diluted Shares Out.	19.7	19.8	19.9	19.9	20.0	20.1	20.2	20.9
Normalized Basic EPS	(\$0.29)	(\$0.39)	(\$0.41)	(\$0.46)	(\$0.33)	(\$0.41)	(\$0.58)	(\$0.35)
Normalized Diluted EPS	(0.29)	(0.39)	(0.41)	(0.46)	(0.33)	(0.41)	(0.58)	(0.35)
Dividends per Share	NA	NA	NA	NA	NA	NA	NA	NA
<b>Supplemental Items</b>								
EBITDA	(2.1)	(4.4)	(5.9)	(7.8)	(5.0)	(6.0)	(11.8)	(5.0)
EBITA	(9.5)	(12.2)	(11.8)	(13.6)	(10.9)	(12.0)	(17.7)	(10.9)
EBIT	(9.6)	(12.3)	(11.9)	(13.8)	(11.0)	(12.1)	(17.8)	(11.1)
EBITDAR	NA	NA	(5.6)	(7.4)	(4.7)	NA	(11.4)	(4.7)
Effective Tax Rate %	NM	NM	NM	NM	NM	NM	NM	NM
Current Domestic Taxes	NA	0.1	NA	NA	NA	0.0	NA	NA
Current Foreign Taxes	NA	1.3	NA	NA	NA	0.1	NA	NA
Total Current Taxes	-	1.4	-	-	-	0.1	-	-
Deferred Domestic Taxes	NA	(6.3)	NA	NA	NA	18.1	NA	NA
Deferred Foreign Taxes	NA	(2.7)	NA	NA	NA	(3.5)	NA	NA
Total Deferred Taxes	-	(9.1)	(2.5)	-	-	14.5	-	-
Normalized Net Income	(5.6)	(7.6)	(8.1)	(9.1)	(6.7)	(8.2)	(11.8)	(7.2)
Interest on Long Term Debt	0.3	NA	1.0	1.5	1.5	NA	1.8	1.5
Filing Date	Nov-07-2019	Feb-28-2020	May-08-2020	Aug-06-2020	Nov-07-2019	Feb-28-2020	May-08-2020	Aug-06-2020
Restatement Type	NC	NC	NC	NC	O	O	O	O
Calculation Type	REP	Q4	REP	REP	REP	Q4	REP	REP
<b>Supplemental Operating Expense Items</b>								
Selling and Marketing Exp.	2.4	1.9	2.6	2.3	2.5	2.6	2.9	3.4
General and Administrative Exp.	10.6	9.6	10.4	10.9	10.0	10.2	10.6	10.6
R&D Exp.	14.2	11.3	11.2	11.2	10.5	10.6	10.6	10.8
Net Rental Exp.	NA	NA	0.4	0.4	0.3	NA	0.3	0.3
Stock-Based Comp., COGS	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Stock-Based Comp., R&D Exp.	0.6	0.5	0.6	0.7	0.6	0.6	0.7	0.7
Stock-Based Comp., S&M Exp.	0.2	0.3	0.3	0.3	0.3	0.2	0.3	0.3
Stock-Based Comp., G&A Exp.	1.9	1.8	1.8	1.9	1.9	1.8	2.0	2.1
<b>Stock-Based Comp., Total</b>	<b>2.9</b>	<b>2.8</b>	<b>2.9</b>	<b>3.0</b>	<b>3.0</b>	<b>2.9</b>	<b>3.2</b>	<b>3.3</b>

Note: For multiple class companies, per share items are primary class equivalent, and for foreign companies listed as primary ADRs, per share items are ADR-equivalent.



## Applied Optoelectronics, Inc. (NasdaqGM:AAOI) > Financials > Balance Sheet

In Millions of the reported currency, except per share items.

**Template:** Standard  
**Period Type:** Quarterly  
**Currency:** Reported Currency  
**Units:** S&P Capital IQ (Default)  
**Source:** Capital IQ & Proprietary Data

**Restatement:** Latest Filings  
**Order:** Latest on Right  
**Conversion:** Historical  
**Decimals:** Capital IQ (Default)

<b>Balance Sheet</b>	
Balance Sheet as of:	Q2
	Jun-30-2020
<b>Currency</b>	<b>USD</b>
<b>ASSETS</b>	
Cash And Equivalents	51.1
<b>Total Cash &amp; ST Investments</b>	<b>51.1</b>
Accounts Receivable	50.0
<b>Total Receivables</b>	<b>50.0</b>
Inventory	97.3
Prepaid Exp.	6.6
Restricted Cash	7.8
Other Current Assets	0.2
<b>Total Current Assets</b>	<b>213.0</b>
Gross Property, Plant & Equipment	378.6
Accumulated Depreciation	(126.8)
<b>Net Property, Plant &amp; Equipment</b>	<b>251.8</b>
Other Intangibles	9.5
Deferred Tax Assets, LT	2.1
Other Long-Term Assets	1.7
<b>Total Assets</b>	<b>478.1</b>
<b>LIABILITIES</b>	
Accounts Payable	51.2
Accrued Exp.	13.6
Short-term Borrowings	14.9
Curr. Port. of LT Debt	37.2
Curr. Port. of Leases	1.0
Curr. Income Taxes Payable	0.7
Other Current Liabilities	1.2
<b>Total Current Liabilities</b>	<b>119.8</b>
Long-Term Debt	93.0
Long-Term Leases	7.9
Other Non-Current Liabilities	-

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<b>Total Liabilities</b>	<b>220.6</b>
Common Stock	0.0
Additional Paid In Capital	323.4
Retained Earnings	(65.5)
Treasury Stock	-
Comprehensive Inc. and Other	(0.5)
<b>Total Common Equity</b>	<b>257.5</b>
<b>Total Equity</b>	<b>257.5</b>
<b>Total Liabilities And Equity</b>	<b>478.1</b>
<b>Supplemental Items</b>	
Total Shares Out. on Filing Date	22.8
Total Shares Out. on Balance Sheet Date	21.9
Book Value/Share	\$11.73
Tangible Book Value	248.0
Tangible Book Value/Share	\$11.3
Total Debt	153.9
Net Debt	102.8
Raw Materials Inventory	33.8
Work in Progress Inventory	53.0
Finished Goods Inventory	10.4
Land	1.1
Buildings	84.4
Machinery	256.3
Construction in Progress	28.4
Accum. Allowance for Doubtful Accts	0.0
Filing Date	Aug-06-2020
Restatement Type	O
Calculation Type	REP

Note: For multiple class companies, total share counts are primary class equivalent, and for foreign companies listed as primary ADRs, total share counts are ADR-equivalent.



## Applied Optoelectronics, Inc. (NasdaqGM:AAOI) > Financials > Cash Flow

In Millions of the reported currency, except per share items.

**Template:** Standard  
**Period Type:** Quarterly  
**Currency:** Reported Currency  
**Units:** S&P Capital IQ (Default)  
**Source:** Capital IQ & Proprietary Data

**Restatement:** Latest Filings  
**Order:** Latest on Right  
**Conversion:** Historical  
**Decimals:** Capital IQ (Default)

<b>Cash Flow</b>	
	<b>3 months</b>
<b>For the Fiscal Period Ending</b>	<b>Q2</b>
	<b>Jun-30-2020</b>
<b>Currency</b>	<b>USD</b>
<b>Net Income</b>	<b>(18.6)</b>
Depreciation & Amort.	5.9
Amort. of Goodwill and Intangibles	0.2
<b>Depreciation &amp; Amort., Total</b>	<b>6.1</b>
Other Amortization	0.2
(Gain) Loss From Sale Of Assets	0.0
Stock-Based Compensation	3.3
Provision & Write-off of Bad debts	0
Other Operating Activities	8.3
Change in Acc. Receivable	(18.5)
Change In Inventories	(10.8)
Change in Acc. Payable	9.3
Change in Inc. Taxes	0.2
Change in Other Net Operating Assets	5.1
<b>Cash from Ops.</b>	<b>(15.5)</b>
Capital Expenditure	(5.9)
Sale of Property, Plant, and Equipment	0
Cash Acquisitions	-
Divestitures	-
Sale (Purchase) of Intangible assets	(0.1)
Invest. in Marketable & Equity Secur.	-
Net (Inc.) Dec. in Loans Originated/Sold	-
Other Investing Activities	-
<b>Cash from Investing</b>	<b>(6.0)</b>
Short Term Debt Issued	-
Long-Term Debt Issued	-
<b>Total Debt Issued</b>	<b>40.8</b>
Short Term Debt Repaid	-
Long-Term Debt Repaid	-
<b>Total Debt Repaid</b>	<b>(36.4)</b>

## S&P Capital IQ

Issuance of Common Stock	13.9
Repurchase of Common Stock	(0.2)
<b>Total Dividends Paid</b>	<u>-</u>
Special Dividend Paid	-
Other Financing Activities	0.1
<b>Cash from Financing</b>	<u>18.2</u>
Foreign Exchange Rate Adj.	(0.3)
<b>Net Change in Cash</b>	<u>(3.6)</u>
<b>Supplemental Items</b>	
Cash Interest Paid	0.2
Cash Taxes Paid	NA
Levered Free Cash Flow	(19.5)
Unlevered Free Cash Flow	(18.8)
Change in Net Working Capital	15.3
Net Debt Issued	4.5
Filing Date	Aug-06-2020
Restatement Type	O
Calculation Type	CFQ

# Exhibit 5

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et al.*, Individually  
and on Behalf of All Others Similarly Situated,

Case No. 4:17-cv-2399-VDG-CAB

Plaintiffs,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRY,

Defendants.

**DECLARATION OF SHANNON L. HOPKINS ON BEHALF OF  
LEVI & KORSINSKY, LLP IN SUPPORT OF UNOPPOSED APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, SHANNON L. HOPKINS, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Levi & Korsinsky, LLP. 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 August 26, 2020 (the "Time Period").

2. My firm, which served as lead counsel in the Action, was involved in all aspects of the litigation, such as reviewing: (i) documents filed publicly by Applied Optoelectronics, Inc. ("AOI" or the "Company") with the SEC; (ii) publicly available information, including press releases, news articles, and other public statements issued by or concerning the Company; (iii) research reports issued by financial and industry analysts concerning the Company; (iv) other publicly available information and data concerning the Company and its subsidiaries, including information concerning AOI's customers; (v) interviews conducted with former employees of

AOI; (vi) reports and exhibits prepared by Plaintiffs' expert relating to the Company's securities for class certification purposes; (vii) over 54,000 documents (over 300,000 pages) produced by Defendants in response to eighty-nine (89) Fed. R. Civ. P. 34 requests for production served by Plaintiffs over the course of four sets of requests; (viii) Defendants' responses to Fed. R. Civ. P. 33 interrogatories; (ix) Defendants' responses to Fed. R. Civ. P. 36 requests for admission; (x) Defendants' privilege logs; (xi) over 34,000 documents produced by third parties in response to twenty-six (26) Fed. R. Civ. P. 45 subpoenas; and (xii) the applicable law governing the claims and potential defenses in this Action, and the law as it relates to third party discovery in different jurisdictions (including enforcement proceedings in District Courts in the Northern District of California and the Western District of Washington).

3. Also, in connection with the litigation, my firm performed substantial legal tasks, including, among other things: (i) drafting the First Amended Complaint ("FAC"); (ii) voluminous briefing related to Defendants' motion to dismiss the FAC and prevailing against the motion to dismiss in its entirety; (iii) preparing a motion for leave to add parties and file a Second Amended Complaint ("SAC") with additional plaintiffs to protect the Class against any potential standing defenses; (iv) opposing Defendants' motion for interlocutory appeal of the Court's decision on the motion to dismiss pursuant to 28 U.S.C. § 1292(b); (v) serving interrogatories, requests for admission, and requests for the production of documents on Defendants; (vi) issuing 26 subpoenas on third parties; (vii) filing two successful motions to transfer motions to compel to this District; (viii) briefing two motions to compel against third parties and successfully arguing one to a full grant; (ix) extensive negotiations with Defendants regarding their compliance with discovery, including numerous meet and confers, voluminous deficiency letters, and scrutiny of lengthy privilege logs; (x) extensive efforts in connection with class certification including preparing and defending Plaintiffs' depositions, consulting with a market efficiency and damages expert, filing

a successful opening motion and a reply in connection with class certification proceedings before Judge Bryan, successfully opposing Defendants' objection to Judge Bryan's Memorandum and Recommendation, and opposing Defendants' petition pursuant to Fed. R. Civ. P. 23(f) in the Court of Appeals for the Fifth Circuit; (xi) engaging in hard-fought, and arm's-length settlement negotiations facilitated and supervised by Ms. Yoshida, including extensive pre-mediation briefing, a full day mediation session, and follow-up negotiations; and (xii) negotiating and drafting the Stipulation and related settlement documents, preparing the preliminary approval papers, working with Plaintiffs' damages experts to prepare the proposed Plan of Allocation, and overseeing the Court-approved notice process.

4. 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 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 incurred in the Action. The review also confirmed the firm's guidelines and policies regarding expenses were followed. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment.<sup>1</sup> As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the 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 expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

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<sup>1</sup> Among other decisions, lead counsel did not claim time for attorneys and professional support staff members who billed less than five hours in this Action.

5. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys and professional support staff members of my firm who were involved in the prosecution of the Action. Exhibit A presents a comparison of lodestar calculations based on: (i) my firm's current hourly rates that are based on the prevailing market rates for practitioners in complex securities litigation; and (ii) adjusted rates to reflect the market rates that were found to be reasonable in this District almost thirteen years ago in *In re Enron Corp. Sec., Deriv., & "ERISA" Litig.*, 586 F. Supp. 2d 732, 780 (S.D. Tex. 2008) ("*Enron*") (Houston/Dallas salary survey in 2007 found highest partner rate was \$900 per hour and the highest associate rate was \$460 per hour). For personnel who are no longer employed by my firm, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended after the entry of the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, on August 26, 2020, has been excluded in order to exclude time spent in preparing the application for fees and payment of expenses, the motion for final approval, and associated documents.

6. The total number of hours spent on this Action reported by my firm during the Time Period is 9,547.36. The total lodestar amount for reported attorney/professional staff time based on current market rates is \$5,122,159.00, and \$4,528,805.75 when adjusted to reflect the rates that were accepted by the *Enron* court. The lodestar figures are based upon hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in the hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$165,855.33 in 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.

8. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm as well as biographies of the firm's partners and of counsels.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of October, 2020.

*/s/ Shannon L. Hopkins*

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Shannon L. Hopkins

***Rougier v. Applied Optoelectronics, Inc., et al.,***  
 No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT A**

**LODESTAR REPORT**

FIRM: LEVI & KORSINSKY, LLP

REPORTING PERIOD: INCEPTION THROUGH AUGUST 26, 2020

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Ed Korsinsky	P	8	\$ 1,050.00	\$ 8,400.00
Joseph Levi	P	25	\$ 1,050.00	\$ 26,250.00
Gregory Nespole	P	56.5	\$ 1,000.00	\$ 56,500.00
Shannon Hopkins	P	674.35	\$ 1,000.00	\$ 674,350.00
Sebastian Tornatore	OC	122	\$ 800.00	\$ 97,600.00
Alexander Krot	A	25.25	\$ 675.00	\$ 17,043.75
Stephanie Bartone	A	16.25	\$ 650.00	\$ 10,562.50
James Grohsgal	A	273.5	\$ 635.00	\$ 173,672.50
Gregory Potrepka	A	1353.65	\$ 600.00	\$ 812,190.00
Andrew Rocco	A	1594.75	\$ 575.00	\$ 916,981.25
Marion Passmore	A	346.75	\$ 550.00	\$ 190,712.50
Cecille Cargill	A	36	\$ 495.00	\$ 17,820.00
Michael Keating	A	19.6	\$ 450.00	\$ 8,820.00
Briggs Fenwick/Perry	SA	325.9	\$ 475.00	\$ 154,802.50
Christina Chelliah	SA	379	\$ 475.00	\$ 180,025.00
Jennifer Parker	SA	1158.25	\$ 475.00	\$ 550,168.75
Kema Pridgen	SA	781.5	\$ 475.00	\$ 371,212.50
Steven Ekechuku	SA	47	\$ 475.00	\$ 22,325.00
Tatyana Grubnik	SA	66	\$ 475.00	\$ 31,350.00
Darlene Grey	SA	234.3	\$ 450.00	\$ 105,435.00
Veronica Roman	SA	436.21	\$ 400.00	\$ 174,484.00
Jose Suarez	SA	167.5	\$ 350.00	\$ 58,625.00
Karolina Campbell	SA	694.05	\$ 350.00	\$ 242,917.50
Jenn Tash	PL	44.35	\$ 325.00	\$ 14,413.75
Mallory Papp	I	319.5	\$ 325.00	\$ 103,837.50
Samantha Halliday	PL	182.95	\$ 325.00	\$ 59,458.75
Cassidy Mills	I	63	\$ 265.00	\$ 16,695.00
Ettienna Gallaher	PL	82.25	\$ 265.00	\$ 21,796.25
Sean Flanagan	I	14	\$ 265.00	\$ 3,710.00
<b>Total:</b>			<b>9547.36</b>	<b>\$ 5,122,159.00</b>

**ADJUSTED LODESTAR REPORT**

FIRM: LEVI &amp; KORSINSKY, LLP

REPORTING PERIOD: INCEPTION THROUGH AUGUST 26, 2020

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Ed Korsinsky	P	8	\$ 900.00	\$ 7,200.00
Joseph Levi	P	25	\$ 900.00	\$ 22,500.00
Gregory Nespole	P	56.5	\$ 900.00	\$ 50,850.00
Shannon Hopkins	P	674.35	\$ 900.00	\$ 606,915.00
Sebastian Tornatore	OC	122	\$ 700.00	\$ 85,400.00
Alexander Krot	A	25.25	\$ 460.00	\$ 11,615.00
Stephanie Bartone	A	16.25	\$ 460.00	\$ 7,475.00
James Grohsgal	A	273.5	\$ 460.00	\$ 125,810.00
Gregory Potrepka	A	1353.65	\$ 460.00	\$ 622,679.00
Andrew Rocco	A	1594.75	\$ 460.00	\$ 733,585.00
Marion Passmore	A	346.75	\$ 460.00	\$ 159,505.00
Cecille Cargill	A	36	\$ 460.00	\$ 16,560.00
Michael Keating	A	19.6	\$ 450.00	\$ 8,820.00
Briggs Fenwick/Perry	SA	325.9	\$ 460.00	\$ 149,914.00
Christina Chelliah	SA	379	\$ 460.00	\$ 174,340.00
Jennifer Parker	SA	1158.25	\$ 460.00	\$ 532,795.00
Kema Pridgen	SA	781.5	\$ 460.00	\$ 359,490.00
Steven Ekechuku	SA	47	\$ 460.00	\$ 21,620.00
Tatyana Grubnik	SA	66	\$ 460.00	\$ 30,360.00
Darienne Grey	SA	234.3	\$ 450.00	\$ 105,435.00
Veronica Roman	SA	436.21	\$ 400.00	\$ 174,484.00
Jose Suarez	SA	167.5	\$ 350.00	\$ 58,625.00
Karolina Campbell	SA	694.05	\$ 350.00	\$ 242,917.50
Jenn Tash	PL	44.35	\$ 325.00	\$ 14,413.75
Mallory Papp	I	319.5	\$ 325.00	\$ 103,837.50
Samantha Halliday	PL	182.95	\$ 325.00	\$ 59,458.75
Cassidy Mills	I	63	\$ 265.00	\$ 16,695.00
Ettienna Gallaher	PL	82.25	\$ 265.00	\$ 21,796.25
Sean Flanagan	I	14	\$ 265.00	\$ 3,710.00
<b>Total:</b>			<b>9,547.36</b>	<b>\$ 4,528,805.75</b>

Partner (P) Staff Attorney (SA)  
Of Counsel (OC) Intern (I)  
Associate (A) Paralegal (PL)

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: LEVI & KORSINSKY, LLP

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 20, 2020

<b>CATEGORY</b>		<b>TOTAL AMOUNT</b>
Expert Fees		\$ 108,315.00
Investigation Fees		\$ 13,437.50
Travel and Meals		\$ 13,539.72
Mediation Fees		\$ 10,500.00
Court Reporting		\$ 2,907.99
Process Server		\$ 6,604.35
UPS/Fed-ex		\$ 1,200.66
Photocopying		\$ 2,867.25
Filing Fees		\$ 1,894.00
Legal Research		\$ 966.36
Document Hosting & Management		\$ 3,622.50
<b>TOTAL</b>		<b>\$ 165,855.33</b>

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT C**

**LEVI & KORSINSKY, LLP FIRM RESUME**

# LEVI&KORSINSKY LLP

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New York 55 Broadway  
10th Floor  
New York, NY 10006  
T. 212-363-7500  
F. 212-363-7171

Washington, D.C. 1101 30th Street NW  
Suite 115  
Washington, D.C. 20007  
T. 202-524-4290  
F. 202-333-2121

Connecticut 1111 Summer Street  
Suite 401  
Stamford, CT 06905  
T. 203-992-4523

California *Los Angeles*  
445 South Figueroa Street  
31st Floor  
Los Angeles, CA 90071  
T. 213-985-7290

*San Francisco*  
388 Market Street  
Suite 1300  
San Francisco, CA 94111  
T. 415-373-1671  
F. 415-484-1294

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## ABOUT THE FIRM

Levi & Korsinsky, LLP is a national law firm with decades of combined experience litigating complex securities, class, and consumer actions in state and federal courts throughout the country. Our main office is located in New York City and we also maintain offices in Connecticut, California, and Washington, D.C.

We represent the interests of aggrieved shareholders in class action and derivative litigation through the vigorous prosecution of corporations that have committed securities fraud and boards of directors who have breached their fiduciary duties. We have served as Lead and Co-Lead Counsel in many precedent-setting litigations, recovered millions of dollars for shareholders via securities fraud lawsuits, and obtained fair value, multi-billion-dollar settlements in merger transactions.

We also represent clients in high-stakes consumer class actions against some of the largest corporations in America. Our legal team has a long and successful track record of litigating high-stakes, resource-intensive cases and consistently achieving results for our clients.

Our attorneys are highly skilled and experienced in the field of securities class action litigation. They bring a vast breadth of knowledge and skill to the table and, as a result, are frequently appointed Lead Counsel in complex shareholder and consumer litigations in various jurisdictions. We are able to allocate substantial resources to each case, reviewing public documents, interviewing witnesses, and consulting with experts concerning issues particular to each case. Our attorneys are supported by exceptionally qualified professionals including financial experts, investigators, and administrative staff, as well as cutting-edge technology and e-discovery systems. Consequently, we are able to quickly mobilize and produce excellent litigation results. Our ability to try cases, and win them, results in substantially better recoveries than our peers.

We do not shy away from uphill battles – indeed, we routinely take on complex and challenging cases, and we prosecute them with integrity, determination, and professionalism.

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*“...a model for how [the] great legal profession should conduct itself.”*

Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*,  
Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

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## PRACTICE AREAS

### Securities Fraud Class Actions

According to Lex Machina's second annual Securities Litigation Report, Levi & Korsinsky was named the Top Securities Firm for the period of January 2017 and June 30, 2018, with 266 lawsuits filed during that period. Law360.com dubbed the Firm one of the "busiest securities firms" in what is "on track to be one of the busiest [years] for federal securities litigation." Our firm has been appointed Lead Counsel in a significant number of class actions filed in both federal and state courts across the country.

In **Scheller v. Nutanix Inc.**, 19-cv-01651-WHO (N.D. Cal. Jul. 10, 2019) defendants' motion to dismiss was denied, and the case is now in discovery.

In **In re Tesla Inc. Securities Litigation**, 18-cv-04865-EMC (N.D. Cal), the firm is sole Lead Counsel representing the class of Tesla investors who were injured as a result of Elon Musk's "funding secured" tweet of August 7, 2018. The case has survived defendants' motion to dismiss and is now in discovery. It is set for trial in March 2022. Damages are estimated as exceeding \$2 billion.

In **In re U.S. Steel Consolidated Cases**, 17-559-CB (W.D. Pa.) the firm is sole Lead Counsel representing U.S. Steel investors who were harmed by U.S. Steel's misrepresentations regarding the maintenance of its manufacturing facilities. Defendants' motion to dismiss has been denied and the class of investors certified by the District Court. The class action case is now in discovery. Damages are estimated as exceeding \$1 billion.

In **Ford v. TD Ameritrade Holding Corporation**, 14-cv-396 (D. Neb.), the Firm was appointed Lead Counsel representing customers harmed by securities fraud scheme that has netted TD Ameritrade well over a billion dollars at their expense since the beginning of the class period at the cost of the execution quality of their orders. After defeating a motion to dismiss, we achieved certification of the class using cutting edge data analysis techniques to precisely measure damages incurred by the millions of class members.

In **Rougier v. Applied Optoelectronics, Inc.**, 17-cv-2399 (S.D. Tex.) the Firm is sole Lead Counsel and has prevailed on a Motion to Dismiss and Motion for Class Certification. The court granted preliminary approval of the proposed settlement on August 25, 2020.

In **In re Avon Products Inc. Securities Litigation**, 1:19-cv-01420-MKV (S.D.N.Y.) the Firm is Lead Counsel and prevailed on a motion to dismiss. A preliminary settlement in this class action case is pending.

In **In re Restoration Robotics, Inc. Sec. Litig.**, 5:18-cv-03712-EJD (N.D. Cal. 2018), the Firm is sole Lead Counsel and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

In **Stein v. U.S. Xpress Enterprises, Inc., et al.**, 1:19-cv-98-HSM (E.D. Tenn. Jul. 18, 2020) the Firm is Co-Lead Counsel and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

We have also been appointed Lead or Co-Lead Counsel in the following securities class actions:

- **Snyder v. Baozun Inc.**, 1:19-cv-11290-ALC (S.D.N.Y. Sept. 8, 2020)
- **In re eHealth Inc. Sec. Litig.**, 20-cv-02395-JST (N.D.Cal. Jun. 24, 2020)
- **Mehdi v. Karyopharm Therapeutics Inc.**, 19-cv-11972-NMG (D. Mass. Apr. 29, 2020)
- **Brown v. Opera Ltd.**, 20-cv-00674-JGK (S.D.N.Y. Apr. 17, 2020)
- **In re Dropbox Sec. Litig.**, 19-cv—06348-BLF (N.D.Cal. Jan. 16, 2020)

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- **Chen v. Yunji Inc.**, 19-cv-6403-LDH-SMG (E.D.N.Y. Feb. 3, 2020)
- **Zhang v. Valaris plc**, 19-cv-7816-NRB (S.D.N.Y. Dec. 23, 2019)
- **In re Sundial Growers Inc. Sec. Litig.**, 19-cv-08913-ALC (S.D.N.Y. Dec. 20, 2019)
- **Costanzo v. DXC Technology Co.**, 19-cv-05794-BLF (N.D.Cal. Nov. 20, 2019)
- **Ferraro Family Foundation, Inc. et al., v. Corcept Therapeutics Incorporated**, 19-cv-1372-LHK (N.D.Cal. Oct. 7, 2019)
- **Roberts v. Bloom Energy Corp.**, 19-cv-02935-HSG (N.D.Cal. Sept. 3, 2019)
- **Luo v. Sogou Inc.**, 1:19-cv-00230-JPO (S.D.N.Y. Apr. 2, 2019)
- **Jakobsen v. Aphria Inc.**, 18-cv-11376-GBD (S.D.N.Y. Mar. 27, 2019)
- **Chew v. MoneyGram International, Inc.**, 1:18-cv-07537 (E.D. Ill. Feb. 12, 2019)
- **Johnson v. Costco Wholesale Corp.**, 18-cv-01611-TSZ (W.D.Wash. Jan. 30, 2019)
- **Tung v. Dycom Industries, Inc.**, 9:18-cv-81448-RLR (S.D. Fla. Jan. 11, 2019)
- **Guyer v. MGT Capital Investments, Inc.**, 1:18-cv-09228-LAP (S.D.N.Y. Jan. 9, 2019)
- **In re Adient plc Sec. Litig.**, 1:18-CV-09116 (S.D.N.Y. Dec. 21, 2018)
- **In re Tesla Inc. Sec. Litig.**, 3:18-cv-04865-EMC (N.D. Cal. Nov. 27, 2018)
- **In re Helios and Matheson Analytics, Inc. Sec. Litig.**, 1:18-cv-06965-JGK (S.D.N.Y. Nov. 16, 2018)
- **In re Prothena Corp. plc Sec. Litig.**, 1:18-cv-06425 (S.D.N.Y. Oct. 31, 2018)
- **Pierrelouis v. Gogo Inc.**, 18-cv-04473 (N.D. Ill. Oct. 10, 2018)
- **Balestra v. Cloud With Me Ltd.**, 2:18-cv-00804-LPL (W.D. Pa. Oct. 18, 2018)
- **Pierrelouis v. Gogo Inc.**, 1:18-cv-04473 (N.D. Ill. Oct. 10, 2018)
- **In re Restoration Robotics, Inc. Sec. Litig.**, 5:18-cv-03712-EJD (N.D. Cal. Oct. 2, 2018)
- **Richmond v. Mercury Systems, Inc.**, 1:18-cv-11434-IT (D. Mass. Sept. 27, 2018)
- **Balestra v. Giga Watt, Inc.**, 2:18-cv-00103-SMJ (E.D. Wash. June 28, 2018)
- **Chandler v. Ulta Beauty, Inc.**, 1:18-cv-01577 (N.D. Ill. June 26, 2018)
- **In re Longfin Corp. Sec. Litig.**, 1:18-cv-2933 (S.D.N.Y. June 25, 2018)
- **Chahal v. Credit Suisse Group AG**, 1:18-cv-02268-AT (S.D.N.Y. June 21, 2018)
- **In re Bitconnect Sec. Litig.**, 9:18-cv-80086-DMM (S.D. Fla. June 19, 2018)
- **In re Aqua Metals Sec. Litig.**, 4:17-cv-07142-HSG (N.D. Cal. May 23, 2018)
- **Davy v. Paragon Coin, Inc.**, 4:18-cv-00671-JSW (N.D. Cal. May 10, 2018)
- **Rensel v. Centra Tech, Inc.**, 17-cv-24500-JLK (S.D. Fla. Apr. 11, 2018)
- **Cullinan v. Cemtrex, Inc.**, 2:17-cv-01067 (E.D.N.Y. Mar. 3, 2018)
- **Emerson v. Genocoe Biosciences, Inc.**, 1:17-cv-12137 (D. Mass. Feb. 2, 2018)
- **In re Navient Corporation Sec. Litig.**, 1:17-cv-08373-RBK-AMD (D.N.J. Feb. 2, 2018)
- **Huang v. Depomed, Inc.**, 3:17-cv-04830-JST (N.D. Cal. Dec. 8, 2017)
- **In re Regulus Therapeutics Inc. Sec. Litig.**, 3:17-cv-00182-BTM-RBB (D. Mass. Oct. 26, 2017)
- **Murphy III v. JBS S.A.**, 1:17-cv-03084-ILG-RER (E.D.N.Y. Oct. 10, 2017)
- **Goldsmith v. Weibo Corporation**, 2:17-cv-04728-SRC-CLW (D.N.J. Sept. 28, 2017)
- **Hinshaw v. Neurotrope, Inc.**, 1:17-cv-03718-LGS (S.D.N.Y. Aug. 10, 2017)

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- **Ohren v. Amyris, Inc.**, 3:17-cv-002210-WHO (N.D. Cal. Aug. 8, 2017)
- **Beezley v. Fenix Parts, Inc.**, 2:17-cv-00233 (D.N.J. June 28, 2017)
- **M & M Hart Living Trust v. Global Eagle Entertainment, Inc.**, 2:17-cv-01479 (C.D. Cal. June 26, 2017)
- **Maurer v. Argos Therapeutics, Inc.**, 1:17-cv-00216 (M.D.N.C. June 23, 2017)
- **Ruedelstei v. U.S. Concrete, Inc.**, 4:17-cv-266 (N.D. Tex. June 22, 2017)
- **In re Aratana Therapeutics, Inc. Sec. Litig.**, 1:17-cv-880 (S.D.N.Y. June 6, 2017)
- **In re Insys Therapeutics, Inc.**, 1:17-cv-1954 (S.D.N.Y. May 31, 2017)
- **Clevlen v. Anthera Pharmaceuticals, Inc.**, 3:17-cv-00715 (N.D. Cal. May 18, 2017)
- **In re Agile Therapeutics, Inc. Sec. Litig.**, 3:17-cv-00119-AET-LHG (D.N.J. May 15, 2017)
- **Roper v. SITO Mobile Ltd.**, 2:17-cv-01106-ES-MAH (D.N.J. May 8, 2017)
- **In re Illumina, Inc. Sec. Litig.**, 3:16-cv-03044-L-KSC (S.D. Cal. Mar. 30, 2017)
- **Michael Gregory v ProNAi**, 1:16-cv-08703-PAE (Mass. Sup. Ct. Feb. 1, 2017)
- **In re PTC Therapeutics, Inc.**, 2:16-cv-01224-KM-MAH (D.N.J. Nov. 14, 2016)
- **Wilbush v. Ambac Financial Group, Inc.**, Civ. No. 1:16-cv-05076 RMB (S.D.N.Y. Oct. 11, 2016)
- **The TransEnterix Investor Group v. TransEnterix, Inc.**, 5:16-cv-00313-D (E.D.N.C. Aug. 30, 2016)
- **Gormley v. magicJack VocalTec Ltd.**, 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)
- **Azar v. Blount Int'l Inc.**, Civ. No. 3:16-cv-00483-SI (D. Or. July 1, 2016)
- **Plumley v. Sempra Energy**, 3:16-cv-00512-BEN-RBB (S.D. Cal. June 6, 2016)
- **Francisco v. Abengoa, S.A.**, 1:15-cv-06279-ER (S.D.N.Y. May 24, 2016)
- **Harrington v. Tetrphase Pharmaceuticals, Inc.**, Civ. No. 1:16-cv-10133-LTS (D. Mass. May 13, 2016)
- **De Vito v. Liquid Holdings Group, Inc.**, 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)
- **In re OvaScience Inc. Stockholder Litig.**, C.A. No. 15-3087-BLS2 (Mass. Super. Ct. Apr. 2, 2016)
- **Ford v. Natural Health Trends Corp.**, 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)
- **Levin v. Resource Capital Corp.**, 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)
- **Martin v. Altisource Residential Corp.**, 1:15-cv-00024 (D.V.I. Oct. 7, 2015)
- **Paggos v. Resonant, Inc.**, 2:15-cv-01970 SJO (VBKx) (C.D. Cal. Aug. 7, 2015)
- **Fragala v. 500.com Ltd.**, 2:15-cv-01463-MMM (C.D. Cal. July 7, 2015)
- **Stevens v. Quiksilver Inc.**, 8:15-cv-00516-JVS-JCGx. (C.D. Cal. June 26, 2015)
- **In re Ocean Power Technologies, Inc. Sec. Litig.**, 14-3799 (FLW) (LHG) (D.N.J. Mar. 17, 2015)
- **In re Energy Recovery Inc. Sec. Litig.**, 3:15-cv-00265 (N.D. Cal. Jan. 20, 2015)
- **Klein v. TD Ameritrade Holding Corp.**, 3:14-cv-05738 (D. Neb. Dec. 2, 2014)
- **In re China Commercial Credit Sec. Litig.**, 1:15-cv-00557 (ALC) (D.N.J. Oct. 31, 2014)
- **In re Violin Memory, Inc. Sec. Litig.**, 4:13-cv-05486-YGR (N.D. Cal. Feb. 26, 2014)
- **Berry v. Kior, Inc.**, 4:13-cv-02443 (S.D. Tex. Nov. 25, 2013)
- **In re OCZ Technology Group, Inc. Sec. Litig.**, 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- **In re Digital Domain Media Group, Inc. Sec. Litig.**, 12-CIV-14333 (JEM) (S.D. Fla. Sept. 20, 2012)

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## Derivative, Corporate Governance & Executive Compensation

We protect shareholders by enforcing the obligations of corporate fiduciaries. We are a leader in achieving important corporate governance reforms for the benefit of shareholders. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct and taking remedial action for the benefit of shareholders. In situations where a company's board responds to a demand by commencing its own investigation, we frequently work with the board's counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We also have successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through long-lasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation, recapturing assets for the benefit of companies and their shareholders. In addition, we have secured corporate governance changes to ensure that executive compensation is consistent with shareholder-approved compensation plans, company performance, and federal securities laws.

In ***In re Google Inc. Class C Shareholder Litigation***, C.A. No. 7469-CS (Del. Ch.), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to existing shareholders harmed by the transaction as well as providing enhanced board scrutiny of the Google founders' ability to transfer stock. Ultimately, Google's shareholders received payments of \$522 million and total net benefits estimated as exceeding \$3 billion.

In ***In re Activision, Inc. Shareholder Derivative Litigation***, No. 06-cv-04771-MRP (JTLX) (C.D. Cal.), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than \$24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

In ***Pfeiffer v. Toll*** (Toll Brothers Derivative Litigation), C.A. No. 4140-VCL (Del. Ch.), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning \$16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In ***Rux v. Meyer***, C.A. No. 11577-CB (Del. Ch.), we challenged the re-purchase by Sirius XM of its stock from its controlling stockholder, Liberty Media, at an inflated, above-market price. After defeating a motion to dismiss and discovery, we obtained a settlement where SiriusXM recovered \$8.25 million, a substantial percentage of its over-payment.

In ***In re EZCorp Inc. Consulting Agreement Derivative Litig.***, C.A. 9962-VCL, (Del. Ch.), we challenged lucrative consulting agreements between EZCorp and its controlling stockholders. After surviving multiple motions to dismiss, we obtained a settlement where EZCorp was repaid \$6.5 million it had paid in consulting fees, or approximately 33% of the total at issue and the consulting agreements were discontinued.

In ***Scherer v. Lu***, (Diodes Incorporated), No. 13-358-GMS, 2014 U.S. Dist. LEXIS 196440 (D. Del.), we secured the cancellation of \$4.9 million worth of stock options granted to the company's CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fully-informed vote on the adoption of a new compensation plan at the company's annual meeting.

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In **MacCormack v. Groupon, Inc.**, C.A. No. 13-940-GMS (D. Del. ), we caused the cancellation of \$2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In **Edwards v. Benson**, (Headwaters Incorporated), (D. Utah ), we caused the cancellation of \$3.2 million worth of stock appreciation rights granted to the company's CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In **Pfeiffer v. Begley**, (DeVry, Inc.), (Cir. Ct. DuPage Cty., Ill.), we secured the cancellation of \$2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In **Basch v. Healy** (D. Del. ), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In **Kleba v. Dees**, C.A. 3-1-13 (Tenn. Cir. Ct. Knox Cty.), we recovered approximately \$9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.

In **Lopez v. Nudelman**, (CTI BioPharma Corp.), 14-2-18941-9 SEA (Wash. Super. Ct. King Cnty.), we recovered approximately \$3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

In **In re i2 Technologies, Inc. Shareholder Litigation**, C.A. No. 4003-CC (Del. Ch.), as Counsel for the Lead Plaintiff, we challenged the fairness of certain asset sales made by the company and secured a \$4 million recovery.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, 8:06cv777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a \$2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)**, C.A. No. 10-cv-1063-PD (D. Del.), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

In **In re Cincinnati Bell, Inc., Derivative Litigation**, Case No. A1105305 (Ohio, Hamilton Cty.), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In **Woodford v. Mizel (M.D.C. Holdings, Inc.)**, 1:2011cv00879 (D. Del.), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.

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## Mergers & Acquisitions

We have achieved an impressive record in obtaining injunctive relief for shareholders and are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, where we strive to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, we served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

In ***In re CNX Gas Corp. Shareholder Litigation***, 4 A.3d 397 (Del. Ch. 2010), as Plaintiffs' Executive Committee Counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over \$42.7 million for the company's shareholders.

In ***Chen v. Howard-Anderson***, C.A. No 5878-VCL (Del. Ch. 2010), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading. Post-closing, we took the case to trial and recovered an additional \$35 million for the shareholders.

In ***In re Sauer-Danfoss Stockholder Litig.***, C.A. No. 8396 (Del. Ch.), as one of plaintiffs' co-lead counsel, we recovered a \$10 million common fund settlement in connection with a controlling stockholder merger transaction.

In ***In re Yongye International, Inc. Shareholders' Litigation***, Consolidated Case No.: A-12-670468-B (District Court, Clark County, Nevada), as one of plaintiffs' co-lead counsel, we recovered a \$6 million common fund settlement in connection with a management-led buyout of minority stockholders in a China-based company incorporated under Nevada law.

In ***In re Great Wolf Resorts, Inc. Shareholder Litigation***, C.A. No. 7328-VCN (Del. Ch. 2012), we achieved tremendous results for shareholders, including partial responsibility for a \$93 million (57%) increase in merger consideration and the waiver of several "don't-ask-don't-waive" standstill agreements that were restricting certain potential bidders from making a topping bid for the company.

In ***In re Talecris Biotherapeutics Holdings Shareholder Litigation***, C.A. No. 5614-VCL (Del. Ch. 2010), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company's stock and providing shareholders with appraisal rights.

In ***In re Minerva Group LP v. Mod-Pac Corp.***, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty. 2013), we obtained a settlement in which defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share, representing a recovery of \$2.4 million for shareholders.

In ***Stephen J. Dannis v. J.D. Nichols***, C.A. No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty. 2014), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from \$7.50 to \$9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of \$7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS's controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action

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alleged that Nichols' proposed transaction grossly undervalued NTS's units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel's tenacious efforts the transaction was resurrected and improved.

In **Dias v. Purches**, C.A. No. 7199-VCG (Del. Ch. 2012), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders' motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In **Forgo v. Health Grades, Inc.**, C.A. No. 5716-VCS (Del. Ch. 2010), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required under *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a "Fort Howard" release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In **In re Pamrapo Bancorp Shareholder Litigation**, Docket C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), we defeated defendants' motion to dismiss shareholders' class action claims for money damages arising from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. We then survived a motion for summary judgment, ultimately securing a settlement recovering \$1.95 million for the Class plus the Class's legal fees and expenses up to \$1 million (representing an increase in consideration of 15-23% for the members of the Class). The case.

In **In re Complete Genomics, Inc. Shareholder Litigation**, C.A. No. 7888-VCL (Del. Ch. 2012), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a "don't-ask-don't-waive" standstill agreement.

In **In re Integrated Silicon Solution, Inc. Stockholder Litigation**, Lead Case No. 115CV279142 (Super. Ct. Santa Clara, CA 2015), we won an injunction requiring corrective disclosures concerning "don't-ask-don't-waive" standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from \$19.25 to \$23 per share, a bump of almost 25 percent.

In **In re Bluegreen Corp. Shareholder Litigation**, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of \$36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

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## Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, unfair or deceptive business practices, antitrust violations, and privacy right violations.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enable us to fight for consumers who have been aggrieved by deceptive and unfair business practices and who purchased defective products, including automobiles, appliances, electronic goods, and other consumer products. The Firm also represents consumers in cases involving data breaches and privacy right violations. The Firm's attorneys have received a number of leadership appointments in consumer class action cases, including multidistrict litigation ("MDL"). Recently, Law.com identified the Firm as one of the top firms with MDL leadership appointments in the article titled, "There Are New Faces Leading MDLs. And They Aren't All Men" (July 6, 2020). Representative settled and ongoing cases include:

**In *NV Security, Inc. v. Fluke Networks***, Case No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

**In Re: *Apple Inc. Device Performance Litig.***, Case No. 5:18-md-02827-EJD (N.D. Cal.): Plaintiffs' Executive Committee Counsel in proposed nationwide class action alleging that Apple purposefully throttled iPhone; Apple has agreed to pay up to \$500 million in cash (proposed settlement pending).

**In Re: *Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig.***, Case No. 3:18-md-02828 (D. Or.): Co-Lead Interim Class Counsel in proposed nationwide class action alleging that Intel manufactured and sold defective central processing units that allowed unauthorized access to consumer stored confidential information.

**In Re: *ZF-TRW Airbag Control Units Products Liability Litig.***, Case No. 2:19-mi-02905-JAK-FFM (C.D. Cal.): Plaintiffs' Steering Committee Counsel in proposed nationwide class action alleging that defendant auto manufacturers sold vehicles with defective airbags.

**In Re: *EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.***, Case No. 17-md-02785 (D. Kan.): Plaintiffs' Executive Committee Counsel in action alleging that Mylan and Pfizer violated antitrust laws and committed other violations relating to the sale of EpiPens. Nationwide class and multi-state classes certified.

***Sung, et al. v. Schurman Retail Group***, Case No. 17-cv-02760-LB (N.D. Cal.): Co-Lead Class Counsel in nationwide class action alleging unauthorized disclosure of employee financial information; obtained final approval of nationwide class action settlement providing credit monitoring and identity theft restoration services through 2022 and cash payments of up to \$400.

***Scott, et al. v. JPMorgan Chase Bank, N.A.***, Case No. 1:17-cv-00249 (D.D.C.): Co-Lead Class Counsel in nationwide class action settlement of claims alleging improper fees deducted from payments awarded to jurors; 100% direct refund of improper fees collected.

**In Re: *Citrix Data Breach Litig.***, Case No. 19-cv-61350-RKA (S.D. Fla.): Interim Class Counsel in action alleging company failed to implement reasonable security measures to protect employee financial information; common fund settlement of \$2.25 million pending.

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**NV Security, Inc. v. Fluke Networks**, Case No. CV05-4217 GW (SSx) (C.D. Cal. 2005): Settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery; benefits included free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

**Bustos v. Vonage America, Inc.**, Case No. 06 Civ. 2308 (HAA) (D.N.J. 2006): Common fund settlement of \$1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

**Masterson v. Canon U.S.A.**, Case No. BC340740 (Cal. Super. Ct. L.A. Cty. 2006): Settlement providing refunds to Cannon SD camera purchasers for certain broken LCD repair charges and important changes to the product warranty.

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*“The quality of the representation... has been extremely high, not just in terms of the favorable outcome in terms of the substance of the settlement, but in terms of the diligence and the hard work that has gone into producing that outcome.”*

The Honorable Joseph F. Bianco, in *Landes v. Sony Mobile Communications*,  
17-cv-02264-JFB-SIL (E.D.N.Y. Dec. 1, 2017)

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## OUR ATTORNEYS

### Managing Partners

#### Eduard Korsinsky

For more than 20 years Eduard Korsinsky has represented clients in securities cases, derivative actions, consumer fraud, and complex commercial matters. He has been named a New York "Super Lawyer" by Thomson Reuters and is recognized as one of the country's leading practitioners in class and derivative matters. Mr. Korsinsky also has served as an editor of the American Bar Association's Securities Litigation Section's newsletter and is a member of the American Bar Association's Derivative Suits Subcommittee.

Cases which he has litigated include:

- ***E-Trade Financial Corp. Sec. Litig.***, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery
- ***In re Activision, Inc. S'holder Derivative Litig.***, No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered \$24 million in excess compensation
- ***Corinthian Colleges, Inc., S'holder Derivative Litig.***, SACV-06-0777-AHS (C.D. Cal. 2009), obtained repricing of executive stock options providing more than \$2 million in benefits to the company
- ***Pfeiffer v. Toll***, C.A. No. 4140-VCL (Del. Ch. 2010), \$16.25 million in insider trading profits recovered
- ***In re Net2Phone, Inc. S'holder Litig.***, Case No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from \$1.70 per share to \$2.05 per share
- ***In re Pamrapo Bancorp S'holder Litig.***, C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, defeated motion for summary judgment, and obtained an increase in consideration of between 15-23% for the members of the Class
- ***In re Google Inc. Class C S'holder Litig.***, C.A. No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to \$8 billion in losses stemming from trading discounts expected to affect the new stock
- ***Woodford v. M.D.C. Holdings, Inc.***, 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation
- ***i2 Technologies, Inc. S'holder Litig.***, C.A. No. 4003-CC (Del. Ch. 2008), \$4 million recovered, challenging fairness of certain asset sales made by the company
- ***Pfeiffer v. Alpert (Beazer Homes)***, C.A. No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
- ***In re NCS Healthcare, Inc. Sec. Litig.***, C.A. CA 19786, (Del. Ch. 2002), case settled for approximately \$100 million
- ***Paraschos v. YBM Magnex Int'l, Inc.***, No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for \$85 million Canadian

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Education

- New York University School of Law, LL.M. Master of Law(s) Taxation (1997)
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S., Accounting, *summa cum laude* (1992)

Admissions

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)
- United States Court of Appeals for the Sixth Circuit (2013)

Publications

- Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

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### Joseph E. Levi

Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the attorneys achieved success on behalf of the former shareholders of Occam Networks, Inc. in litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy statement by which the shareholders were solicited to vote. See **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch. Jan. 24, 2011). Vigorous litigation efforts continued to trial, recovering \$35 million for the shareholders.

Another victory for Mr. Levi and the attorneys was in litigation challenging the acquisition of Health Grades, Inc. by affiliates of Vestar Capital Partners, L.P., where it was successfully demonstrated to the Delaware Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required by **Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.**, 506 A.2d 173 (Del. 1986). See **Weigard v. Hicks**, No. 5732-VCS (Del. Ch. Sept. 3, 2010). This ruling was used to reach a favorable settlement in which defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applaud[ed]" the litigation team for their preparation and the extraordinary high-quality of the briefing. He and the attorneys also played a prominent role in the matter of **In re CNX Gas Corp. Shareholders Litigation**, C.A. No. 5377-VCL (Del. Ch. 2010), in which plaintiffs recovered a common fund of over \$42.7 million for stockholders.

#### Education

- Brooklyn Law School, J.D., *magna cum laude* (1995)
- Polytechnic University, B.S., *summa cum laude* (1984); M.S. (1986)

#### Admissions

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)

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*"[The court] appreciated very much the quality of the argument..., the obvious preparation that went into it, and the ability of counsel..."*

Vice Chancellor Sam Glasscock, III in *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. Apr. 5, 2012)

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## Partners

### Nicholas I. Porritt

Nicholas Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in ***In re Google Inc. Class C Shareholder Litigation***, C.A. No. 7469-CS (Del. Ch.) that resulted in a payment of \$522 million to shareholders and overall benefit of over \$3 billion to Google's minority shareholders. He was one of the lead counsel in ***Chen v. Howard-Anderson***, No. 5878-VCL (Del. Ch.) that settled during trial resulting in a \$35 million payment to the former shareholders of Occam Networks, Inc., one of the largest quasi-appraisal recoveries for shareholders. Amongst other cases, he is currently lead counsel in ***In re Tesla, Inc. Securities Litigation***, No. 3:18-cv-04865-EMC (N.D. Cal.), representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018 as well as lead counsel in ***Ford v. TD Ameritrade Holding Corp.***, No. 14-cv-396 (D. Neb.), representing TD Ameritrade customers harmed by its improper routing of their orders. Both cases involve over \$1 billion in estimated damages.

Some of Mr. Porritt's recent cases include:

- ***In re Bridgestone Inv. Corp.***, 789 Fed. App'x 13 (9th Cir. 2019)
- ***Zaghian v. Farrell***, 675 Fed. Appx. 718, (9th Cir. 2017)
- ***SEC v. Cuban***, 620 F.3d 551 (5th Cir. 2010)
- ***Cozzarelli v. Inspire Pharmaceuticals, Inc.***, 549 F.3d 618 (4th Cir. 2008)
- ***Teachers' Retirement System of Louisiana v. Hunter***, 477 F.3d 162 (4th Cir. 2007)
- ***In re Tesla, Inc. Sec. Litig.***, 2020 WL 1873441 (N.D. Cal. Apr. 15, 2020)
- ***In re Navient Corp. Sec. Litig.***, 2019 WL 7288881 (D.N.J. Dec. 30, 2019)
- ***In re Clovis Oncology, Inc. Deriv. Litig.***, 2019 WL 4850188 (Del. Ch. Oct. 1, 2019)
- ***Martin v. Altisource Residential Corp.***, 2019 WL 2762923 (D.V.I. July 2, 2019)
- ***Klein v. TD Ameritrade Holding Corp.***, 327 F.R.D. 283 (D. Neb. 2018)
- ***Beezley v. Fenix Parts, Inc.***, 2018 WL 3454490 (N.D. Ill. July 13, 2018)
- ***In re PTC Therapeutics Sec. Litig.***, 2017 WL 3705801 (D.N.J. Aug. 28, 2017)
- ***Gormley v. magicJack VocalTec Ltd.***, 220 F. Supp. 3d 510 (S.D.N.Y. 2016)
- ***Carlton v. Cannon***, 184 F. Supp. 3d 428 (S.D. Tex. 2016)
- ***Zola v. TD Ameritrade, Inc.***, 172 F. Supp. 3d 1055 (D. Neb. 2016)
- ***In re Energy Recovery Sec. Litig.***, 2016 WL 324150 (N.D. Cal. Jan. 27, 2016)
- ***In re EZCorp Inc. Consulting Agreement Deriv. Litig.***, 2016 WL 301245 (Del. Ch. Jan. 25, 2016)
- ***In re Violin Memory Sec. Litig.***, 2014 WL 5525946 (N.D. Cal. Oct. 31, 2014)
- ***Garnitschnig v. Horovitz***, 48 F. Supp. 3d 820 (D. Md. 2014)

Mr. Porritt was selected by Lawdragon as one of the 500 leading plaintiff lawyers in financial litigation and was selected to the 2020 DC Super Lawyers list published by Thomson Reuters.

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Mr. Porritt speaks frequently on current topics relating to securities laws and derivative actions, including presentations on behalf of the Council for Institutional Investors, Nasdaq, and the Practising Law Institute. He currently serves as co-chair of the American Bar Association Sub-Committee on Derivative Actions.

Before joining the Firm, Mr. Porritt practiced as a partner at Akin Gump Strauss Hauer & Feld LLP and prior to that was a partner at Wilson Sonsini Goodrich & Rosati PC. Mr. Porritt formerly practiced as a Barrister and Solicitor in Wellington, New Zealand and is a Solicitor of the Senior Courts of England & Wales.

Education

- University of Chicago Law School, J.D., With Honors (1996)
- University of Chicago Law School, LL.M. (1993)
- Victoria University of Wellington, LL.B. (Hons.), With First Class Honors, Senior Scholarship (1990)

Admissions

- New York (1997)
- District of Columbia (1998)
- United States District Court for the District of Columbia (1999)
- United States District Court for the Southern District of New York (2004)
- United States Court of Appeals for the Fourth Circuit (2004)
- United States Court of Appeals for the District of Columbia Circuit (2006)
- United States Supreme Court (2006)
- United States District Court for the District of Maryland (2007)
- United States District Court for the Eastern District of New York (2012)
- United States Court of Appeals for the Second Circuit (2014)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States District Court for the District of Colorado (2015)
- United States Court of Appeals for the Tenth Circuit (2016)
- United States Court of Appeals for the Eleventh Circuit (2017)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2019)

Publications

- "Current Trends in Securities Litigation: How Companies and Counsel Should Respond," *Inside the Minds Recent Developments in Securities Law* (Aspatore Press 2010)

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**Rosemary M. Rivas**

The Firm's Consumer Litigation Group is led by Rosemary M. Rivas, who manages the Firm's San Francisco office. She has dedicated her legal career to representing consumers in complex, class action litigation in various areas including defective products and automobiles, data breach and privacy rights, false and misleading advertising, and unfair business practices, among others. Ms. Rivas has been influential in recovering millions of dollars and changes to corporate practices on behalf of consumers. In a highly competitive application process, Judge Charles R. Breyer appointed Ms. Rivas to the Plaintiffs' Steering Committee in ***In re: Volkswagen "Clean Diesel" MDL***, Case No. 15-MDL-2672-CRB (JSC), which resulted in unprecedented settlements exceeding \$15 billion dollars.

Currently, Ms. Rivas is Co-Lead Counsel in the action titled ***Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig.***, Case No. 3:18-md-02828-SI, involving allegations that Intel sold CPUs that were defective and allowed unauthorized access to confidential information. Ms. Rivas is also currently a member of the Plaintiffs' Steering Committee in the action titled ***In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.***, Case No. 2:17-md-02785 (D. Kan.) involving unlawful monopoly claims in the market for epinephrine injection pens.

Ms. Rivas' work has resulted in important monetary and injunctive settlements in a number of class action cases, such as:

- ***Sung v. Schuman Fine Papers***, Case No. 17-cv-02760 (N.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement of claims for unauthorized disclosure of W2s; eligible class members could recover up to \$500 and implementation of training and changes to practices for the protection of employee personal and financial information
- ***Scott v. JPMorgan Chase Bank, N.A.***, Case No. 1:17-cv-00249 (D.D.C.) (Co-Lead Class Counsel): nationwide class action settlement of claims alleging improper fees to payments awarded to jurors; 100% direct refund of improper fees collected
- ***Lilly v. ConAgra Foods***, 743 F.3d 662 (9th Cir. 2014) (Class Counsel): claims that food manufacturer violated food regulations by failing to list total sodium on salt of sunflower seeds product were not preempted by federal law; class action injunctive relief settlement for change in product labels
- ***Petersen v. CJ America, Inc.***, Case No. 3:14-cv-02570 (S.D. Cal.) (Co-Lead Class Counsel): nationwide class action involving false advertising claims; \$1.5 million common fund and changes to product labeling
- ***Lilly v. Jamba Juice***, Case No. 13-cv-02998 (N.D. Cal.) (Co-Lead Class Counsel): class action injunctive relief settlement; change in product labels
- ***In re Carrier IQ, Inc., Consumer Privacy Litig.***, Case No. 3:12-md-02330 (N.D. Cal.) (Executive Committee): nationwide class action settlement involving data privacy; \$9 million settlement and changes to corporate practices
- ***Pappas v. Naked Juice***, Case No. 2:11-cv-08276 (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement for \$9 million and changes to the company's testing procedures and product labels
- ***Garcia v. Allergan, Inc.***, Case No. 09-cv-7088 PSG (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action settlement of false advertising and unfair business practice claims; \$7.75 million settlement and changes to the company's training procedures

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- **Rodriguez v. West Publishing Corp.**, 563 F.3d 948 (9th Cir. 2009): nationwide class action settlement of antitrust claims in bar review market; \$49 million and dissolution of allegedly illegal market allocation agreement
- **Lima v. Gateway**, Case No. SACV-09-1366 (C.D. Cal.) (Co-Lead Class Counsel): nationwide class action involving defective monitor; \$195 cash refund for each monitor purchased

She has also been instrumental in obtaining favorable appellate decisions on behalf of consumers in the areas of false advertising, federal preemption, and arbitration, such as:

- **Lilly v. ConAgra Foods, Inc.**, 743 F.3d 662 (9th Cir. 2014)
- **In re Sony PS3 "Other OS" Litig.**, 551 Fed. App. 916 (9th Cir. 2014)
- **Probst v. Superior Court (Health Net of California)**, 2012 Cal. LEXIS 4476 (Ct. Appeal, 1st Dist., May 9, 2012)

Ms. Rivas is a recipient of the 2018 California Lawyer Attorney of the Year (CLAY) Award. The CLAY award was presented to her by the Daily Journal for her work in the Volkswagen litigation. The CLAY awards are given annually to outstanding California practitioners "whose extraordinary work and cases had a major impact on the law."

In 2019 Ms. Rivas was selected as a Super Lawyer. From 2009-2011, Ms. Rivas was selected as a Rising Star by Law & Politics Magazine, which recognizes the best lawyers 40 years old or under or in practice for 10 years or less. In 2015, Bay Area Legal Aid presented her with the Guardian of Justice award, for her work achievements in the law and her role in helping direct cy près funds to ensure equal access to the civil justice system. As a recognized leader in consumer class actions, Ms. Rivas is regularly invited to speak at conferences concerning class action litigation, including the following:

- *Class Action Law Forum 2020 – Review of Key Class Action Decisions*, March 2020 (Western Alliance Bank in collaboration with University of San Diego School of Law)
- *Nationwide Settlement Classes – The Impact of the Hyundai/Kia Litigation*, 2018 (National Consumer Law Center's Consumer Rights Litigation Conference and Class Action Symposium)
- *One Class Action Or 50? Choice of Law Considerations as Potential Impediment to Nationwide Class Action Settlements*, 2018 (5th Annual Western Regional CLE Program on Class Actions and Mass Torts)
- *The Right Approach to Effective Claims*, 2018 (Beard Group - Class Action Money & Ethics)
- *False Advertising Class Actions: A Practitioner's Guide to Class Certification, Damages and Trial*, 2017 (The Bar Association of San Francisco)
- *Section 17200: The Fertility of Man's Invention*, 2016 (The Bar Association of San Francisco)
- *Food Labeling and False Advertising Class Actions*, 2015 (The Bar Association of San Francisco)
- *Data Privacy Law 101: U.S. Data Privacy and Security Laws 2015* (The Bar Association of San Francisco)
- *Effective Consumer Privacy Enforcement*, 2011 (Berkeley Law and The Samuelson Law, Technology & Public Policy Clinic)
- *Class Actions: New Developments & Approaches for Strategic Response*, 2013 (American Bar Association)

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Previously, Ms. Rivas served as a Board Member and Diversity Director of the Barristers Club of the San Francisco Bar Association. Ms. Rivas is fluent in Spanish.

Education

- University of California, Hastings College of Law, J.D. (2000)
- San Francisco State University, B.A., Political Science (1997)

Admissions

- United States Court of Appeals for the Ninth Circuit (2001)
- United States District Court for the Northern District of California (2001)
- United States District Court for the Central District of California (2002)
- United States District Court for the Eastern District of California (2005)
- United States District Court for the Southern District of California (2005)

**Donald J. Enright**

During his 24 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder M&A and securities fraud class action litigation. He has been named as one of the leading financial litigators in the nation by Lawdragon, as a Washington, DC "Super Lawyer" by Thomson Reuters, and as one of the city's "Top Lawyers" by *Washingtonian* magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- ***Nathenson v. Zonagen, Inc.***, 267 F. 3d 400, 413 (5th Cir. 2001)
- ***SEC v. Butler***, 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- ***Belizan v. Hershon***, 434 F. 3d 579 (D.C. Cir. 2006)

Most recently, in ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, Mr. Enright served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

Similarly, as Co-Lead Counsel in ***In re Bluegreen Corp. Shareholder Litigation***, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders. Also, in ***In re CNX Gas Corp. Shareholders Litigation***, C.A. No. 53377-VCL (Del. Ch. 2010), in which Levi & Korsinsky served upon plaintiffs' Executive Committee, Mr. Enright helped obtain the recovery of a common fund of over \$42.7 million for stockholders.

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Mr. Enright has also played a leadership role in numerous securities and shareholder class actions from inception to conclusion. Most recently, he has served as lead counsel in several cryptocurrency-related securities class actions. His leadership has produced multi-million-dollar recoveries in shareholder class actions involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.
- Manugistics Group, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won preliminary injunctions or other injunctive relief in the cases of:

- ***In re Portec Rail Products, Inc. S'holder Litig.***, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- ***In re Craftmade International, Inc. S'holder Litig.***, C.A. No. 6950-VCL (Del. Ch. 2011)
- ***Dias v. Purches***, C.A. No. 7199-VCG (Del. Ch. 2012)
- ***In re Complete Genomics, Inc. S'holder Litig.***, C.A. No. 7888-VCL (Del. Ch. 2012)
- ***In re Integrated Silicon Solution, Inc. Stockholder Litig.***, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of ***In re Great Wolf Resorts, Inc. Shareholder Litigation***, C.A. No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a \$93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements that were precluding certain potential bidders from making a topping bid for the company.

Similarly, Mr. Enright served as Co-Lead Counsel in the case of ***Berger v. Life Sciences Research, Inc.***, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from \$7.50 to \$8.50 per share, representing additional consideration for shareholders of approximately \$11.5 million.

Mr. Enright also served as Co-Lead Counsel in ***Minerva Group, LP v. Keane***, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.) and obtained a settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share.

The courts have consistently recognized and praised the quality of Mr. Enright's work. In ***In re Interbank Funding Corp. Securities Litigation*** (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case."

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Similarly, in ***Freeland v. Iridium World Communications***, LTD, (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright had done “an outstanding job” in connection with the recovery of \$43.1 million for the shareholder class.

And, in the matter of ***Osieczaneck v. Thomas Properties Group***, C.A. No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Chancery Court of Delaware observed that “it’s always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position,” and that Mr. Enright’s prosecution of a merger case was “wholesome” and served as “a model of . . . plaintiffs’ litigation in the merger arena.”

Education

- George Washington University School of Law, J.D. (1996), where he was a Member Editor of The George Washington University Journal of International Law and Economics from 1994 to 1996
- Drew University, B.A., Political Science and Economics, *cum laude* (1993)

Admissions

- Maryland (1996)
- New Jersey (1996)
- United States District Court for the District of Maryland (1997)
- United States District Court for the District of New Jersey (1997)
- District of Columbia (1999)
- United States Court of Appeals for the Fourth Circuit (1999)
- United States Court of Appeals for the Fifth Circuit (1999)
- United States District Court for the District of Columbia (1999)
- United States Court of Appeals for the District of Columbia (2004)
- United States Court of Appeals for the Second Circuit (2005)
- United States Court of Appeals for the Third Circuit (2006)
- United States District Court for the District of Colorado (2017)

Publications

- “SEC Enforcement Actions and Investigations in Private and Public Offerings,” Securities: Public and Private Offerings, Second Edition, West Publishing 2007
- “Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?” J. Tax’n & Reg. Fin. Inst. September/October 2007, Page 5

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**Shannon L. Hopkins**

Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than a decade Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million dollar settlements on behalf of shareholders, including:

- ***In re Force Protection, Inc. S'holder Litig.***, C.A. No. A-11-651336-B (D. Nev. 2015), \$11 million shareholder recovery
- ***Craig Telke v. New Frontier Media, Inc.***, C.A. No. 1:12-cv-02941-JLK (D. Co. 2015), \$2.25 million shareholder recovery
- ***Shona Investments v. Callisto Pharmaceuticals, Inc.***, C.A. No. 652783/2012 (NY Sup. Ct. 2015), shareholder recovery of \$2.5 million and increase in exchange ratio from 0.1700 to 0.1799
- ***E-Trade Financial Corp. S'holder Litig.***, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery for the shareholder class
- ***In re Cogent, Inc. S'holder Litig.***, C.A. No. 5780-VCP (Del. Ch. 2010), \$1.9 million shareholder recovery and corrective disclosures relating to the Merger
- ***In re CMS Energy Sec. Litig.***, Civil No. 02 CV 72004 (GCS) (E.D. Mich. Sept. 6, 2007), \$200 million recovery
- ***In re Sears, Roebuck and Co. Sec. Litig.***, No. 02-cv-07527 (N.D. Ill. Jan. 8, 2007), \$200 million recovery
- ***In re El Paso Electric Co. Sec. Litig.***, C.A. No. 3:03-cv-00004-DB (W.D. Tex. Sept. 15, 2005), \$10 million recovery
- ***In re Novastar Fin. Sec. Litig.***, 4:04-cv-00330-ODS (W.D. Mo. Apr. 14, 2009), \$7.25 million recovery

The quality of Ms. Hopkin's work has been noted by courts. In ***In re Health Grades, Inc. Shareholder Litigation***, C.A. No. 5716-VCS (Del. Ch. 2010), where Ms. Hopkins was significantly involved with the briefing of the preliminary injunction motion, then Vice Chancellor Strine "applaud[ed]" Co-Lead Counsel for their preparation and the extraordinary high-quality of the briefing.

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

Education

- Suffolk University Law School, J.D., *magna cum laude* (2003), where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
- Bryant University, B.S.B.A., Accounting and Finance, *cum laude* (1995), where she was elected to the Beta Gamma Sigma Honor Society

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Admissions

- Massachusetts (2003)
- United States District Court for the District of Massachusetts (2004)
- New York (2004)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the District of Colorado (2004)
- United States Court of Appeals for the First Circuit (2008)
- United States Court of Appeals for the Third Circuit (2010)
- Connecticut (2013)

Publications

- "Cybercrime Convention: A Positive Beginning to a Long Road Ahead," 2 J. High Tech. L. 101 (2003)

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*In appointing the Firm Lead Counsel, the Honorable Gary Allen Feess noted our "significant prior experience in securities litigation and complex class actions."*

*Zaghian v. THQ, Inc., 2:12-cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)*

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**Gregory Mark Nespole**

Gregory Mark Nespole is a Partner of the Firm, having been previously a member of the management committee of one of the oldest firms in New York, as well as chair of that firm's investor protection practice. He specializes in complex class actions, derivative actions, and transactional litigation representing institutional investors such as public and labor pension funds, labor health and welfare benefit funds, and private institutions. Prior to practicing law, Mr. Nespole was a strategist on an arbitrage desk and an associate in a major international investment bank where he worked on structuring private placements and conducting transactional due diligence.

For over twenty years, Mr. Nespole has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million-dollar settlements on behalf of shareholders, including:

- Served as co-chair of a Madoff Related Litigation Task Force that recovered over several hundred million dollars for wronged investors;
- Obtained a \$90 million award on behalf of a publicly listed company against a global bank arising out of fraudulently marketed auction rated securities;
- Successfully obtained multi-million-dollar securities litigation recoveries and/or corporate governance reforms from Cablevision, JP Morgan, American Pharmaceutical Partners, Sepracor, and MBIA, among many others.

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Mr. Nespole's peers have elected him a "Super Lawyer" in the class action field annually since 2009. He is active in his community as a youth sports coach.

Education

- Brooklyn Law School, J.D. (1993)
- Bates College, B.A. (1989)

Admissions

- New York (1994)
- United States District Court for the Southern District of New York (1994)
- United States District Court for the Eastern District of New York (1994)
- United States Court of Appeals for the Second Circuit (1994)
- United States Court of Appeals for the Fourth Circuit (1994)
- United States Court of Appeals for the Fifth Circuit (1994)
- United States District Court for the Northern District of New York (2018)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2020)

**Daniel Tepper**

Daniel Tepper is a Partner of the Firm with extensive experience in shareholder derivative suits, class actions and complex commercial litigation. Before he joined Levi & Korsinsky, Mr. Tepper was a partner in one of the oldest law firms in New York. He is an active member of the CPLR Committee of the New York State Bar Association and was an early member of its Electronic Discovery Committee. Mr. Tepper was selected as a New York "Super Lawyer" in 2016 – 2019.

Some of the notable matters where Mr. Tepper had a leading role include:

- ***Siegmund v. Bian***, Case No. 16-62506 (S.D. Fla.), achieving an estimated recovery of \$29.93 per share on behalf of a class of public shareholders of Linkwell Corp. who were forced to sell their stock at \$0.88 per share.
- ***In re Platinum-Beechwood Litigation***, Case No. 18-06658 (S.D.N.Y.), achieved dismissal on behalf of an individual investor in Platinum Partners-affiliated investment fund.
- ***Lakatamia Shipping Co. Ltd. v. Nobu Su***, Index No. 654860/2016 (Sup. Ct., N.Y. Co. 2016), achieved dismissal on suit attempting to domesticate a \$40 million UK judgment in New York State.
- ***Zelouf Int'l Corp. v. Zelouf***, 45 Misc.3d 1205(A) (Sup.Ct. N.Y. Co., 2014), representing the plaintiff in an appraisal proceeding triggered by freeze-out merger of closely-held corporation. Achieved a \$10 million verdict after eleven day trial, with the Court rejecting a discount for lack of marketability.
- ***Sacher v. Beacon Assocs. Mgmt. Corp.***, 114 A.D.3d 655 (2d Dep't 2014), affirming denial of defendants' motion to dismiss shareholder derivative suit by Madoff feeder fund against fund's auditor for accounting malpractice.

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- ***In re Belzberg***, 95 A.D.3d 713 (1st Dep't 2012), compelling a non-signatory to arbitrate brokerage agreement dispute arising under doctrine of direct benefits estoppel.
- ***Estate of DeLeo***, Case No. 353758/A (Surrog. Ct., Nassau Co. 2011), achieving a full plaintiff's verdict after a seven day trial which restored a multi-million dollar family business to its rightful owner.
- ***CMIA Partners Equity Ltd. v. O'Neill***, 2010 NY Slip Op 52068(U) (Sup. Ct. N.Y. Co., 2010). Representing the independent directors of a Cayman Islands investment fund, won a dismissal on the pleadings in the first New York state case examining shareholder derivative suits under Cayman Islands law.
- ***Hecht v. Andover Assocs. Mgmt. Corp.***, 27 Misc 3d 1202(A) (Sup. Ct. Nassau Co., 2010), aff'd, 114 A.D.3d 638 (2d Dep't 2014). Participated in a \$213 million global settlement in the first Madoff-related feeder fund in the country to defeat a motion to dismiss.

Education

- New York University School of Law (JD, 2000)
- The University of Texas at Austin (BA with Honors, 1997), National Merit Scholar

Admissions

- Massachusetts (retired)
- New York (2002)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Western District of New York (2019)

**Elizabeth K. Tripodi**

Elizabeth K. Tripodi focuses her practice on shareholder M&A litigation, representing shareholders of public companies impacted by mergers, acquisitions, tender offers, and other change-in-control transactions. Ms. Tripodi has been named as a Washington, DC "Super Lawyer" and was selected as a "Rising Star" by Thomson Reuters for several consecutive years.

Ms. Tripodi has played a lead role in obtaining monetary recoveries for shareholders in M&A litigation:

- ***In re Schuff International, Inc. Stockholders Litigation***, Case No. 10323-VCZ, achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.
- ***In re Bluegreen Corp. S'holder Litig.***, Case No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders
- ***In re Cybex International S'holder Litig.***, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of \$1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger
- ***In re Great Wolf Resorts, Inc. S'holder Litig.***, C.A. No. 7328-VCN (Del. Ch. 2012), where there was a

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\$93 million (57%) increase in merger consideration

- **Minerva Group, LP v. Keane**, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

- **In re Portec Rail Products, Inc. S'holder Litig.**, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig.**, C.A. No. 6950-VCL (Del. Ch. 2011)
- **Dias v. Purches**, C.A. No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig.**, C.A. No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: *Rudolph v. UTStarcom* (stock option backdating litigation obtaining a \$9.5 million settlement); *Grecian v. Meade Instruments* (stock option backdating litigation obtaining a \$3.5 million settlement).

#### Education

- American University Washington College of Law, *cum laude* (2006), where she served as Editor in Chief of the Business Law Brief, was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
- Davidson College, B.A., Art History (2000)

#### Admissions

- Virginia (2006)
- District of Columbia (2008)
- United States District Court for the Eastern District of Virginia (2006)
- United States District Court for the District of Columbia (2010)

### **Adam M. Apton**

Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters has selected Mr. Apton to the Super Lawyers Washington, DC "Rising Stars" list every year since 2016, a distinction given to only the top 2.5% of lawyers.

Mr. Apton's past representations and successes include:

- **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (lead counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)
- **In re Navient Corp. Securities Litigation**, 17-8373 (RBK/AMD) (D.N.J.) (lead counsel in class action against leading provider of student loans for alleged false and misleading statements about

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compliance with consumer protection laws)

- ***In re Prothena Corporation Plc Securities Litigation***, 1:18-cv-06425-ALC (S.D.N.Y.) (\$15.75 million settlement fund against international drug company for false statements about development of lead biopharmaceutical product)
- ***Martin v. Altisource Residential Corporation, et al.***, 15-00024 (AET) (GWC) (D.V.I.) (\$15.5 million settlement fund against residential mortgage company for false statements about compliance with consumer regulations and corporate governance protocols)
- ***Levin v. Resource Capital Corp., et al.***, 1:15-cv-07081-LLS (S.D.N.Y.) (\$9.5 million settlement in class action over fraudulent statements about toxic mezzanine loan assets)
- ***Rux v. Meyer (Sirius XM Holdings Inc.)***, No. 11577 (Del. Ch.) (recovery of \$8.25 million against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.)

Education

- New York Law School, J.D., *cum laude* (2009), where he served as Articles Editor of the *New York Law School Law Review* and interned for the New York State Supreme Court, Commercial Division
- University of Minnesota, B.A., Entrepreneurial Management & Psychology, With Distinction (2006)

Admissions

- New York (2010)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Eastern District of New York (2010)
- District of Columbia (2013)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States Court of Appeals for the Second Circuit (2016)
- United States Court of Appeals for the Third Circuit (2016)
- California (2017)
- United States District Court for the Northern District of California (2017)
- United States District Court for the Central District of California (2017)
- United States District Court for the Southern District of California (2017)

Publications

- "Pleading Section 11 Liability for Secondary Offerings" *American Bar Association: Practice Points* (Jan. 4, 2017)
- "Second Circuit Rules in *Indiana Public Retirement System v. SAIC, Inc.*" *American Bar Association: Practice Points* (Apr. 4, 2016)
- "Second Circuit Applies Omnicare to Statements of Opinion in *Sanofi*" *American Bar Association: Practice Points* (Mar. 30, 2016)
- "Second Circuit Rules in *Acticon AG v. China North*" *American Bar Association: Practice Points*

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(Sept. 14, 2015)

## Of Counsel

### Andrew E. Lencyk

Andrew E. Lencyk is Of Counsel to the Firm. Prior to joining the Firm, Mr. Lencyk was a partner in an established boutique firm in New York specializing in securities litigation. He was graduated *magna cum laude* from Fordham College, New York, with a B.A. in Economics and History, where he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law, where he was a member of the Fordham Urban Law Journal. He was named to the 2013, 2014, 2015, 2016, 2017, 2018 and 2019 Super Lawyers®, New York Metro Edition.

Mr. Lencyk has co-authored the following articles for the Practising Law Institute's Accountants' Liability Handbooks:

- *Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein*
- *An Accountant's Duty to Disclose Internal Control Weaknesses*
- *Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts*
- *Pleading Motions under the Private Securities Litigation Reform Act of 1995*
- *Discovery Issues in Cases Involving Auditors* (co-authored and appeared in the 2002 PLI Handbook on Accountants' Liability After Enron.)

In addition, he co-authored the following article for the Association of the Bar of the City of New York, Corporate & Securities Law Updates:

- *Safe Harbor Provisions for Forward-Looking Statements* (co-authored and published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000)

Cases in which Mr. Lencyk actively represented plaintiffs include:

- ***Kirkland et al. v. WideOpenWest, Inc.***, Index No. 653248/2018 (Sup. Ct, NY County) (substantially denying defendants' motion to dismiss Section 11 and 12(a)(2) claims)
- ***In re Community Psychiatric Centers Securities Litigation***, SA CV-91-533-AHS (Eex) (C.D. Cal.) and *McGann v. Ernst & Young*, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of \$54.5 million against company and its outside auditors)
- ***In re Danskin Securities Litigation***, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.);
- ***In re JWP Securities Litigation***, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.) (class recovery of approximately \$36 million)
- ***In re Porta Systems Securities Litigation***, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.);
- ***In re Leslie Fay Cos. Securities Litigation***, No. 92 Civ. 8036 (S.D.N.Y.)((\$35 million recovery)
- ***Berke v. Presstek, Inc.***, Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H.) (\$22 million recovery)
- ***In re Micro Focus Securities Litigation***, No. C-01-01352-SBA-WDB (N.D. Cal.)
- ***Dusek v. Mattel, Inc., et al.***, CV99-10864 MRP (C.D. Cal.) (\$122 million global settlement)
- ***In re Sonus Networks, Inc. Securities Litigation-II***, No. 06-CV-10040 (MLW) (D. Mass.)

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- ***In re AIG ERISA Litigation***, No. 04 Civ. 9387 (JES) (S.D.N.Y.) (\$24.2 million recovery)
- ***In re Mutual Funds Investment Litigation***, MDL No. 1586 (D. Md.)
- ***In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner***, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.)
- ***In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter***, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.)
- ***In re AIG ERISA Litigation II***, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) (\$40 million recovery); and
- ***Flynn v. Sientra, Inc.***, CV-15-07548 SJO (RAOX) (C.D. Cal.) (\$10.9 million recovery) (co-lead counsel)  
Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include:
- ***Pub. Empls' Ref. Sys. of Miss. v. TreeHouse Foods***, 2018 U.S. Dist. LEXIS 22717 (N.D. Ill. Feb. 12, 2018) (denying defendants' motion to dismiss in its entirety)
- ***Flynn v. Sientra, Inc.***, 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016) (denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), *motion for reconsideration denied*, slip op. (C.D. Cal. Aug 12, 2016)
- ***In re Principal U.S. Property Account ERISA Litigation***, 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss)
- ***In re AIG ERISA Litigation II***, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011) (denying in substantial part defendants' motions to dismiss), *renewed motion to dismiss denied*, slip op. (S.D.N.Y. June 26, 2014)
- ***In re Mutual Funds Investment Litigation***, 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), *In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner*, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and *In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter*, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md. June 27, 2008) (same)
- ***In re AIG ERISA Litigation***, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety)
- ***Dusek v. Mattel, Inc., et al.***, CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety)
- ***In re Micro Focus Sec. Litig.***, Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint);
- ***Zuckerman v. FoxMeyer Health Corp.***, 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995)
- ***In re U.S. Liquids Securities Litigation***, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims)
- ***Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc., et al.***, Case No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety)

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- **Berke v. Presstek, Inc.**, Civ. No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss)
- **Chalverus v. Pegasystems, Inc.**, 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss);
- **Danis v. USN Communications, Inc.**, 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to dismiss)
- **In re JWP Inc. Securities Litigation**, 928 F. Supp. 1239 (S.D.N.Y. 1996) (denying defendants' motion for summary judgment);
- **In re Danskin Securities Litigation**, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y. Feb. 23, 1994) (denying corporate and underwriter defendants' motions to dismiss in all respects)
- **In re UCAR International Inc., Securities Litigation**, No. 3:98cv600 (JBA) (D. Conn.) (Case settled during pendency of defendants' motion to dismiss).

Education:

- Fordham University School of Law, J.D. (1992)
- Fordham College, B.A. *magna cum laude*, 1988)

Admissions

- New York (1993)
- Connecticut (1992)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States Court of Appeals for the Second Circuit (2015)

**Kristina Mentone**

Kristina Mentone is Of Counsel at the Firm. She is a seasoned litigator with more than 15 years of experience in complex securities litigation. Ms. Mentone previously represented investors in residential mortgage backed securities, helping to recover several billions of dollars of damages for her clients. She has represented both plaintiffs and defendants in complex class actions and has represented major financial institutions in high-stakes regulatory investigations.

Education

- Fordham University School of Law, J.D., *cum laude*, Order of the Coif (2003)
- New York University, B.A., *cum laude* (1999)

Admissions

- New York (2004)
- United States District Court for the Southern District of New York (2005)
- United States District Court for the Eastern District of New York (2009)

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### Sebastian Tornatore

Sebastian Tornatore is Of Counsel in the Connecticut office of Levi & Korsinsky, LLP with a focus on representing individual and institutional plaintiffs in federal securities fraud class actions and related shareholder matters.

Since joining the firm in 2013, Sebastian has assisted in the recovery of millions of dollars for the benefit of shareholder classes, including:

- ***In re EndoChoice Holdings, Inc. Sec. Litig.***, C.A. No. 2016-cv-277772 (Fulton Cty. Ga.) (\$8.5 million settlement in action stemming from defendant corporation's IPO)
- ***Forman v. Meridian Bioscience Inc.***, C.A. No. 1:17-cv-00774 (S.D. Ohio) (settlement of \$2.1 million in securities fraud action)
- ***In re: Comverge Inc. S'holders Litig.***, C.A. No. 7368 (Del. Ch.) (settlement of \$5.9 million in action arising from takeover)

Sebastian is currently litigating a variety of class actions throughout the country, including:

- ***Ford v. TD Ameritrade***, C.A. No. 8:14-cv-396 (D. Neb.) (defeated motion to dismiss in best execution case stemming from TD Ameritrade's order routing practices)
- ***In re Restoration Robotics, Inc. Sec. Litig.***, C.A. No. 5:18-cv-03712-EJD (N.D. Cal.) (defeated defendants' motion to dismiss in part and litigating an action on behalf of a certified class of investors in defendant company's IPO)
- ***Kirkland et al. v. WideOpenWest, Inc.***, Index No. 653248/2018 (Sup. Ct, NY County) (defeated defendants' motion to dismiss in part on behalf of a proposed class of investors in defendant company's IPO)
- ***Stein v. U.S. Xpress Enterprises, Inc.***, C.A. No. 1:19-cv-00098 (E.D. Tenn.) (defeated defendants' motion to dismiss in part on behalf of a proposed class of investors in defendant company's IPO)

Prior to joining the firm, Sebastian worked for the Connecticut Judicial System, where he gained significant experience assisting various state judges.

#### Education

- University of Connecticut School of Law, J.D. (2012)
- Boston College, B.A., Political Science (2008)

#### Admissions

- Connecticut (2012)
- Massachusetts (2012)
- New York (2014)
- United States District Court for the District of Connecticut (2014)
- United States District Court for the Southern District of New York (2016)
- United States District Court for the District of Massachusetts (2016)
- United States District Court for the Eastern District of New York (2018)

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## Associates

### Stephanie A. Bartone

Stephanie A. Bartone practices in all areas of the firm, with a focus on securities fraud litigation. Prior to joining the firm, Ms. Bartone worked for the Connecticut Judicial System where she assisted state court judges in civil and family matters. Ms. Bartone also previously worked for a firm specializing in civil litigation and criminal defense at the state and federal level. While attending The University of Connecticut School of Law, Ms. Bartone was the Symposium Editor of the *Connecticut Law Review*.

#### Education

- The University of Connecticut School of Law, J.D. (2012)
- The University of New Hampshire, B.A. *summa cum laude* (2008) Psychology and Justice Studies

#### Admissions

- Connecticut (2012)
- Massachusetts (2012)
- United States District Court for the District of Colorado (2013)
- United States District Court for the District of Connecticut (2015)
- United States District Court for the District of Massachusetts (2016)
- United States Court of Appeals for the Third Circuit (2020)

### Jordan A. Cafritz

Jordan Cafritz is an Associate with the Firm's Washington, D.C. office. While attending law school at American University he was an active member of the American University Business Law Review and worked as a Rule 16 attorney in the Criminal Justice Defense Clinic. After graduating from law school, Mr. Cafritz clerked for the Honorable Paul W. Grimm in the U.S. District Court for the District of Maryland.

#### Education

- American University Washington College of Law, J.D. (2014)
- University of Wisconsin-Madison, B.A., Economics & History (2010)

#### Admissions

- Maryland (2014)
- District of Columbia (2018)

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*“I think you’ve done a superb job and I really appreciate the way this case was handled.”*

The Honorable Ronald B. Rubin in *Teoh v. Ferrantino*, C.A. No. 356627  
(Cir. Ct. for Montgomery Cnty., MD 2012)

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### Michael Keating

Michael Keating is an Associate with the Firm's Stamford office focusing on federal securities litigation. Mr. Keating previously interned with the Division of Enforcement for the Securities and Exchange Commission while attending law school.

#### Education:

- University of Connecticut School of Law, J.D. (2019)
- University of Connecticut, B.A Psychology (2014)

#### Admissions:

- Connecticut
- 

*Vice Chancellor Sam Glasscock, III said “it’s always a pleasure to have counsel who are articulate and exuberant...” and referred to our approach to merger litigation as “wholesome” and “a model of... plaintiffs’ litigation in the merger arena.”*

*Ocieczanek v. Thomas Properties Group, C.A. No. 9029-VCG (Del. Ch. May 15, 2014)*

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### Alexander Krot

#### Education

- The George Washington University, B.B.A., Finance and International Business (2003)
- American University Washington College of Law, J.D. (2010)
- Georgetown University Law Center, LL.M., Securities and Financial Regulation, With Distinction (2011)
- American University, Kogod School of Business, M.B.A. (2012)

#### Admissions

- Maryland (2011)
  - District of Columbia (2014)
  - United States District Court for the District of Colorado (2015)
  - United States Court of Appeals for the Tenth Circuit (2016)
  - United States District Court for the Eastern District of Wisconsin (2017)
  - United States Court of Appeals for the Third Circuit (2018)
- 

*Then Vice Chancellor Leo E. Strine, Jr. praised the Firms’ “exceedingly measured and logical” argument*

*Forgo v. Health Grades, Inc., C.A. No. 5716-VCS (Del. Ch. Sept. 3, 2010)*

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**Courtney E. Maccarone**

Courtney E. Maccarone focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, Ms. Maccarone was an associate at a boutique firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. Maccarone served as the Executive Symposium Editor of the *Brooklyn Journal of International Law* and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the *Brooklyn Journal of International Law*.

Ms. Maccarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm. Ms. Maccarone has been recognized as a Super Lawyer "Rising Star" for the New York Metro area for the past seven consecutive years.

Education

- Brooklyn Law School, J.D., *magna cum laude* (2011), where she served as the Executive Symposium Editor of the *Brooklyn Journal of International Law* and was a member of the Moot Court Honor Society
- New York University, B.A., *magna cum laude* (2008)

Admissions

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

Publications

- "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights," published in the Spring 2011 edition of the *Brooklyn Journal of International Law*

**Rosanne L. Mah**

Rosanne L. Mah is an Associate in Levi & Korsinsky, LLP's San Francisco office. She represents consumers in complex class action litigation involving deceptive or misleading practices, false advertising, and data/privacy issues.

Education

- University of San Francisco, School of Law, J.D. (2005)
- University of California at Santa Cruz, B.A., Politics and Environmental Studies (1995)

Admissions

- United States District Court for the Northern District of California (2007)
- United States District Court for the Eastern District of California (2007)
- United States District Court for the Central District of California (2017)

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### Adam C. McCall

Adam C. McCall is an Associate with the Firm. Prior to joining Levi & Korsinsky, Mr. McCall was a Summer Analyst at Moelis & Company and an intern at Fortress Investment Group. While attending the Georgetown University Law Center, he was an extern at the Securities and Exchange Commission's Division of Corporate Finance.

#### Education

- Georgetown University Law Center, LL.M., Securities and Financial Regulation (2015)
- California Western School of Law, J.D., *cum laude* (2013)
- Santa Clara University, Certificate of Advanced Accounting Proficiency (2010)
- University of Southern California, B.A., Economics (2008)

#### Admissions

- California (2014)
- United States District Court for the Central District of California (2015)
- United States District Court for the Eastern District of California (2015)
- United States District Court for the Northern District of California (2015)
- United States District Court for the Southern District of California (2015)
- United States Court of Appeals for the Ninth Circuit (2016)
- District of Columbia (2017)

### Melissa Muller

Melissa Muller is an Associate with the Firm's New York Office focusing on federal securities litigation. Ms. Muller previously worked as a paralegal for the New York office while attending law school.

#### Education

- New York Law School, J.D., Dean's Scholar Award, member of the Dean's Leadership Council (2018)
- John Jay College of Criminal Justice, B.A. (2013), *magna cum laude*

#### Admissions

- New York (2019)
- United States District Court for the Southern District of New York (2020)

### Zachary Ness

Mr. Ness is an Associate with the Firm in the Washington, D.C. office, where he focuses his practice on financial litigation, including class action litigation relating to corporate governance, securities, cryptocurrencies, and initial coin offerings. During law school, he was an honors intern for the Trading and Markets Division of the U.S. Securities and Exchange Commission, where he practiced in the offices of Trading Practices and Market Supervision. In addition, he was a judicial intern for the Superior Court of the District of Columbia, and a research assistant tasked with examining modern constitutional privacy law issues.

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Education

- Georgetown University Law Center, J.D. (2019)
- Rutgers University (New Brunswick) (2016), *summa cum laude*

Admissions

- District of Columbia (2020)

Publications

- "A Fighting Chance: Ensuring Choice of Representation," 31 GEO. J. LEGAL ETHICS 781 (2018)

**Gregory M. Potrepka**

Gregory M. Potrepka is an Associate in Levi & Korsinsky's Connecticut office. Mr. Potrepka is an experienced lawyer having litigated cases in State, Federal, and Tribal courts, at both the trial and appellate levels. While in law school, Mr. Potrepka clerked in the Civil Division of the United States Attorney's Office for the District of Columbia.

Education

- University of Connecticut School of Law, J.D. (2015)
- University of Connecticut Department of Public Policy, M.P.A. (2015)
- University of Connecticut, B.A., Political Science (2010)

Admissions

- Connecticut (2015)
- Mashantucket Pequot Tribal Court (2015)
- United States District Court for the District of Connecticut (2016)
- United States District Court for the Southern District of New York (2018)
- United States District Court for the Eastern District of New York (2018)
- United States Court of Appeals for the Third Circuit (2020)

**Andrew Rocco**

Andrew Rocco is an Associate with the Firm in the Connecticut office. As a law student, he interned for the Office of the Attorney General for the State of Connecticut in the Employment Rights Department and served as the Editor-in-Chief of the Quinnipiac Probate Law Journal.

Education

- Quinnipiac University School of Law, J.D., *summa cum laude* (2017)
- Champlain College, B.A., Legal Studies, *summa cum laude* (2014)

Admissions

- Connecticut

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**Brian Stewart**

Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

Education

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S., Economics and Mathematics (2008)

Admissions

- Maryland (2012)
- District of Columbia (2014)

# Exhibit 6

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et al.*, Individually  
and on Behalf of All Others Similarly Situated,

Case No. 4:17-cv-2399-VDG-CAB

Plaintiffs,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRY,

Defendants.

**DECLARATION OF MELISSA A. FORTUNATO ON BEHALF OF  
BRAGAR EAGEL & SQUIRE, P.C. IN SUPPORT OF APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, MELISSA A. FORTUNATO, declare as follows, pursuant to 28 U.S.C. §1746:

1. I am a partner of the law firm of Bragar Eagel & Squire, P.C. (“BES”) 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 August 26, 2020 (the “Time Period”).

2. My firm, which served as additional counsel for Plaintiff John Kugel in the Action, was involved in various aspects of the litigation, such as: (i) efforts in connection with class certification including facilitating the production of discovery taken from Plaintiff Kugel; (ii) preparing and attending Plaintiff Kugel’s deposition; (iii) advising Plaintiff Kugel on the status of the litigation as it proceeded, including but not limited to, the settlement discussions; and (iv) preparation of mediation and settlement documents.

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 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 incurred in the Action. The review also confirmed the firm's guidelines and policies regarding expenses were followed. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action.<sup>1</sup> In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

4. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys and professional support staff members of my firm who were involved in the prosecution of the Action. Exhibit A presents a comparison of lodestar calculations based on: (i) my firm's current hourly rates that are based on the prevailing market rates for practitioners in complex securities litigation; and (ii) adjusted rates to reflect the market rates that were found to be reasonable in this District almost thirteen years ago in *In re Enron Corp. Sec., Deriv., & "ERISA" Litig.*, 586 F. Supp. 2d 732, 780 (S.D. Tex. 2008) ("*Enron*") (Houston/Dallas salary survey in 2007 found highest partner rate was \$900 per hour and the highest associate rate was \$460 per hour). For personnel who are no longer employed by my firm, the lodestar calculation is based upon the rates for such personnel in his or her final year of employment by my firm. The

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<sup>1</sup> Among other decisions, BES did not claim time for attorneys and professional support staff members who billed less than five hours in this Action.

schedule was prepared from daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended after the entry of the Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, and Setting Date for Hearing on Final Approval of Settlement, on August 26, 2020, has been excluded in order to exclude time spent in preparing the application for fees and payment of expenses, the motion for final approval, and associated documents.

5. The total number of hours spent on this Action reported by my firm during the Time Period is 187.5. The total lodestar amount for reported attorney/professional staff time based on current market rates is \$139,025, and \$126,725 when adjusted to reflect the rates that were accepted by the *Enron* court. The lodestar figures are based upon hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in the hourly rates.

6. As detailed in Exhibit B, my firm has incurred a total of \$810.50 in 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.

7. With respect to the standing of my firm, attached hereto as Exhibit C is a brief biography of my firm.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of October, 2020.

*/s/ Melissa A. Fortunato*

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Melissa A. Fortunato

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
 No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT A**

**LODESTAR REPORT**

FIRM: BRAGAR EAGEL & SQUIRE, P.C.

REPORTING PERIOD: INCEPTION THROUGH AUGUST 26, 2020

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Brandon Walker	P	\$925.00	57.75	\$53,418.75
Melissa Fortunato	P	\$825.00	16.25	\$13,406.25
Marion Passmore	OC	\$875.00	61.50	\$53,812.50
Alexandra Raymond	A	\$475.00	6.25	\$2,968.75
Dena Bielasz	PL	\$375.00	11.00	\$4,125.00
Lily Moran	PL	\$325.00	34.75	\$11,293.75
<b>Total:</b>			<b>187.50</b>	<b>\$139,025.00</b>

**ADJUSTED LODESTAR REPORT**

FIRM: BRAGAR EAGEL &amp; SQUIRE, P.C.

REPORTING PERIOD: INCEPTION THROUGH AUGUST 26, 2020

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Brandon Walker	P	\$900.00	57.75	\$51,975.00
Melissa Fortunato	P	\$825.00	16.25	\$13,406.25
Marion Passmore	OC	\$700.00	61.50	\$43,050.00
Alexandra Raymond	A	\$460.00	6.25	\$2,875.00
Dena Bielasz	PL	\$375.00	11.00	\$4,125.00
Lily Moran	PL	\$325.00	34.75	\$11,293.75
<b>Total:</b>			<b>187.50</b>	<b>\$126,725.00</b>

Partner (P) Paralegal (PL)  
Of Counsel (OC)  
Associate (A)

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: BRAGAR EAGEL & SQUIRE, P.C.  
REPORTING PERIOD: INCEPTION THROUGH OCTOBER 20, 2020

<b>CATEGORY</b>		<b>TOTAL AMOUNT</b>
Work-Related Transportation / Meals / Lodging		\$810.50
<b>TOTAL</b>		<b>\$810.50</b>

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT C**

**BRAGAR EAGEL & SQUIRE, P.C. FIRM RESUME**

# B|E|S BRAGAR EAGEL & SQUIRE, P.C.

## FIRM RESUME

Bragar Eigel & Squire, P.C. represents clients in complex litigation throughout the country. Our practice focuses on prosecuting stockholder securities class actions, corporate governance actions, and merger actions in federal and state courts. Our attorneys have been appointed as lead counsel or co-lead counsel in hundreds of securities, corporate governance, and merger actions around the country. We also have strong practices in bankruptcy-related litigation, and we are often retained by creditor committees or post-confirmation trustees to litigate D&O and other claims for the benefit of the bankruptcy estate or creditors. We also have a breadth of experience to litigate a full range of commercial disputes.

Our attorneys come from various legal backgrounds and collectively have decades of experience litigating securities class actions, corporate governance matters, merger actions, and consumer rights actions, obtaining well over a billion dollars in recoveries for clients and class members. We litigate cases aggressively, from the initial investigation, through motion practice, discovery, trial and appeals. We are headquartered in New York City and have offices in San Francisco and Los Angeles, California.

## DERIVATIVE, SECURITIES, AND MERGER LITIGATION

The core of our practice is prosecuting securities class actions, corporate governance actions, and merger actions. Our attorneys have represented stockholders in hundreds of securities class actions, individual securities actions, corporate governance actions, and merger actions.

We have an active practice before the Delaware Court of Chancery and have achieved success before the Delaware Supreme Court litigating matters involving stockholder rights, corporate governance, and limited partner rights. We are one of the nation's leading firms litigating complex legal issues under Delaware law applicable to alternative entities, including publicly-traded master limited partnerships and limited liability companies.

In the master limited partnership field, we frequently represent limited partners challenging the fairness of "conflicted" transactions between the publicly-traded partnership and its controlling parent entity. In *In re El Paso Pipeline Partners, L.P., Derivative Litigation*, we successfully tried claims before the Delaware Court of Chancery and obtained the only verdict finding that independent directors of a master limited partnership acted with *subjective* bad faith when approving a conflicted transaction with the parent. 2015 Del. Ch. LEXIS 116 (April 20, 2015).<sup>1</sup>

In *Mesirov v. Enbridge Energy Company, Inc.*, we obtained a very favorable ruling from the Delaware Supreme Court, which clarified the standard applicable to certain conflicted

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<sup>1</sup>The case was subsequently dismissed on appeal due to plaintiff's loss of standing.

## B|E|S BRAGAR EAGEL & SQUIRE, P.C.

transactions between the master limited partnership and its parent. 159 A.3d 242 (Del. March 28, 2017).

### Representative Matters

#### Derivative Actions

- ***Mesirov v. Enbridge Energy Company, Inc., et al.***, C.A. No. 11314, Appeal No. 273, (Del. Supreme Court 2016). We prosecuted class and derivative claims on behalf of Enbridge Energy Partners, L.P. (“EEP”) against EEP’s general partner, parent, and affiliated entities. The claims arose out of a January 2015 “drop down” transaction pursuant to which the general partner sold certain pipeline assets to EEP for \$1 billion plus additional consideration in the form of a “special tax allocation”. We secured a favorable ruling from the Delaware Supreme Court, reversing in part the Chancery Court’s dismissal of the action. The action was dismissed as a result of EEP’s merger into Enbridge Inc., which deprived the plaintiff of standing. The EEP Special Committee that negotiated an increase in the merger price valued the derivative claims at \$111.2 million and asserted that Enbridge’s offer failed to account for this value. Reported decisions: 159 A.3d 242 (Del. March 28, 2017) (reversing order of dismissal); 2018 Del. Ch. LEXIS 294 (Del. Ch. August 29, 2018) (denying in part motion to dismiss third amended complaint).
- ***In re Activision Blizzard, Inc. Stockholder Litigation***, C.A. No. 8885 (Del. Ch. 2013). We were co-lead counsel prosecuting class and derivative claims on behalf of Activision’s stockholders arising out of a conflicted transaction unfairly favoring Activision’s senior management. The matter settled on the eve of trial for \$275 million, by far the largest monetary settlement in the history of the Delaware Court of Chancery and the largest cash derivative settlement in the country. In addition, the settlement provided significant corporate governance benefits to class. Reported decision: 86 A.3d 531 (February 21, 2014) (court compelled foreign national directors of controlling stockholder to respond to discovery).
- ***In re El Paso Pipeline Partners, L.P. Derivative Litigation***, C.A. No. 7141 (Del. Ch. 2011). We prosecuted claims on behalf of El Paso Pipeline Partners, L.P., a public master limited partnership, against its general partner and its sponsor, El Paso Corporation (now merged into Kinder Morgan, Inc.). The claims arose out of the 2010 “drop down” of certain pipeline assets from the general partner to the partnership. After trial, the Court found that the Special Committee that recommended approval of the transaction did not believe that the transaction was in the best interests of the partnership and, therefore, that the general partner breached the partnership agreement by engaging in the transaction. The Court found that the partnership was damaged in the amount of \$171 million.<sup>2</sup> Reported decision: 2015 Del. Ch. LEXIS 116 (April 20, 2015) (post-trial memorandum opinion finding that the three independent

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<sup>2</sup> The case was subsequently dismissed on appeal due to plaintiff’s loss of standing.

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directors that approved a conflicted transaction did not believe that the transaction was in the best interests of the partnership).

- ***In re Third Avenue Trust Stockholder & Derivative Litigation***, Cons. C.A. No. 12184 (Del. Ch. 2016). We were co-lead counsel prosecuting claims for breach of fiduciary duty against the Trust's officers and its investment advisor arising out of the collapse of the Third Avenue Focused Credit Fund. The case settled for \$25 million.
- ***In re CenturyLink Sales Practices and Securities Litigation: Consolidated Derivative Action***, MDL No. 17-2795 (MJD/KMM), United States District Court for the District of Minnesota. We were appointed sole lead counsel to pursue derivative claims on behalf of CenturyLink against certain of its current and former directors and officers. The claims arise out of the company's practice of allowing its employees to add services or lines to accounts without customer permission, resulting in millions of dollars in unauthorized charges to CenturyLink customers.
- ***In re Equifax, Inc. Derivative Litigation***, Case No. 1:18-cv-17, United States District Court for the Northern District of Georgia. We represent individual and institutional stockholders prosecuting derivative claims on behalf of Equifax against certain of Equifax's current and former officers and directors for breaches of fiduciary duty arising out of Equifax's 2017 data breach.
- ***In re Align Technology, Inc. Derivative Litigation***, Lead Case No. 5:19-cv-00202-LHK, United States District Court for the Northern District of California. We represent a stockholder of Align Technology, Inc., the manufacturer of Invisalign® teeth aligners, asserting derivative claims on behalf of the company alleging that certain former directors and officers caused the company to make materially false and misleading statements concerning the company's promotions and their negative effect on gross margins and net revenues. We were appointed co-lead counsel on February 26, 2019.
- ***Baron v. Sanborn, et al.***, Case No. 3:18-cv-04391-WHA, United States District Court for the Northern District of California. We represent a stockholder of LendingClub Corporation, an on-line marketplace platform that connects borrowers to lenders. The stockholder is bringing derivative claims on behalf of the company against certain current and former directors and officers for arising out of the company's business practice of make false statements to potential borrowers concerning applicable fees and the loan approval process. The court appointed us co-lead counsel on April 25, 2019.
- ***Meldon v. Thompson, et al.***, Civil Action No.: 18-cv-10166, United States District Court for the District of New Jersey. We represent a stockholder of Freshpet, Inc., a manufacturer of foods for dogs and cats. The stockholder is bringing a derivative action on behalf of the company alleging that certain current and former directors and officers caused the company to make false and misleading statements about the company's business results and prospects. The claims arise out of the defendants'

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alleged failure to disclose expected decreases in revenues due to manufacturing problems and financial difficulties at the company's primary retail customers.

- ***Walker v. Desisto, et al.***, Civ. A. No. 17-10738-MLW, United States District Court for the District of Massachusetts. We represent a stockholder of Insulet Corporation bringing derivative claims on behalf of the company against certain of the company's current and former directors and officers for making false and misleading statements concerning market demand for the company's disposable insulin delivery system, "OmniPod." The parties have agreed to a settlement of the matter, which remains subject to the court's approval.
- ***In re Tesla Motors, Inc. Stockholder Litigation***, C.A. No. 12711, Delaware Court of Chancery. We represent institutional asset managers prosecuting direct and derivative claims on behalf of Tesla arising out of Tesla's acquisition of SolarCity Corporation. The class was certified on April 18, 2019 and discovery is ongoing.
- ***Brinckerhoff v. Texas Eastern Products Pipeline Company, L.L.C.***, C.A. No. 2427 (Del. Ch. 2010). We prosecuted claims on behalf of TEPPCO's common unitholders claiming that in a series of transactions orchestrated by TEPPCO's general partner, TEPPCO had been shortchanged by hundreds of millions of dollars. The action was resolved by a merger which benefitted TEPPCO's unitholders by more than \$400 million. Reported decision: 2008 Del. Ch. LEXIS 174 (November 25, 2008) (denial in part of motion to dismiss).
- ***Gerber v. Enterprise Products Holdings L.L.C.***, C.A. No. 5989 (Del. Ch. 2013). We served as lead counsel for derivative and class claims arising out of a variety of master limited partnership transactions, alleging that the general partner's approvals of the transactions were done in bad faith and in breach of the implied covenant of good faith and fair dealing. One action was settled by defendants agreeing to a merger that increased the value of the limited partnership units by approximately \$400 million. In another action, after the trial court dismissed the complaint, we prevailed before the Delaware Supreme Court to reinstate the claims for breach of implied covenant. The matters settled for \$12.4 million for the Master Limited Partnership unitholders. Reported decision: 67 A.3d 400, *overruled in part*, 159 A.3d 242 (Del. June 10, 2013) (reversing order of dismissal).
- ***In re Allegiant Travel Co. Stockholder Derivative Litigation***, Master File No. 3:18-01864, United States District Court for the District of Nevada. We are co-lead counsel representing stockholders in a derivative action asserting claims against Allegiant's current and former officers and directors for breaches of duties owed to the company arising out of the company's failures to maintain the safety of its airplanes.

### Securities Class Actions

- ***Lefkowitz v. Synacor, Inc.***, Case No. 18-2979, United States District Court for the Southern District of New York. On October 17, 2018, we were appointed sole lead

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counsel to prosecute claims on behalf of a class of Synacor stockholders alleging that Synacor, Inc. violated federal securities laws by making false and misleading statements and failing to disclose adverse facts concerning a contract with AT&T.

- ***Crago v. Charles Schwab & Co., Inc., et al.***, Case No. 3:16 Civ. 3938, United States District Court for the Northern District of California. We are co-lead counsel prosecuting claims seeking to recover damages on behalf of a class of retail brokerage customers arising out of Charles Schwab's alleged omissions regarding its order routing practices. The Court denied Charles Schwab's motion to dismiss on December 5, 2017 and the case has now proceeded into further discovery. Reported decision: 2017 U.S. Dist. LEXIS 215871 (December 5, 2017) (denial of motion to dismiss).
- ***In re Supreme Industries, Inc., Securities Litigation***, Case No. 3:17-143, United States District Court for the District of Indiana. We are co-lead counsel prosecuting claims on behalf of a class of stockholders alleging that Supreme Industries violated federal securities laws by making false and misleading representations concerning its order backlog, an indicator of its current and future financial performance.
- ***In re BP p.l.c. Securities Litigation***, Case No. 4:10-md-02185, United States District Court for the Southern District of Texas. We represent nine institutional asset managers that purchased BP stock on the London Stock Exchange and are prosecuting claims against BP for violations of English securities laws arising out of BP's false and misleading statements concerning the safety of its offshore oil rigs and operations and false and misleading statements regarding the size of the oil spill.
- ***Sudunagunta v. NantKwest, Inc., et al.***, Case No. 2:16 Civ. 1947, United States District Court for the Central District of California. We were co-lead counsel prosecuting a securities class action against NantKwest, a biotechnology company that develops immunotherapeutic agents for various clinical conditions and in which we are co-lead counsel for the plaintiff. The action resulted from NantKwest's false and misleading statements in connection with its initial public offering and failure to disclose errors in its financial filings with the SEC. On May 13, 2019, the Court granted final approval of a settlement that will provide \$12 million to the class. Reported decision: 2018 U.S. Dist. LEXIS 137084 (Aug. 13, 2018) (order granting class certification).
- ***Xu v. Gridsum Holding Inc., et al.***, Case No. 1:18 Civ. 3655, United States District Court for the Southern District of New York. We are lead counsel prosecuting claims for violations of the federal securities laws arising out of Gridsum's materially false and misleading statements and omissions regarding its financial reporting. The Court appointed us lead counsel on September 17, 2018.
- ***Shah v. A10 Networks, Inc., et al.***, No. 3:18 Civ. 1772, United States District Court for the Northern District of California. We are co-lead counsel prosecuting claims on behalf of a class of stockholders arising out of alleged violations of the federal securities laws related to materially false and misleading statements related to a failure to disclose an Audit Committee investigation prompted by A10's internal

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control issues, as well as allegations that improper revenue recognition caused false financial statements. The Court appointed us lead counsel on August 31, 2018.

- ***Cullinan v. Cemtrex, Inc., et al.***, Consolidated Case No. 2:17-cv-01067, United States District Court for the Eastern District of New York. We are co-lead counsel prosecuting claims on behalf of a class of stockholders arising out of violations of the federal securities laws related to company insider's improper sales of stock and false and misleading statements concerning the company's business operations. The court appointed us co-lead counsel on March 9, 2018. The Parties negotiated a settlement of the action for a \$625,000 cash payment to the Class, which is subject to final approval by the Court.
- ***In re Altice USA, Inc. Securities Litigation***, Index No. 711788/2018, Supreme Court of the State of New York, Queens County. We are co-lead counsel prosecuting claims on behalf of a class of stockholders arising out of violations of the federal securities laws related to the company's filing of a false and misleading proxy statement in connection with its June 2017 initial public offering.
- ***Vardanian v. Arlo Technologies, Inc., et al.***, Case NO. 19cv342418, Superior Court of the State of California, County of Santa Clara. We represent a class of Arlo Technologies, Inc., stockholders alleging claims for violation of the federal securities laws arising out of the company's Registration Statement and Prospectus issued in connection with its August 2018 initial public offering.
- ***Alden v. FAT Brands, Inc., et al.***, Case No. BC716017, Superior Court for the State of California, County of Los Angeles. We represent a class of FAT Brands stockholders alleging claims for violation of federal securities laws arising out of the company's Registration Statement and Offering Circular filed in connection with its initial public offering.
- ***Trinad Capital Master Fund, Ltd. v Majesco Entertainment Company, et al.***, C.A. No. 06-05265 (D.N.J. 2006). We represented hedge fund in opt-out securities fraud litigation against officers and directors of public company. The case resolved favorably for client.

### Merger Litigation

- ***True Value Company***, C.A. No. 2018-0257, Delaware Court of Chancery. Co-lead counsel representing stockholder and independent retailer of True Value Company in a challenge to the fairness of a conflicted transaction by which each True Value stockholder would be forced to sell 70% of its shares at par value, ending up as indirect minority members of the Company. The action resulted in additional disclosures by defendants, which the Court found to be material.
- ***In re Cornerstone Therapeutics, Inc. Stockholder Litigation***, C.A. No. 8922, Delaware Court of Chancery. Co-lead counsel representing a class of Cornerstone

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Therapeutics stockholders challenging an acquisition of the company by its controlling stockholder in a “going private” transaction. The matter settled for **\$17,881,555** in cash benefits to the class.

- ***Ross and Parker v. Rhône Capital, L.L.C. et al.***, Case No. CACE-16-013220 (Cir. Ct. 17th Jud. Dist., Broward Cty., Fla.). Partners of our firm were counsel in action challenging the acquisition of Elizabeth Arden by Revlon.
- ***In re Allion Healthcare, Inc. Shareholders Litigation***, C.A. No. 5022-CC (Del. Ch.). Partners of our firm co-lead counsel in action challenging a going-private transaction whereby Allion merged with H.I.G. Capital Inc. and a group of Allion stockholders. The action was settled with a \$4 million payment to Allion’s unaffiliated shareholders and additional disclosures to shareholders.
- ***In re RehabCare Group, Inc., Shareholders Litigation***, C.A. No. 6197-VCL (Del. Ch.). Partners of our firm co-lead counsel in action challenging the acquisition of RehabCare by Kindred Healthcare, Inc. which resulted in a \$2.5 million payment to RehabCare shareholders, modification of the merger agreement, and additional disclosures to shareholders.
- ***In re Atheros Communications Shareholder Litigation***, C.A. No. 6124-VCN (Del. Ch.). Partners of our firm co-lead counsel in action challenging the acquisition of Atheros by Qualcomm Incorporated which resulted in the issuance of a preliminary injunction by the Delaware Court of Chancery delaying the shareholder vote and requiring additional disclosures to shareholders.
- ***Maric Capital Master Fund, Ltd. v. PLATO Learning, Inc.***, C.A. No. 5402-VCS (Del. Ch.). Partners of our firm were lead counsel in action challenging the acquisition of PLATO by Thoma Bravo, LLC which resulted in the issuance of a preliminary injunction by the Delaware Court of Chancery requiring additional disclosures to shareholders.

## **BANKRUPTCY AND INSOLVENCY-RELATED LITIGATION**

Our knowledge of bankruptcy law and procedure has helped us carve a niche in this often-overlapping sphere of litigation. We have a particularly strong practice representing clients who have invested in companies undergoing reorganization. Because of our expertise, we have acted as bankruptcy counsel to other firms pursuing claims on behalf of their clients. We are also involved in more traditional aspects of reorganization and bankruptcy proceedings. We are often retained by creditors committee or post-confirmation trustees to pursue claims for the benefit of the estates in question, including litigation arising out of financial misrepresentation and breaches of fiduciary duty by debtors' directors and officers.

### Representative Matters

- ***Creditor Trust of Energy & Exploration Partners, Inc. v. Apollo Investment Corporation, et al.***, C.A. No. 17-04035 (Bankr. N.D. Tex. 2017). We represented a post-confirmation Creditor Trust asserting claims against Apollo Investment Corporation and affiliated entities for fraudulent conveyance arising out of Debtors' payment of penalty in connection with prepayment of debt. The matter settled favorably for the Creditor Trust.
- ***Creditor Trust of Vivaro Corporation v. Catalina Acquisitions LLC***, JAMS Arbitration. We represented a post-confirmation Creditor Trust asserting claims for breach of promissory note. The matter settled favorably for the Creditor Trust.
- ***Hebrew Hospital Senior Housing, Inc., Plan Administrator***, C.A. 17-01240 (Bankr. S.D. 2017). We represent a post-confirmation Plan Administrator bringing claims for breach of fiduciary duty against certain former officers and directors of Hebrew Hospital Senior Housing, Inc. ("HSH"), a bankrupt "continuing care retirement community." The Plan Administrator is also asserting claims assigned by current and former residents of HSH asserting that they did not receive mandated disclosures.
- ***Advance Watch Company, Ltd. Creditor Trust***, C.A. No. 17-7461 (S.D.N.Y. 2017). We represent a post-confirmation Liquidating Trust asserting claims for breach of fiduciary duty against former officers and directors of Advance Watch Company, Ltd.
- ***UGHS Senior Living, Inc. Liquidating Trust***, C.A. No. 2017-75532, District Court of State of Texas, Harris County. We represented a post-confirmation Liquidating Trustee asserting claims for breach of fiduciary duty against former officers and directors. The matter settled favorably for the Creditor Trust.
- ***In re Solutions Liquidation LLC***, Adv. P. No. 18-50304 (Bankr. Del. 2018). We represent the post-confirmation Liquidating Trust bringing claims for breach of fiduciary duty against the former officers and directors of SDI Solutions LLC.
- ***Industrial Enterprises of America***, We are litigating twelve adversary proceedings in the Bankruptcy Court for the District of Delaware and one civil action in the United

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States District Court for the District of Colorado. We, along with another firm, represent a trustee in bankruptcy of a company that was the subject of a major fraud for which the two principals were convicted of fraud and jailed. We are pursuing the thirteen actions against one hundred and twenty defendants for a variety of wrongdoings, ranging from orchestrating the fraud and assisting the fraud to constructive fraudulent conveyance and unjust enrichment.

- ***In re Pitt Penn Holding Co.***, No. 09-11475 (Bankr. D. Del. 2005). We represented Industrial Enterprises of America, Inc. in twelve different adversary proceedings in the Bankruptcy Court, District of Delaware and one civil action in the United States District Court for the District of Colorado. We, along with another firm, represent a trustee in bankruptcy of a company that was the subject of a major fraud, for which the two principals were convicted and jailed. We have pursued the thirteen actions against one hundred and twenty defendants for a variety of wrongdoings ranging from orchestrating and assisting the fraud to constructive fraudulent conveyance and unjust enrichment.
- ***In re Worldcom***, No. 02-13533 (Bankr. S.D.N.Y.). We represented a patent owner in a multimillion dollar claim for patent infringement. The case resolved favorably for client.
- ***In re Enron Corp.***, No. 01-16034 (Bankr. S.D.N.Y.). Stockholders filed suit against a corporation that withdrew from a merger agreement with the debtor corporation seeking to enforce the merger agreement. The case was settled for \$6 million.
- ***In re Universal Automotive Industries, Inc.***, No. 05-27778 (Bankr. D.N.J. 2005). We represented trustee and secured lenders in claims against former officers and directors. The case resolved favorably for plaintiffs.
- ***In re Acclaim Entertainment, Inc.***, No. 04-85595 (Bankr. E.D.N.Y. 2004). We represented a trustee in litigation against former officers and directors. The case resolved favorably for trustee.
- ***In re Allou Distributors, Inc.***, No. 03-82321 (Bankr. E.D.N.Y.). We represented trustee and secured lenders in claims against former officers and directors. The case resolved favorably for plaintiffs.
- ***Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.***, No. 20436 (Del. Ch. 2003). Investors in a hedge fund sued for misrepresenting the value of the investments. The case resolved favorably for plaintiffs.

### CONSUMER CLASS ACTIONS

We have extensive experience litigating class actions on behalf of consumers. We have prosecuted claims for damages arising out of data breaches, defective coin-counting machines, and consumer loyalty programs.

- ***Sateriale v. R.J. Reynolds Tobacco Co., Inc.***, United States District Court for the Central District of California. We represented a class of California adult smokers who purchased packs of Camel cigarettes and collected Camel Cash, or “C-Notes,” as part of the Camel Cash loyalty program. The class asserted claims that Reynolds breached its contract with program members when, on October 1, 2006, Reynolds removed all of the non-tobacco related merchandise from the Camel Cash program, and program members could redeem C-Notes only for cigarettes or coupons for dollars off cigarettes. In 2012, we obtained a victory before the United States Court of Appeals for the Ninth Circuit reversed the district court’s dismissal of the complaint. The Ninth Circuit found that the Camel Cash program created a unilateral contract between consumers and Reynolds. Pursuant to a settlement reached in 2016, R.J. Reynolds offered Class Members the opportunity to use C-Notes that they collected and held as of October 1, 2006, to redeem for non-tobacco merchandise. Reported decisions: 697 F.3d 777 (9th Cir. October 15, 2012) (reversing order of dismissal); 2014 U.S. Dist. LEXIS 176858 (order granting class certification); 2014 U.S. Dist. LEXIS 176858 (order denying defendant’s motion for summary judgment).
- ***Castillo v. Seagate Technology LLC***, United States District Court for the Northern District of California. We represented current and former employees of Seagate and its affiliates, and the employees’ spouses, seeking damages arising from Seagate’s March 2016 data breach in which Seagate wrongfully disclosed the employees’ 2015 Form W-2 tax information in a “phishing” scam. The matter settled in March 2018. Pursuant to the settlement, Seagate agreed to provide Class Members with the option to obtain two years of identity theft protection and to reimburse Class Members for certain economic costs. Reported decision: 2017 U.S. Dist. LEXIS 187428 (order denying in party motion to dismiss).
- ***Feinman v. TD Bank, N.A.***, Supreme Court of the State of New York, New York County. We were co-class counsel in consumer class action alleging that TD Bank’s “Penny Arcade” coin-counting machines under-counted coins deposited by consumers. Class counsel negotiated a \$7.5 million settlement in favor of the class.

### GENERAL COMMERCIAL LITIGATION

Our attorneys handle both plaintiff and defendant work encompassing all aspects of commercial litigation in traditional forums and through alternate dispute resolution. We have recently brought an arbitration against a national brokerage firm, prosecuted a consumer class action involving a marketing promotion, and defended a company and its founder against claims of fraud in connection with the sale of a high-tech start-up. Although frequently involved in trial practice, much of our work is consultative in nature. As such, we act in an advisory capacity or pre-litigation mode where we attempt to solve business disagreements and partnership disputes without commencing a formal action. This often occurs when small businesses undergo a significant change, such as a partnership split or business “divorce,” or in the case of a closely held business, a transition of ownership. Additional areas of focus include commercial contract actions and personal service contracts, both in negotiation and in contests questioning the parties’ adherence to contract terms. In this regard, we have been involved in several arbitration cases involving major sports teams. We also handle cases involving insurance disputes, including contesting insurance valuations and coverage refusals.

#### Representative Matters

- ***Dimension Trading Partners, LLC v. Jamie F. Lissette and Hammerstone NV, Inc.***, No. 650284/2013, New York Supreme Court, New York County. We defended a proprietary trader against a claim to collect on promissory note issued in connection with the establishment of trading relationship.
- ***Ator Limited v. Comodo Holdings Limited***, No. 12-03083 (D.N.J.). We represented third-party defendants in a dispute arising out of the sale of a start-up company.
- ***Financials Restructuring Partners v. Premier Bancshares, Inc.***, No. 651283/2013, New York Supreme Court, New York County. We defended former bank holding company against attempt to foreclose upon \$6 million in debt securities.
- ***325 Schermerhorn LLC v. Nevins Realty Corp.*** We obtained a victory on summary judgment compelling defendants to pay \$3.6 million plus interest representing a returned down payment on four properties because of a transit easement assumedly known to all parties at the time the contracts were executed. Reported decision at 2009 WL 997501.
- ***Bellis v. Tokio Marine Insurance Company.*** We procured a \$7 million settlement after obtaining a jury verdict on liability based on causation of damage in insurance claim. We also defeated a summary judgment motion reported at 2002 WL 193149 (S.D.N.Y.). The case involved attribution of liability for some priceless Tiffany glass that was damaged while on exhibit in Tokyo. Reported decision at 2004 WL 1637045 (S.D.N.Y.).

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- ***Paquette v. Twentieth Century Fox***. Compelled Fox television to grant “created by/inspired by” credits to authors of comic book from which television series was adapted, establishing claim of reverse passing off, *i.e.*, improperly taking credit for someone else’s work, under the Lanham Act. Reported decision at 2000 WL 235133 (S.D.N.Y.).
- ***Colton Hartnick Yamin & Sheresky v. Feinberg***, New York Supreme Court, New York County. We successfully reversed the trial court’s denial of summary judgment to law firm on impropriety of claim of malpractice. On appeal, the court dismissed the malpractice claim based on lack of facts to establish legal malpractice and punitive damages. Reported decision at 227 A.D.2d 233, 642 N.Y.S.2d 283.
- ***Raycom v. Kerns***, New York Supreme Court, Kings County. We are representing a Singapore-based aircraft part manufacturer in a breach of contract suit against a multi-national corporation.

**OUR ATTORNEYS**



**Raymond A. Bragar**

Ray Bragar is a partner of the firm. Ray started the firm in 1983 and practices general litigation with a sub-specialty in real estate and real estate litigation. He has over thirty years of experience practicing in New York State and Federal Courts. He has handled complex trials before juries and judges lasting several weeks and numerous appeals in both the State and Federal Courts. He also has extensive experience working in the nontraditional forum of alternate dispute resolution, including multiple-week trials.

Following graduation, Ray was law clerk to the Hon. Lloyd F. McMahon who was then Chief Judge for the United States District Court for the Southern District of New York. He also previously worked for the firm of Katten Muchin Rosenman LLP (formerly Rosenman & Colin, LLP).

Ray is member of the bar of the State of New York. He is also admitted to practice before the United States Supreme court, as well as in the United States Courts of Appeals for the Second, Fourth, and District of Columbia Circuits, United States District Courts for the Southern, Eastern, and Northern Districts of New York, and the United States Bankruptcy Courts for the Eastern and Southern Districts of New York. He is a member of the New York State Bar Association, where he has been a member of the Civil Practice Law & Rules Committee since 1985.

Ray is a 1972 *cum laude* graduate of the Harvard Law School and is a 1968 *magna cum laude* graduate of Rutgers University.



**Lawrence P. Eagel**

Larry Eagel is a partner in the firm and joined in 1994. Larry handles all types of litigation, but he is particularly skilled in the areas of securities and bankruptcy-related litigation, including class actions. Prior to 1994, he was associated with the firm of Proskauer Rose LLP. Larry was also a certified public accountant and worked in the late 1970's as an auditor with Grant Thornton & Co. (formerly Alexander Grant & Co.) in the firm's Washington, D.C. office.

Larry is member of the bars of the State of New York and the State of New Jersey. He is also admitted to practice before the United States Courts of Appeals for the Second and Third Circuits, the United States District Courts for the Southern, Eastern, and Northern Districts of New York, the United States District Court for the District of New Jersey, and the United States Tax Court. He is a member of The Association of the Bar of the City of New York, where he was a member of the Committee on Federal Legislation from 1993 to 1997.

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Larry is a 1983 *cum laude* graduate of the Brooklyn Law School, where he was a Comments Editor of the *Brooklyn Law Review*. He completed his undergraduate work at George Washington University in 1978, where he also earned an M.B.A. in 1980.



### **J. Brandon Walker**

J. Brandon Walker is a partner in the firm. Before joining the firm in 2015, Brandon was a partner at Kirby McInerney LLP. Brandon has a broad background in securities fraud, corporate governance, and other complex class action and commercial litigation on behalf of shareholders. He has represented public retirement systems, union pension funds, European investment managers, and other institutional and individual investors before federal, state, and appellate courts throughout the country.

Brandon is a member of the bars of the State of New York and the State of South Carolina. He is admitted to practice before the United States Courts of Appeals for the First, Second, and Sixth Circuits, and the United States District Courts for the Eastern and Southern Districts of New York.

Brandon is a 2008 graduate of Wake Forest University School of Law with an MBA from the Wake Forest University Graduate School of Management. He completed his undergraduate work at New York University.



### **David J. Stone**

David J. Stone is a partner in the firm, having joined in May 2011. David has extensive experience litigating all types of commercial matters, including securities, mortgage-backed securities, and consumer class actions. Prior to joining the firm, David was associated with Greenberg Traurig LLP, Morrison & Foerster LLP, and Cravath Swaine & Moore LLP.

David is a member of the bars of the State of New York and the State of California. He is admitted to practice before the United States Court of Appeals for the Second and Third Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, the Northern and Central Districts of California, and the Southern District of Texas, and the United States Bankruptcy Courts for the Southern and Eastern Districts of New York.

David is a 1994 graduate of the Boston University School of Law, where he was an editor of the Law Review, and a 1988 *cum laude* graduate of Tufts University. Following graduation, David was law clerk to the Hon. Joseph L. Tauro who was then Chief Judge for the United States District Court for the District of Massachusetts.

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**W. Scott Holleman**

Scott is a partner of the firm. He has a broad range of experience litigating complex claims involving securities fraud, corporate governance, mergers & acquisitions, antitrust, consumer class actions and other litigation. Scott has represented clients in federal and state courts throughout the nation.

Scott is a 2007 graduate of St. John's University School of Law, and a 2003 graduate of the University of North Carolina.

Scott is a member of the bars of the State of New York and California, and is admitted to practice before the United States Court of Appeal for the Sixth Circuit, United States District Court for the Northern District of California, United States District Court for the Eastern, Northern, and Southern Districts of New York, and the United States District Court for the Eastern District of Wisconsin.



**Melissa A. Fortunato**

Melissa is a partner of the firm. She has a broad background in securities fraud, corporate governance, and other complex class action and commercial litigation on behalf of investors. Many of her cases have involved breaches of fiduciary duties by public company boards of directors, and she has represented institutional and individual stockholders in the mediation and settlement of numerous derivative and class actions.

Melissa is a 2013 *magna cum laude* graduate of the Pace University School of Law, where she was a Notes Editor of the Pace Environmental Law Review, and a 2004 *cum laude* graduate of Georgetown University.

Melissa is a member of the bars of the states of New York, New Jersey, Connecticut, and California. She is admitted to practice before the United States Court of Appeals for the Fourth and Ninth Circuits, and the United States District Courts for the Eastern, Western, and Southern Districts of New York, the District of New Jersey, and the Northern, Central, and Eastern Districts of California.

**B|E|S BRAGAR EAGEL & SQUIRE, P.C.**

**Jeffrey H. Squire**



Jeffrey H. Squire is Of Counsel at the firm. Jeff was previously a partner at Kirby, McInerney & Squire LLP and Of Counsel to Wolf Popper LLP. Jeff, as lead or co-lead counsel, has prosecuted scores of class and derivative actions on behalf of the stockholders of many corporations, including: Adelpia Communications Corporation; AT&T Corporation; Bennett Funding Group; Bisys Group, Inc.; eBay, Inc.; Ford Motor

Company; The Limited Corporation; Morrison Knudsen; Washington Group, Inc.; Waste Management, Inc.; and Woolworth, Inc. In such cases, he has recovered over one billion dollars for stockholders.

Jeff's ability to prosecute sophisticated class actions successfully has often been the subject of judicial recognition:

"You have acted the way lawyers at their best ought to act. And I have had a lot of cases in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here I would say this has been the best representation that I have ever seen." *In re Waste Management, Inc. Securities Litigation*.

"Nonetheless, in this Court's experience, relatively few cases have involved as high level of risk, as extensive discovery, and, most importantly, as positive a final result for the class members as that obtained in this case." *In re Bisys Securities Litigation*.

Jeff is a 1976 graduate of the University of Pennsylvania Law School and a 1973 *cum laude* graduate of Amherst College. He is member of the bars of the State of New York and State of Pennsylvania (retired). He is also admitted to practice before the United States Courts of

Appeals for the Second, Third, Sixth, and Seventh Circuits, and the United States District Courts for the Southern, Eastern, and Northern Districts of New York, the Northern District of Georgia, the Northern District of California, and the Southern District of Texas.



**Marion Passmore**

Marion Passmore is Of Counsel at the firm. Marion has a broad litigation practice, with an extensive background in securities litigation. She has prosecuted numerous securities fraud actions on behalf of institutional and individual investors. Prior to joining the firm, she co-founded a small private practice that specialized in estate planning and probate actions, civil litigation, real property, and served as city attorney for the City of Choteau, Montana.

Marion is a 2003 graduate of the University of San Diego School of Law. She received an M.B.A from the San Diego School of Business in 2004 and was also a member of the Beta Gamma Sigma Honors Society. Marion is a 2000 *cum laude* graduate of the University of Southern California.

## **B|E|S** BRAGAR EAGEL & SQUIRE, P.C.

Marion is a member of the bars of the states of California and Montana. She is admitted to practice in the United States District Courts for the Southern, Northern, and Central Districts of California and the District of Montana.



### **Alexandra Raymond**

Alexandra Raymond is an associate at the firm. Alexandra's practice involves securities, corporate governance and merger litigation. She also has experience in corporate transactional work and finance law.

Alexandra is a 2018 graduate of Boston University School of Law. While in law school, she spent a semester at Bucerius Law School in Hamburg, Germany, studying international and comparative business law. She received a B.A. from New York University in 2014.



### **Derek Scherr**

Derek Scherr is an associate at the firm. Derek practices commercial litigation involving contract disputes, commercial and residential real estate, partnership disputes, business fraud, and bankruptcy litigation.

Derek is a 2013 graduate of the Benjamin N. Cardozo School of Law. He received a B.A. in history from New York University in 2010.

Derek is a member of the bar of the State of New York.



### **Garam Choe**

Garam Choe is an associate at the firm. Garam's practice involves securities, corporate governance and merger litigation. Garam is a 2016 graduate of St. John's University School of Law, and a 2011 graduate of Baruch College. Garam is a member of the bar of the State of New York.



### **Siedel Bethune**

Siedel Bethune is a staff attorney at the firm. Siedel's practice involves securities, corporate governance and merger litigation. He has over eleven years of experience in all facets of discovery, including antitrust litigation document review, "second requests" issued by the Department of Justice or Federal Communications Commission, class action lawsuits, banking compliance litigation, mortgage securities litigation, pharmaceutical products liability litigation, patent and trademark prosecutions, criminal investigations, and internal investigations.

Siedel is a 2003 graduate of Boston College Law School, and received his B.A. from State

**B|E|S** BRAGAR EAGEL & SQUIRE, P.C.  
University of New York – Stony Brook in 1999.

**LOCATIONS**

580 California Street  
Suite 1200  
San Francisco, CA 94104  
Tel: (415) 568-2124

810 Seventh Avenue  
Suite 620  
New York, NY 10019  
Tel: (212)308-5858

445 S. Figueroa Street  
Suite 3100  
Los Angeles, CA  
90071 Tel: (213) 612-  
7222

# Exhibit 7

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et al.*, Individually  
and on Behalf of All Others Similarly Situated,

Case No. 4:17-cv-2399-VDG-CAB

Plaintiffs,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRY,

Defendants.

**DECLARATION OF JOE KENDALL ON BEHALF OF KENDALL LAW  
GROUP, PLLC, IN SUPPORT OF LEAD COUNSEL'S APPLICATION  
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, JOE KENDALL, declare as follows, pursuant to 28 U.S.C. §1746:

1. I founded the Kendall Law Group, PLLC, (“Kendall Law”). I submit this Declaration in support of Lead Counsel’s application for an award of attorneys’ fees and expenses in connection with services rendered in the above-entitled action from inception through October 16, 2020 as a permitted but not required “loadstar crosscheck” for the requested attorneys’ fee not to exceed one-third of the common fund.

2. As Court-appointed liaison counsel, my firm has been involved in all aspects of the litigation including, among other things, reviewing and commenting on draft pleadings and legal memoranda, assistance with third party discovery and disputes regarding the discovery, facilitating filings with the Court, and ensuring that Levi & Korsinsky, LLP (“Lead Counsel”) complied with local rules, customs, and practices as well as and attendance in Court hearings, both physically and virtually.

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 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 incurred in the Action. The review also confirmed the firm's guidelines and policies regarding expenses were followed. I believe that the time reflected in the firm's lodestar calculation and expenses are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Action. In addition, I believe that the legal fees and expenses are all of a type that would normally be charged to a non-contingent fee-paying client in the private legal marketplace in Houston, Texas.

4. The schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by attorneys and professional support staff members of my firm who were involved in the prosecution of the Action, and the lodestar calculation based on my firm's current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the rates for such personnel in her final year of employment by my firm. The schedule was prepared from time records regularly prepared and maintained by my firm. Time expended in preparing this application for fees and payment of expenses has not been included in this request.

5. The total number of hours spent on this Action reported by my firm during the Time Period is 49.9 hours. The total lodestar amount for reported attorney/professional staff time based on the firm's current rates is \$40,015.00.

6. The hourly rates for the attorneys and professional support staff of my firm included in Exhibit A are my firm's usual and customary hourly rates, which have been approved by Courts in other securities class action litigations. My firm's lodestar figures are based upon the firm's

hourly rates, which do not include charges for expense items. Expense items are recorded separately and are not duplicated in my firm's hourly rates.

7. As detailed in Exhibit B, my firm has incurred a total of \$623.26 in 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.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of October, 2020.

*/s/ Joe Kendall*

---

JOE KENDALL

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT A**

**LODESTAR REPORT**

FIRM: THE KENDALL LAW GROUP, PLLC

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 16, 2020

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Lodestar</b>
Joe Kendall	P	\$ 850.00	43.9	\$ 37,315.00
Jamie McKey	A	\$ 450.00	6.0	\$ 2,700.00
<b>Total:</b>			<b>49.9</b>	<b>\$ 40,015.00</b>

Partner (P)

Associate (A)

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT B**

**EXPENSE REPORT**

FIRM: THE KENDALL LAW GROUP, PLLC

REPORTING PERIOD: INCEPTION THROUGH OCTOBER 16, 2020

<b>CATEGORY</b>		<b>TOTAL AMOUNT</b>
Postage / Overnight Delivery Services		\$21.90
Work-Related Transportation / Meals / Lodging		\$601.36
<b>TOTAL</b>		<b>\$623.26</b>

*Rougier v. Applied Optoelectronics, Inc., et al.,*  
No. 4:17-cv-2399-VDG-CAB (S.D. Tex.)

**EXHIBIT C**

**KENDALL LAW GROUP, PLLC FIRM RESUME**



**FIRM RESUME**

Kendall Law Group was founded by former federal judge Joe Kendall. It is a boutique trial law firm. Led by Judge Kendall, the firm brings value-added assistance to their clients in complex class action, securities, and business litigation matters.

Since 2002, in class action securities fraud cases, the lawyers at Kendall Law Group have participated in obtaining over \$1 billion dollar for shareholders. The Kendall Law Group has served as lead, co-lead, or local counsel in numerous merger & acquisition, derivative, and securities fraud class action matters, including: *The George Leon Family Trust, Individually and on Behalf of All Others Similarly Situated v. Chicago Bridge & Iron Company N.V., et al.*, Lead Case No. 4:18-cv-0273 (S.D.Tex.); *Mona Abouzied, Individually and on Behalf of All Others Similarly Situated v. Applied Optoelectronics, Inc., et al.*, Civil Action No. 4:17-cv-02399 (S.D. Tex.); *Pedro Ramirez, Jr. Individually and on Behalf of All Others Similarly Situated v. Exxon Mobil Corporation, et al.*, Case No. 3-16-cv-3111-K (N.D. Tex.); *Anthony Giovagnoli, Individually and on Behalf of All Others Similarly Situated v. GlobalSCAPE, et al.*, Case No. 5:17-cv-00753 (S.D. Tex.); *City of Pontiac General Employees' Retirement System, Individually and On Behalf of All Others Similarly Situated v. Hanger, Inc., et al.*, Case No. A-14-CA-1026-SS (W.D. Tex.); *Mary McCloskey, Individually and On Behalf of All Others Similarly Situated v. Match Group, Inc., et al.*, Civil Action No. 3:16-cv-00549-S (N.D. Tex.); *Anton Steyn, Derivatively on Behalf of 3D Systems Corporation v. Abraham N. Reichental, et al.*, Case No. 2015-CP-46-2225 (16th Judicial Circuit Court of Common Pleas, South Carolina); *In re United Development Funding IV Securities Litigation*, Master File No. 3:15-cv-4030-M (N.D. Tex.); *Richard J. Isolde, Individually and on Behalf of all Others Similarly*

*Situated, v. Trinity Industries, Inc., et al.*, Civil No. 3:15-CV-2093-K, (N.D. Tex.); *In re EZCORP, Inc. Securities Litigation*, Master File No. 1:15-cv-00608-SS, (W.D. Tex.); *Yochanan Markman, Individually and on Behalf of All Others Similarly Situated, v. Whole Foods Market, Inc., et al.*, Civil Action No. 1:15-cv-00681-LY, (W.D. Tex.); *In re BP plc Securities Litigation*, Civil Action Nos. 4:10-md-02185, 4:12-cv-3714, 4:12-cv-3715, 4:15-cv-02704, (S.D. Tex.); *Edward Ogden, Derivatively on Behalf of Cobalt International Energy Inc. v. Joseph H. Bryant, et al.*, Civil Action No. 4:15-cv-00139 (S.D. Tex.); *City of Pontiac General Employees' Retirement System v. Dell Inc., et al.*, Civil Action No. 1:15-cv-00374-LY (W.D. Tex.); *Margaret Budde and Daniel Ream, Individually and On Behalf of All Others Similarly Situated v. Global Power Equipment Group, Inc., et al.*, Civil Action No. 3:15-cv-1679-M (W.D. Tex.); *City of Pontiac General Employees' Retirement System v. Hanger, Inc., et al.*, Civil Action No. 1:14-cv-01026-SS (W.D. Tex.); *Jan Buettgen, on Behalf of Himself and All Others Similarly Situated v. Katherine J. Harless, et al.*, Civil Action No. 3:09-cv-00791-K (N.D. Tex.); *In re Key Energy Services, Inc. Securities Litigation*, Civil Action No. 4:14-cv-2368 (S.D. Tex.); *In re Kosmos Energy Ltd Securities Litigation*, Civil Action No. 3:12-cv-373 (N.D. Tex.); *Nasser Moradi, et al., v. Sheldon Gary Adelson, et al.*, Case No. 2:11-cv-490 (D. Nevada); *In re Life Partners Holdings, Inc. Derivative Litigation*, Civil Action No. 2:11-cv-00043 (W.D. Tex.); *Mary K. Jones v. Pfizer Inc., et al.*, Civil Action No. 1:10-cv-03864 (S.D.N.Y.); *Richard Steck v. Santander Consumer USA Holdings Inc., et al.*, Civil Action No. 3:15-cv-2129 (N.D. Tex.); *Justin Pierce and Hillary Kay, Derivatively on Behalf of AT&T Inc. v. Randall L. Stephenson, et al.*, Cause No. DC-14-13645, (193rd District Court, Dallas County, Texas); *Jacob Hulsebus, et al. v. Belo Corp., et al.*, Cause No. DC-13-06601, (68th District Court, Dallas County, Texas); *Ron Phillips and Scott Moorehead, Derivatively on Behalf of CLST Holdings, Inc., v. Timothy S. Durham, et al.*, Cause No. DC-10-07655 (134th District Court, Dallas County, Texas);

*Regan Held, et al., v. C. Kelly Hall, et al.*, Cause No. CC-11-05258-D, (County Court No. 4, Dallas County, Texas); *David Flecker, Individually and on Behalf of All Others Similarly Situated and Derivatively on Behalf of Pioneer Southwest Energy Partners L.P.*, Cause No. DC-13-05371-G (134th District Court, Dallas County, Texas); *In re U.S. Home Systems, Inc. Shareholder Litigation*, Cause No. CC-12-04962-B (County Court No. 2, Dallas County, Texas); *Terry Neff, Derivatively on Behalf of Weatherford International Ltd., et al., v. Nicholas F. Brady, et al.*, Cause No. 2010-40764 (270th District Court, Harris County, Texas); *In re Burlington Northern Santa Fe Corporation Shareholder Class Action Litigation*, Cause No. 348-241465-09, (348th District Court, Tarrant County, Texas) *In re Affiliated Computer Services Derivative Litigation*, Master File No. 3:06-cv-1110-M (N.D. Tex.); *In re Cablevision Systems Corp. Shareholder Derivative Litigation*, Master File No. CV-06-4130 (E.D.N.Y.); *Ryan v. Flowserve Corp.*, Civil Action No. 3:03-CV-01769 (N.D. Tex.); *Blackmoss Investments v. Gravity Corp., et. al.*, Civil Action No. 1:05-CV-04804-LAP (S.D.N.Y.); *In re Guidant Corp. Securities Litigation*, Master File No. 1:05- CV-01658-SEB-WTL (S.D. Ind.); *In re 7-Eleven Shareholders Litigation*, No. 05-089344-M (District Court Dallas County, Texas); *In re Impac Mortgage Holdings, Inc., Case No. 8:06-cv-00091-CJC-RNB* (C.D. Cal.); *In re Fossil Derivative Litigation*, Cause No. 3:06-cv-01672-P (N.D. Tex.); *Dillingham v. Schmitz*, Cause No. 2005C119934 (288th District Court, Bexar County, Texas); *Alaska Electrical Pension Fund v. Brown, et al.*, Cause No. 6:04-CV-464 (E.D. Tex.); *Holowach v. Gilliland, et al.*, Cause No. 017-221963-07 (17th District Court, Tarrant County, Texas); *Levy Investments v. Donald Steen, et al.*, Cause No. DC-07-00208 (101st District Court Dallas County, Texas); *In re Petco Animal Supplies, Inc., Shareholder Litigation*, Case No. GIC 869399 (Superior Court, San Diego, California); *Frank Capovilla v. Lone Star Technologies, Inc., et al.*, Cause No. DC-07-002979 (14th District Court, Dallas County, Texas); *Louis Dudas v. Encore Medical Corporation, et al.*, Cause No. D-1-GN-

002495 (345th District Court, Travis County, Texas); *Waggoner v. Ryan, et al*, Cause No. CC-05-13893 (County Court at Law No. 2, Dallas County, Texas); *Evans v. Paulson, et al.*, Cause No. 05-01818-JMR-FLN (D. Minn.); *In re Accuray, Inc. Shareholder Derivative* Litigation, Case No. C 09 05580 CW (N.D. Cal.); *In re Microtune, Inc. Litigation*, Cause No. 219-03729-2010 (219<sup>th</sup> District Court, Collin County, Texas); *Edward Ferguson v. Louis Raspino, et al.*, Cause No. 2010-23805 (281<sup>st</sup> District Court, Harris County, Texas); *In re Duncan Energy Partners L.P. Shareholder Litigation*, Cause No. 2011-13981 (269<sup>th</sup> District Court, Harris County, Texas); and others.

## **JOE KENDALL**

Former United States District Judge Joe Kendall is the managing partner of Kendall Law Group. Mr. Kendall served on the federal bench in the Northern District of Texas from 1992-2002, appointed by President George Herbert Walker Bush. He was unanimously confirmed by the U.S. Senate. At the time of his appointment, he was the youngest U.S. District Judge in the country. He also served as a state district judge on the 195th Judicial District Court in Dallas from 1987-1992. In his judicial career, he has presided over approximately 500 jury trials and disposed of over 11,000 cases. Mr. Kendall has a B.B.A. from the Cox School of Business at Southern Methodist University and a law degree from Baylor University. Mr. Kendall served as a Commissioner on the United States Sentencing Commission from 1999 through 2002, appointed by President Bill Clinton.

Since leaving the bench and returning to trial work, Mr. Kendall has had tremendous success at the prosecution of patent, consumer and securities class action litigation either as lead, co-lead or local counsel.

While on the federal bench, Mr. Kendall handled numerous class actions of various types and presided over in excess of 100 civil jury trials, including complex litigation, securities, antitrust, qui tam, medical malpractice, products liability, and patent infringement cases. He presided over a multi-district litigation case, and also handled environmental and CERCLA cases. Author of more than 250 judicial opinions published in the federal reporters or legal research databases, his more notable cases include, *Ozee v. American Council on Gift Annuities* (an antitrust class action against the most prominent charities in the nation), *SBC Communications v. AT&T* (to determine the constitutionality of certain provisions of the Telecommunications Act of 1996), *American Airlines, Inc. v. Allied Pilots Association* (the pilots sickout dispute in 1999), and *Johnson v. City of Dallas* (a case brought by homeless persons to determine the constitutionality of a city ordinance prohibiting

sleeping in public). In his career as a lawyer, Mr. Kendall has tried more than 100 jury trials to judgment.

Additionally, Mr. Kendall taught new federal judges for the Federal Judicial Center in Washington, D.C. and has taught docket management techniques to experienced federal judges throughout the country. He is a former board member of the Federal Judges Association and was editor of *In Camera*, the newsletter of the Federal Judges Association.

### SIGNIFICANT DECISIONS OF JUDGE JOE KENDALL

1. <i>Sharju Ltd. Partnership v. Choice Hotels International, Inc.</i> , Case No. 3:01-CV-2605-X	2. <i>Smith v. Nine West Group, Inc.</i> , Case No. 3:98-CV-1331-X.
3. <i>BKS Properties v. Shumate</i> , 271 B.R. 794.	4. <i>Jones v. Prime, Inc.</i> , Case No. 3:99-CV-1514-X.
5. <i>Kennedy v. Barnhart</i> , Case No. 3:00-CV-2472-X.	6. <i>Sentry Insurance Co. v. Greenleaf Software, Inc.</i> , Case No. 3:99-CV-1232-X.
7. <i>Loosier v. Anderson</i> , Case No. 3:00-CV-2528-X.	8. <i>Poindexter v. R.J. Reynolds Tobacco Co.</i> , Case No. 3:99-CV-0262-X.
9. <i>Gibson v. Atlantic Southeast Airlines</i> , Case No. 3:00-CV-2712-X.	10. <i>Whitworth v. TNT Bestway Transportation, Inc.</i> , Case No. 3:96-CV-0382-X.
11. <i>Methodist Hospitals v. Prudential Healthcare</i> , Case No. 3:01-CV-1999-X.	12. <i>Media Farm, Inc. v. eToll, Inc.</i> , Case No. 3:99-CV-2578-X.
13. <i>McMillon v. Fleming</i> , Case No. 4:01-CV-815-X.	14. <i>In re Great Southern Life Insurance Co. Sales Practices Litigation</i> , MDL No. 1214.
15. <i>United States v. Morris</i> , 176 F. Supp.2d 668.	16. <i>Martin v. United States Postal Service</i> , Case No. 3:99-CV-0670-X.
17. <i>Smith v. Tarrant County</i> , Case No. 4:99-CV-0657-X.	18. <i>Taylor v. Underwood</i> , Case No. 3:99-CV-2632-X.
19. <i>Wilkerson v. Wells Fargo Bank</i> , Case No. 3:01-CV-0117-X.	20. <i>Harrison v. City of Dallas</i> , Case No. 3:99-CV-1209-X.
21. <i>Martinez v. 291st Judicial District Court</i> , Case No. 3:01-CV-1907-X.	22. <i>Kondos Employee Health Care Plan v. First Integrated Health, Inc.</i> , Case No. 3:99-CV-2190-X.
23. <i>Ventura Vera v. Estrada</i> , Case No. 3:01-CV-1044-X.	24. <i>Jones v. Fujitsu Network Communications, Inc.</i> , 81 F. Supp.2d 688.
25. <i>Patt v. Sweetheart Cup Co.</i> , Case No. 3:99-CV-2443-X.	26. <i>Sims v. Ware</i> , Case No. 3:95-CV-177-X.

27. <i>Ross v. Massanari</i> , Case No. 3:00-CV-2454-X.	28. <i>United States v. Hughes</i> , 71 F. Supp.2d 605.
29. <i>Cunningham v. Gibson</i> , Case No. 3:01-CV-1522-X.	30. <i>American Airlines, Inc. v. Allied Pilots Association</i> , 53 F. Supp.2d 909.
31. <i>Ramirez v. Cornet Enterprises, Inc.</i> , Case No. 3:01-CV-1317-X.	32. <i>Barrett v. Clarendon National Insurance Co.</i> , Case No. 3:93-CV-1451-X.
33. <i>Collins v. Merck-Medco Prescription Services of Texas, LLC</i> , Case No. 3:00-CV-1852-X.	34. <i>Heritage Worldwide, Inc. v. World Color Press, Inc.</i> , Case No. 3:96-CV-3356-X.
35. <i>Cunningham v. Bienfang</i> , Case No. 3:00-CV-0448-X.	36. <i>Seawright v. Charter Furniture Rental, Inc.</i> , 39 F. Supp.2d 795.
37. <i>Transamerica Equipment Financial Services Corp. v. Amwest Surety Insurance Co.</i> , Case No. 3:00-CV-2321-X.	38. <i>Lockhart v. AT&amp;T</i> , Case No. 3:97-CV-3021-X.
39. <i>Securities &amp; Exchange Commission v. Bachani</i> , Case No. 3:01-CV-1744.	40. <i>Golman-Hayden Co. v. Fresh Source Produce</i> , 27 F. Supp.2d 723.
41. <i>Rogers v. Paquet</i> , Case No. 3:01-CV-0969-X.	42. <i>Mayes v. LIN TV</i> , Case No. 3:96-CV-0396-X.
43. <i>PriceWaterhouse Coopers, LLP v. Litzler (In re Harbor Financial Group, Inc.)</i> , Case No. 3:00-CV-1283-X.	44. <i>Gossom v. J.O.S., Inc.</i> , Case No. 3:96-CV-0374-X.
45. <i>Washington International v. Industry Insurance Co.</i> , Case No.3:00-CV-0196-X.	46. <i>Morse v. Escobedo</i> , Case No. 3:98-CV-0686-X.
47. <i>Estep v. Dallas County</i> , Case No. 3:95-CV-0799-X.	48. <i>Richardson v. Apfel</i> , 9 F. Supp.2d 666.
49. <i>Seppy v. City of Irving</i> , Case No.3:00-CV-0386-X.	50. <i>Myers v. Top Tobacco Co., L.P.</i> , Case No. 3:97-CV-2464-X.
51. <i>Friday v. Halter</i> , Case No. 3:01-CV-0901X.	52. <i>Colbert v. Georgia-Pacific Corp.</i> , 995 F. Supp. 697.
53. <i>Rodriguez v. Snider</i> , Case No. 3:01-CV-0688-X.	54. <i>ARA Automobile Group v. Central Garage</i> , Case No. 3:89-CV-1389.
55. <i>Kisiel v. RAS Securities Corp.</i> , Case No. 3:01-CV-0294-X.	56. <i>Hanafy v. United States</i> , 991 F. Supp. 794.
57. <i>Compana, L.L.C. v. Agile Software Corp.</i> , Case No. 3:01-CV-1164-X.	58. <i>SBC Communications. v. Federal Communications Commission</i> , 981 F. Supp. 996.
59. <i>Guan v. Harrington</i> , Case No. 3:00-CV-2347-X.	60. <i>Gonzales v. Johnson</i> , 994 F. Supp. 759.
61. <i>Management Insights, Inc. v. APG, Inc.</i> , Case No. 3:00-CV-2779-X.	62. <i>Dippin' Dots v. Mosey</i> , Case No. 3:96-CV-1959-X.

63. <i>Zurich Automobile Insurance Co. v. Boyes (In re Zurich Automobile Insurance Co.)</i> , Case No. 3:99-CV-2350-X.	64. <i>Waste Control Specialists v. United States Department of Energy</i> , Case No. 7:97-CV-202-X.
65. <i>Dalfort Aerospace, Inc. v. Airline Division of the International Brotherhood of Teamsters</i> , Case No. 3:01-CV-006-X.	66. <i>In re Future Communications, Inc. Securities Litigation</i> , Case No. 3:93CV-2064X.
67. <i>Martin Marietta Materials Southwest, Ltd v. St. Paul Guardian Insurance Co.</i> , 145 F. Supp. 2d 794.	68. <i>Venable v. Keever</i> , Case No. 3:96-CV-0580-X.
69. <i>Hooks v. Hilite Industries</i> , Case No. 3:00-CV-2358-X.	70. <i>Richie v. American Council on Gift Annuities</i> , 943 F. Supp. 685.
71. <i>Weinberg v. Silber</i> , 140 F. Supp.2d 712.	72. <i>Joseph N. Main P.C. v. Electronic Data Systems Corp.</i> , Case No. 3: 95-CV-1993-X.
73. <i>Johnson v. City of Dallas</i> , 141 F. Supp.2d 645.	74. <i>United States v. Grant</i> , 933 F. Supp. 610.
75. <i>Rose v. Digital Convergence Communications, Inc.</i> , Case No. 3:00-CV-2057-X.	76. <i>Calmes v. United States</i> , 926 F. Supp. 582.
77. <i>Bell Helicopter Textron, Inc. v. C&amp;C Helicopter Sales, Inc.</i> , Case No. 3:00-CV-1516-X.	78. <i>Roberts v. Dayton Hudson Corp.</i> , 914 F. Supp. 1421.
79. <i>Johnson v. Dillard Department Stores, Inc.</i> , Case No.3:00-CV-2674-X.	80. <i>McDaniel v. Southern Pacific Transportation</i> , 932 F. Supp. 163.
81. <i>Bank One Arizona, N.A. v. Wilton Partners Hurst, et al</i> , Case No. 3:00-CV-2254-X.	82. <i>Burnett Plaza Associates v. NCNB Texas National Bank</i> , Case No. 3:89-CV-1290-X.
83. <i>Williams v. GTE</i> , Case No. 3:00-CV-2380-X.	84. <i>Holdbrook v. California Federal Bank</i> , 905 F. Supp. 367.
85. <i>Harrison v. GMC</i> , Case No. 3:00-CV-1272-X.	86. <i>Nelson v. Reddy</i> , 898 F. Supp. 409.
87. <i>Alfaro v. Leather Center, Inc.</i> , Case No. 3:00-CV-2107-X.	88. <i>Maxus Energy Corp. v. United States</i> , 898 F. Supp. 399.
89. <i>Transamerica Equipment Financial Services Corp. v. Amwest Surety Insurance Co.</i> , Case No. 3:00-CV-2321-X.	90. <i>DSC Communications Corp. v. DGI Technologies</i> , 898 F. Supp. 1183.
91. <i>Hines v. AC &amp; S, Inc.</i> , Case No. 3:00-CV-2637X.	92. <i>Trinity Industries v. United Steelworkers</i> , 891 F. Supp. 342.
93. <i>Chambless v. Travelers Lloyds of Texas Insurance Co.</i> , Case No. 3:00-CV-784-X.	94. <i>Bluebonnet Savings Bank v. Federal Deposit Insurance Corporation</i> , 891 F. Supp. 332.
95. <i>Mayfield-George v. Texas Rehabilitation Commission</i> , Case No. 3:99-CV-2735-X.	96. <i>McCraic v. Bristol-Myers Squibb &amp; Co.</i> , Case No. 3:95-CV-1122-X.
97. <i>Southwest Materials Handling Co. v. Nissan Motor Co.</i> , Case No. 3:98-CV-2367-X.	98. <i>Finlan v. City of Dallas</i> , 888 F. Supp. 779.

99. <i>Foster v. Simpson</i> , Case No. 3:99-CV-2293-X.	100. <i>Ozee v. American Council on Gift Annuities</i> , 888 F. Supp. 1318.
101. <i>Fina Technologies, Inc. v. Ewen</i> , Case No. 3:93-CV-2529-X.	102. <i>Dallas Fire Fighters Association v. City of Dallas</i> , 885 F. Supp. 915.
103. <i>Vation v. Gainey Transportation Services</i> , Case No. 3:99-CV-2388-X.	104. <i>Maryland Casualty Co. v. Texas Commerce Bancshares</i> , 878 F. Supp. 939.
105. <i>Hulett v. City of Dallas</i> , Case No. 3:98-CV-2301-X.	106. <i>Thornton v. Micrografx</i> , 878 F. Supp. 931.
107. <i>Doherty v. Center for Assisted Reproduction, P.A.</i> , 108 F. Supp.2d 672.	108. <i>Scott v. City of Dallas</i> , 876 F. Supp. 852.
109. <i>Aegis v. Shared Medical Systems Corp.</i> , Case No. 3:99-CV-2697-X.	110. <i>Johnson v. J.C. Penney Co.</i> , 876 F. Supp. 135.
111. <i>Payne v. Powers</i> , Case No. 3:99-CV-2182-X.	112. <i>Black v. Callahan</i> , 876 F. Supp. 131
113. <i>Clear Entertainment, L.L.C. v. KPMG, L.L.P.</i> , Case No. 3:99-CV-2518-X.	114. <i>Clark v. Collins</i> , 870 F. Supp. 132.
115. <i>Searcy v. Texas Universal Health Plan, Inc.</i> , Case No. 3:99-CV-2380-X.	116. <i>Figari &amp; Davenport, L.L.P. v. Continental Casualty Co.</i> , 864 F. Supp. 11.

# Exhibit 8

**2014 NLJ Billing Survey**

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Year	Firm Name	Location	Average FTE Attorneys	Partner Billing Rate High	Partner Billing Rate Low	Partner Billing Rate Avg	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Avg	Counsel Avg	Counsel Low	Counsel High	NLJ Billing Source	Notes
2014	Adams and Reese	New Orleans, LA	318	\$700.00	\$305.00	\$420.00	\$315.00	\$220.00	\$270.00	\$500.00	\$425.00	\$575.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Akerman	Miami, FL	523	\$880.00	\$360.00	\$535.00	\$465.00	\$205.00	\$305.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Akin Gump Strauss Hauer & Feld	Washington, DC	809	\$1220.00	\$615.00	\$785.00	\$660.00	\$365.00	\$525.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Allen Matkins Leck Gamble Mallory & Natsis	Los Angeles, CA	181	\$680.00	\$525.00	\$615.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Alston & Bird	Atlanta, GA	789	\$875.00	\$495.00	\$675.00	\$575.00	\$280.00	\$425.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Andrews Kurth	Houston, TX	337	\$1090.00	\$745.00	\$890.00	\$1090.00	\$265.00	\$670.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Archer & Greiner	Haddonfield, NJ	194	\$460.00	\$330.00	\$400.00	\$295.00	\$200.00	\$245.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Arent Fox	Washington, DC	330	\$860.00	\$500.00	\$650.00	\$595.00	\$275.00	\$395.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Amall Golden Gregory	Atlanta, GA	140	\$520.00	\$430.00	\$490.00								National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Arnold & Porter	Washington, DC	720	\$950.00	\$670.00	\$815.00	\$610.00	\$345.00	\$500.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Amstein & Lehr	Chicago, IL	144	\$595.00	\$350.00	\$465.00	\$350.00	\$175.00	\$250.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Baker & Hostetter	Cleveland, OH	798	\$670.00	\$275.00	\$449.00	\$350.00	\$210.00	\$272.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Baker & McKenzie	Chicago, IL	4087	\$1130.00	\$260.00	\$755.00	\$925.00	\$100.00	\$395.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Baker, Donelson, Bearman, Caldwell & Berkowitz	Memphis, TN	588	\$495.00	\$340.00	\$400.00	\$465.00	\$245.00	\$295.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Ballard Spahr	Philadelphia, PA	483	\$650.00	\$395.00	\$475.00	\$495.00	\$235.00	\$315.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Barnes & Thornburg	Indianapolis, IN	522	\$580.00	\$330.00	\$480.00	\$370.00	\$260.00	\$320.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Benesch, Friedlander, Coplan & Aronoff	Cleveland, OH	150	\$635.00	\$360.00	\$455.00	\$475.00	\$155.00	\$280.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Best Best & Krieger	Riverside, CA	176	\$655.00	\$340.00	\$455.00	\$385.00	\$235.00	\$280.00	\$439.83	\$340.00	\$595.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Bingham McCutchen	Boston, MA	795	\$1080.00	\$220.00	\$795.00	\$605.00	\$185.00	\$450.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Blank Rome	Philadelphia, PA	447	\$940.00	\$445.00	\$640.00	\$565.00	\$175.00	\$350.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Bond, Schoeneck & King	Syracuse, NY	198	\$520.00	\$240.00	\$355.00	\$310.00	\$160.00	\$225.00	\$360.00	\$275.00	\$485.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Bowles Rice	Charleston, WV	140	\$285.00	\$165.00	\$230.00	\$180.00	\$115.00	\$135.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Bracewell & Giuliani	Houston, TX	441	\$1125.00	\$575.00	\$760.00	\$700.00	\$275.00	\$440.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Bradley Arant Boult Cummings	Birmingham, AL	413	\$605.00	\$325.00	\$430.00	\$340.00	\$200.00	\$260.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Broad and Cassel	Oriando, FL	150	\$465.00	\$295.00	\$380.00								National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Brown Rudnick	Boston, MA	187	\$1045.00	\$650.00	\$856.00								National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Brownstein Hyatt Farber Schreck	Denver, CO	214	\$700.00	\$310.00	\$520.00	\$345.00	\$265.00	\$305.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Bryan Cave	St. Louis, MO	985	\$900.00	\$410.00	\$620.00	\$595.00	\$220.00	\$405.00	\$635.00	\$355.00	\$865.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Buchalter Nemer	Los Angeles, CA	139	\$695.00	\$475.00	\$605.00	\$375.00	\$350.00	\$365.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Burr & Forman	Birmingham, AL	261	\$525.00	\$300.00	\$371.00	\$275.00	\$200.00	\$241.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Buller Snow	Ridgeland, MS	280	\$335.00	\$235.00	\$302.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Cadwalader, Wickersham & Taft	New York, NY	437	\$1050.00	\$800.00	\$930.00	\$750.00	\$395.00	\$605.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Carlton Fields	Tampa, FL	272	\$840.00	\$455.00	\$600.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Cole, Schotz, Meisel, Forman & Leonard	Hackensack, NJ	118	\$730.00	\$590.00	\$653.00	\$340.00	\$275.00	\$302.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Connell Foley	Roseland, NJ	129	\$575.00	\$275.00	\$425.00	\$325.00	\$200.00	\$265.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Cooley	Palo Alto, CA	673	\$990.00	\$660.00	\$820.00	\$640.00	\$335.00	\$515.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Covington & Burling	Washington, DC	760	\$890.00	\$605.00	\$780.00	\$565.00	\$320.00	\$415.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Cozen O'Connor	Philadelphia, PA	495	\$1135.00	\$275.00	\$570.00	\$640.00	\$180.00	\$355.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Curtis, Mallet-Prevost, Colt & Mosle	New York, NY	323	\$860.00	\$730.00	\$800.00	\$785.00	\$345.00	\$480.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Davis Graham & Stubbs	Denver, CO	145	\$635.00	\$315.00	\$435.00	\$350.00	\$200.00	\$255.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Davis Polk & Wardwell	New York, NY	810	\$985.00	\$850.00	\$975.00	\$975.00	\$130.00	\$615.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Debevoise & Plimpton	New York, NY	595	\$1075.00	\$955.00	\$1055.00	\$760.00	\$120.00	\$490.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Dechert	New York, NY	845	\$1095.00	\$670.00	\$900.00	\$735.00	\$395.00	\$530.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Dentons	New York, NY	2503	\$1050.00	\$345.00	\$700.00	\$685.00	\$210.00	\$425.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Dickstein Shapiro	Washington, DC	254	\$1250.00	\$590.00	\$750.00	\$585.00	\$310.00	\$475.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Dinsmore & Shohl	Cincinnati, OH	415	\$850.00	\$250.00	\$411.00	\$365.00	\$160.00	\$238.00	\$360.00	\$150.00	\$615.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	DLA Piper	New York, NY	3962	\$1025.00	\$450.00	\$765.00	\$750.00	\$250.00	\$510.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Dorsey & Whitney	Minneapolis, MN	501	\$585.00	\$340.00	\$435.00	\$510.00	\$215.00	\$315.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Duane Morris	Philadelphia, PA	613	\$960.00	\$415.00	\$589.00	\$585.00	\$280.00	\$373.00	\$638.00	\$460.00	\$1015.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Edwards Wildman Palmer	Boston, MA	540	\$765.00	\$210.00	\$535.00	\$415.00	\$245.00	\$325.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Faegre Baker Daniels	Minneapolis, MN	673	\$580.00	\$355.00	\$455.00	\$315.00	\$110.00	\$260.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Foley & Lardner	Milwaukee, WI	844	\$860.00	\$405.00	\$600.00	\$470.00	\$210.00	\$335.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Foley Hoag	Boston, MA	221	\$775.00	\$590.00	\$670.00	\$385.00	\$290.00	\$325.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Fox Rothschild	Philadelphia, PA	531	\$750.00	\$335.00	\$530.00	\$500.00	\$245.00	\$310.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Fried, Frank, Harris, Shriver & Jacobson	New York, NY	450	\$1100.00	\$930.00	\$1000.00	\$760.00	\$375.00	\$595.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Frost Brown Todd	Cincinnati, OH	414	\$600.00	\$220.00	\$387.00	\$315.00	\$150.00	\$234.00	\$417.00	\$350.00	\$540.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Gardere Wynne Sewell	Dallas, TX	218	\$775.00	\$430.00	\$635.00	\$330.00	\$290.00	\$303.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Gibbons	Newark, NJ	201	\$865.00	\$440.00	\$560.00	\$475.00	\$295.00	\$360.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Gibson, Dunn & Crutcher	New York, NY	1154	\$1800.00	\$765.00	\$980.00	\$930.00	\$175.00	\$590.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Gordon Rees Scully Mansukhani	San Diego, CA	478	\$475.00	\$375.00	\$420.00	\$325.00	\$285.00	\$300.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Greenberg Traurig	New York, NY	1690	\$955.00	\$535.00	\$763.00	\$570.00	\$325.00	\$470.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Harris Beach	Rochester, NY	198	\$400.00	\$298.00	\$348.00	\$285.00	\$175.00	\$230.00	\$287.50	\$175.00	\$400.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Harter Secrest & Emery	Rochester, NY	132	\$465.00	\$300.00	\$385.00	\$290.00	\$195.00	\$250.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Haynes and Boone	Dallas, TX	483	\$1020.00	\$450.00	\$670.00	\$580.00	\$310.00	\$405.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Hogan Lovells	Washington, DC	2313	\$1000.00	\$705.00	\$835.00								National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Holland & Hart	Denver, CO	423	\$725.00	\$305.00	\$442.00	\$425.00	\$175.00	\$277.00	\$363.00	\$225.00	\$535.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Holland & Knight	Washington, DC	956	\$1085.00	\$355.00	\$625.00	\$595.00	\$210.00	\$340.00	\$575.00	\$420.00	\$910.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Honigman Miller Schwartz and Cohn	Detroit, MI	231	\$560.00	\$290.00	\$390.00	\$225.00	\$205.00	\$220.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Hughes Hubbard & Reed	New York, NY	351	\$995.00	\$725.00	\$890.00	\$675.00	\$365.00	\$555.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Husch Blackwell	St. Louis, MO	539	\$785.00	\$250.00	\$449.00	\$440.00	\$190.00	\$275.00	\$418.00	\$240.00	\$625.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Ice Miller	Indianapolis, IN	291	\$530.00	\$335.00	\$450.00	\$305.00	\$245.00	\$270.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Irell & Manella	Los Angeles, CA	166	\$975.00	\$800.00	\$890.00	\$750.00	\$395.00	\$535.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jackson Kelly	Charleston, WV	179	\$535.00	\$270.00	\$345.00	\$315.00	\$200.00	\$243.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jackson Lewis	Los Angeles, CA	724	\$440.00	\$310.00	\$380.00	\$315.00	\$275.00	\$290.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jackson Walker	Dallas, TX	333	\$675.00	\$575.00	\$622.00	\$385.00	\$255.00	\$335.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jeffer, Mangels, Butler & Mitchell	Los Angeles, CA	125	\$875.00	\$560.00	\$690.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jenner & Block	Chicago, IL	434	\$925.00	\$565.00	\$745.00	\$550.00	\$380.00	\$465.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Jones Day	New York, NY	2464	\$975.00	\$445.00	\$745.00	\$775.00	\$205.00	\$435.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Jones Walker	New Orleans, LA	363	\$425.00	\$275.00	\$385.00	\$240.00	\$200.00	\$225.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kasowitz, Benson, Torres & Friedman	New York, NY	372	\$1195.00	\$600.00	\$835.00	\$625.00	\$200.00	\$340.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Katten Muchin Rosenman	Chicago, IL	612	\$745.00	\$500.00	\$615.00	\$595.00	\$340.00	\$455.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kaye Scholer	New York, NY	392	\$1250.00	\$725.00	\$860.00	\$795.00	\$370.00	\$597.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kelley Drye & Warren	New York, NY	293	\$815.00	\$435.00	\$640.00	\$600.00	\$305.00	\$430.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kilpatrick Townsend & Stockton	Atlanta, GA	561	\$775.00	\$400.00	\$550.00	\$475.00	\$315.00	\$385.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	King & Spalding	Atlanta, GA	874	\$995.00	\$545.00	\$775.00	\$735.00	\$125.00	\$460.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kirkland & Ellis	Chicago, IL	1554	\$995.00	\$590.00	\$825.00	\$715.00	\$235.00	\$540.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Knobbe Martens Olson & Bear	Irvine, CA	260	\$810.00	\$450.00	\$575.00	\$455.00	\$305.00	\$360.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Kramer Levin Naftalis & Frankel	New York, NY	313	\$1100.00	\$745.00	\$921.00	\$815.00	\$515.00	\$675.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Lane Powell	Seattle, WA	170	\$675.00	\$375.00	\$516.00	\$425.00	\$260.00	\$331.00	\$477.00	\$300.00	\$650.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Latham & Watkins	New York, NY	2060	\$1110.00	\$895.00	\$990.00	\$725.00	\$465.00	\$605.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Lathrop & Gage	Kansas City, MO	283	\$700.00	\$285.00	\$420.00	\$375.00	\$195.00	\$250.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Lewis Roca Rothgerber	Phoenix, AZ	228	\$695.00	\$380.00	\$505.00	\$525.00	\$205.00	\$400.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Lindquist & Vennum	Minneapolis, MN	178	\$600.00	\$460.00	\$520.00	\$470.00	\$275.00	\$365.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Littler Mendelson	San Francisco, CA	1002	\$615.00	\$395.00	\$550.00	\$420.00	\$245.00	\$290.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Lowenstein Sandler	Roseland, NJ	261	\$990.00	\$600.00	\$765.00	\$650.00	\$300.00	\$450.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Manatt, Phelps & Phillips	Los Angeles, CA	329	\$795.00	\$640.00	\$740.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	McCarter & English	Newark, NJ	371	\$625.00	\$450.00	\$530.00	\$370.00	\$220.00	\$300.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	McDermott Will & Emery	Chicago, IL	1021	\$835.00	\$525.00	\$710.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	McElroy, Deutsch, Mulvaney & Carpenter	Morristown, NJ	274	\$560.00	\$325.00	\$445.00	\$335.00	\$200.00	\$295.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	McGuireWoods	Richmond, VA	931	\$725.00	\$450.00	\$595.00	\$525.00	\$285.00	\$360.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	McKenna Long & Aldridge	Atlanta, GA	518	\$650.00	\$480.00	\$530.00	\$425.00	\$375.00	\$395.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Michael, Best & Friedrich	Milwaukee, WI	189	\$650.00	\$235.00	\$445.00	\$425.00	\$200.00	\$283.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Miles & Stockbridge	Baltimore, MD	226	\$740.00	\$340.00	\$478.00	\$425.00	\$230.00	\$290.00	\$419.00	\$225.00	\$695.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Moore & Van Allen	Charlotte, NC	274	\$870.00	\$315.00	\$490.00	\$430.00	\$190.00	\$280.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Morgan, Lewis & Bockius	Philadelphia, PA	1363	\$765.00	\$430.00	\$620.00	\$585.00	\$270.00	\$390.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Morris, Manning & Martin	Atlanta, GA	148	\$575.00	\$400.00	\$480.00								National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Morrison & Foerster	San Francisco, CA	1020	\$1195.00	\$595.00	\$865.00	\$725.00	\$230.00	\$525.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Nelson Mullins	Columbia, SC	466	\$800.00	\$250.00	\$444.00	\$395.00	\$215.00	\$271.00	\$376.00	\$195.00	\$600.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Nixon Peabody	Boston, MA	584	\$850.00	\$295.00	\$520.00	\$550.00	\$180.00	\$300.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Norris McLaughlin & Marcus	Bridgewater, NJ	128	\$505.00	\$485.00	\$495.00	\$365.00	\$185.00	\$275.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Norton Rose Fulbright	Houston, TX	3537	\$900.00	\$525.00	\$775.00	\$515.00	\$300.00	\$400.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Nossaman	Los Angeles, CA	148	\$800.00	\$370.00	\$579.00	\$490.00	\$255.00	\$340.00	\$495.00	\$440.00	\$550.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Nutter McClennen & Fish	Boston, MA	146	\$715.00	\$470.00	\$575.00	\$460.00	\$295.00	\$375.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Ogletree Deakins	Atlanta, GA	668	\$650.00	\$250.00	\$360.00	\$365.00	\$200.00	\$260.00	\$315.00	\$230.00	\$555.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	O'Melveny & Myers	Los Angeles, CA	721	\$950.00	\$615.00	\$715.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Orrick Herrington & Sutcliffe	New York, NY	954	\$1095.00	\$715.00	\$845.00	\$375.00	\$710.00	\$560.00	\$735.00	\$685.00	\$850.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Parker Poe Adams & Bernstein	Charlotte, NC	185	\$500.00	\$425.00	\$450.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Paul Hastings	New York, NY	889	\$900.00	\$750.00	\$815.00	\$755.00	\$335.00	\$540.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Paul, Weiss, Rifkind, Wharton & Garrison	New York, NY	854	\$1120.00	\$760.00	\$1040.00	\$735.00	\$595.00	\$678.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Pepper Hamilton	Philadelphia, PA	510	\$950.00	\$465.00	\$645.00	\$525.00	\$280.00	\$390.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Perkins Coie	Seattle, WA	861	\$1000.00	\$330.00	\$615.00	\$610.00	\$215.00	\$425.00	\$635.00	\$280.00	\$800.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Pillsbury Winthrop Shaw Pittman	Washington, DC	591	\$1070.00	\$615.00	\$865.00	\$860.00	\$375.00	\$520.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Polsinelli	Kansas City, MO	616	\$775.00	\$325.00	\$435.00	\$350.00	\$235.00	\$279.00	\$376.00	\$300.00	\$450.00		National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Proskauer Rose	New York, NY	712	\$950.00	\$725.00	\$880.00	\$675.00	\$295.00	\$465.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Quarles & Brady	Milwaukee, WI	422	\$625.00	\$425.00	\$519.00	\$600.00	\$210.00	\$335.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Quinn Emanuel Urquhart & Sullivan	New York, NY	673	\$1075.00	\$810.00	\$915.00	\$675.00	\$320.00	\$410.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Reed Smith	Pittsburgh, PA	1555	\$890.00	\$605.00	\$737.00	\$530.00	\$295.00	\$420.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Richards, Layton & Finger	Wilmington, DE	124	\$800.00	\$600.00	\$678.00	\$465.00	\$350.00	\$414.00					National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Riker Danzig Scherer Hyland & Perretti	Morristown, NJ	146	\$495.00	\$430.00	\$455.00	\$295.00	\$210.00	\$250.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Robinson & Cole	Hartford, CT	201	\$700.00	\$295.00	\$500.00	\$445.00	\$215.00	\$300.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Rutan & Tucker	Costa Mesa, CA	147	\$675.00	\$345.00	\$490.00	\$500.00	\$230.00	\$320.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Saul Ewing	Philadelphia, PA	240	\$875.00	\$375.00	\$546.00	\$590.00	\$225.00	\$344.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Schiff Hardin	Chicago, IL	317				\$415.00	\$250.00	\$333.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Sedgwick	San Francisco, CA	342	\$615.00	\$305.00	\$425.00	\$475.00	\$250.00	\$325.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Seward & Kissel	New York, NY	143	\$850.00	\$625.00	\$735.00	\$600.00	\$290.00	\$400.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Seyfarth Shaw	Chicago, IL	779	\$860.00	\$375.00	\$610.00	\$505.00	\$225.00	\$365.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Sheppard Mullin Richter & Hampton	Los Angeles, CA	549	\$875.00	\$490.00	\$685.00	\$535.00	\$275.00	\$415.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Shumaker Loop & Kendrick	Toledo, OH	224	\$595.00	\$305.00	\$413.00	\$330.00	\$160.00	\$256.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Shutts & Bowen	Miami, FL	230	\$660.00	\$250.00	\$430.00	\$345.00	\$195.00	\$260.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Skadden, Arps, Slate, Meagher & Fiom	New York, NY	1664	\$1150.00	\$845.00	\$1035.00	\$845.00	\$340.00	\$620.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Snell & Wilmer	Phoenix, AZ	411	\$845.00	\$325.00	\$525.00	\$470.00	\$180.00	\$280.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Spilman Thomas & Bat le	Charleston, WV	131							\$280.00	\$215.00	\$350.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Squire Patton Boggs			\$950.00	\$350.00	\$655.00	\$530.00	\$250.00	\$355.00				National Law Journal, December 2014	Location data not available due to merger in 2014. Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Steme, Kessler, Goldstein & Fox	Washington, DC	122	\$795.00	\$450.00	\$577.00	\$470.00	\$265.00	\$346.00	\$483.57	\$450.00	\$520.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Stevens & Lee	Reading, PA	154	\$800.00	\$525.00	\$625.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Stoel Rives	Portland, OR	365	\$800.00	\$300.00	\$492.00	\$465.00	\$205.00	\$287.00	\$312.00	\$280.00	\$510.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Strasburger & Price	Dallas, TX	217	\$690.00	\$290.00	\$435.00	\$365.00	\$210.00	\$270.00	\$475.00	\$300.00	\$690.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Stroock & Stroock & Lavan	New York, NY	285	\$1125.00	\$675.00	\$960.00	\$840.00	\$350.00	\$549.00	\$979.00	\$745.00	\$1095.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014	Taft Stettinius & Hollister	Cincinnati, OH	357	\$535.00	\$285.00	\$415.00	\$475.00	\$200.00	\$285.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Thompson & Knight	Dallas, TX	290	\$740.00	\$425.00	\$535.00	\$610.00	\$240.00	\$370.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Thompson Coburn	St. Louis, MO	317	\$510.00	\$330.00	\$440.00	\$350.00	\$220.00	\$270.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Troutman Sanders	Atlanta, GA	567	\$975.00	\$400.00	\$620.00	\$570.00	\$245.00	\$340.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Ulmer & Beme	Cleveland, OH	178	\$415.00	\$315.00	\$380.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Vamum	Grand Rapids, MI	133	\$465.00	\$290.00	\$390.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Venable	Washington, DC	533	\$1075.00	\$470.00	\$660.00	\$575.00	\$295.00	\$430.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Vinson & Elkins	Houston, TX	650	\$770.00	\$475.00	\$600.00	\$565.00	\$275.00	\$390.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Waller Lansden Dortch & Davis	Nashville, TN	178	\$600.00	\$350.00	\$460.00	\$335.00	\$190.00	\$245.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Weil, Gotshal & Manges	New York, NY	1157	\$1075.00	\$625.00	\$930.00	\$790.00	\$300.00	\$600.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

**2014 NLJ Billing Survey**

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2014	White & Case	New York, NY	1895	\$1050.00	\$700.00	\$875.00	\$1050.00	\$220.00	\$525.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Wiley Rein	Washington, DC	277	\$950.00	\$550.00	\$665.00	\$535.00	\$320.00	\$445.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Williams Mullen	Richmond, VA	233	\$410.00	\$360.00	\$385.00	\$350.00	\$260.00	\$295.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Willkie Farr & Gallagher	New York, NY	526	\$1090.00	\$790.00	\$950.00	\$790.00	\$350.00	\$580.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Wilmer Cutler Pickering Hale and Dorr	Washington, DC	988	\$1250.00	\$735.00	\$905.00	\$695.00	\$75.00	\$290.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Winston & Strawn	Chicago, IL	822	\$995.00	\$650.00	\$800.00	\$590.00	\$425.00	\$520.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Wolf & Samson	West Orange, NJ	125	\$450.00	\$325.00	\$400.00	\$450.00	\$225.00	\$340.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Womble Carlyle Sandridge & Rice	Winston-Salem, NC	492	\$640.00	\$470.00	\$554.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Wyatt Tarrant & Combs	Louisville, KY	202	\$500.00	\$280.00	\$418.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

**2014 Associate Class Billing Survey**

# Exhibit 9

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

CLASS ACTION

Judge: Hon. Vanessa D Gilmore

**DECLARATION OF LAWRENCE ROUGIER IN SUPPORT OF PLAINTIFFS’  
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF  
ALLOCATION, AND COUNSEL’S MOTION FOR ATTORNEYS’ FEES AND  
LITIGATION EXPENSES**

I, Lawrence Rougier, hereby state as follows under the penalty of perjury:

1. My name is Lawrence Rougier. I am over the age of 18 and am competent to give this declaration. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am the Court-appointed Lead Plaintiff and Court-appointed class representative in the above-captioned securities class action (the “Action”). I submit this declaration in support of: (1) Plaintiffs’ Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel’s Motion for Attorneys’ Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that throughout the course of this Action I have had the obligation to do my best to represent not only my own interests, but to also faithfully represent the interests of all other members of the certified class, including by carrying out the obligations set forth in the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C.

§78u-4. I respectfully submit that I have discharged those duties to the best of my ability, including by working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and Court orders, and otherwise generally following the course of the litigation and consulting with class counsel at important junctures in the Action.

4. I am currently retired but I was a Minister for my church for over 40 years. I have been investing in securities for the last 20 years, and regularly monitor and perform research related to these investments. Based on my own research of Applied Optoelectronics, Inc. (“AOI”), I purchased AOI common stock during the Class Period alleged in the Action and suffered a loss due to the allegations in the Action. On my own initiative, I contacted and retained Levi & Korsinsky, LLP (“Levi & Korsinsky” or “Class Counsel”) in 2017 to obtain more information concerning this matter and to seek appointment as Lead Plaintiff and as a class representative for this Class.

**I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS**

5. I have been actively involved in the prosecution of this Action since 2017 when I retained Class Counsel and moved for appointment as Lead Plaintiff. In connection with my representation of the Class, over the past three years I have, among other things:

- Researched news related to AOI and its securities;
- Independently contacted Levi & Korsinsky, discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained Levi & Korsinsky to file a motion for appointment as lead plaintiff on October 4, 2017, and thereafter file a complaint and a motion for appointment as a class representative on my behalf;
- Reviewed the initial and consolidated amended complaints filed against Defendants;

- Reviewed and discussed with Class Counsel the Court's order denying Defendants' motion to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Participated in conference calls with my co-Plaintiffs and Class Counsel to discuss important issues and events related to this Action;
- Traveled to, and sat for, deposition on June 20, 2019 in St. Croix, U.S. Virgin Islands;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at Levi & Korsinsky (particularly Shannon Hopkins and Gregory Potrepka) regarding important developments in this case;
- Consulted with Class Counsel regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement.

6. In total, I conservatively estimate that I have spent at least 150 hours in connection with bringing this case on behalf of the class and in discharging my duties as a lead plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent \$15.5 million settlement on behalf of the Class, and my understanding from Class Counsel that service awards are regularly awarded in similar

circumstances by federal courts, I respectfully request that the Court approve my request for a service award of \$15,000.00.

8. I also note that Plaintiffs' counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that that Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and  $\frac{1}{3}$  percent of the \$15.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional in complicated securities class actions like this one, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of \$15,000.00.

I, Lawrence Rougier, being duly cautioned and sworn, depose and state that I have read the foregoing declaration and the same is true and correct to the best of my knowledge and belief.

Executed this 20 day of September, 2020

Lawrence Rougier  
Lawrence Rougier

# Exhibit 10

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

CLASS ACTION

Judge: Hon. Vanessa D Gilmore

**DECLARATION OF RICHARD HAMILTON IN SUPPORT OF PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF  
ALLOCATION, AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND  
LITIGATION EXPENSES**

I, Richard Hamilton, hereby state as follows under the penalty of perjury:

1. My name is Richard Hamilton. I am over the age of 18 and am competent to give this declaration. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am a Plaintiff and Court-appointed class representative in the above-captioned securities class action (the "Action"). I submit this declaration in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that throughout the course of this Action I have had the obligation to do my best to represent not only my own interests, but to also faithfully represent the interests of all other members of the certified class, including by carrying out the obligations set forth in the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C.

§78u-4. I respectfully submit that I have discharged those duties to the best of my ability, including by working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and Court orders, and otherwise generally following the course of the litigation and consulting with my counsel at important junctures in the Action.

4. I am a real estate agent and I have been investing in securities for the last 20 years. I regularly monitor and perform research related to my investments in securities. Based on my own research of Applied Optoelectronics, Inc. (“AOI”), I purchased and sold AOI securities during the Class Period alleged in the Action and suffered a loss as a result of the Defendants’ conduct alleged in the Action. On my own initiative, I contacted Levi & Korsinsky, LLP (“Levi & Korsinsky” or “Class Counsel”) to obtain more information concerning this Action. In 2019, I discussed the possibility of becoming a named Plaintiff and a class representative in this Action with Class Counsel, and with the Lead Plaintiff’s agreement I decided to do so. In connection with that decision I retained Levi & Korsinsky to represent me and the Class.

**I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS**

5. I have been actively involved in the prosecution of this Action since 2019 when I decided to become a named plaintiff. In connection with my representation of the Class, over the past several years I have, among other things:

- Researched news related to AOI and its securities;
- Independently contacted Levi & Korsinsky, discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained Levi & Korsinsky to file a complaint and a motion for appointment as a class representative on my behalf;
- Reviewed the initial and consolidated amended complaints filed against Defendants;

- Reviewed and discussed with Class Counsel the Court's order denying Defendants' motion to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Participated in conference calls with my co-Plaintiffs and Class Counsel to discuss important issues and events related to this Action;
- Traveled to, and sat for, deposition on June 13, 2019 in Toronto, Ontario, Canada;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at Levi & Korsinsky (particularly Shannon Hopkins and Andrew Rocco) regarding important developments in this case;
- Consulted with Class Counsel regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement.

6. In total, I conservatively estimate that I have spent at least 74.5 hours in connection with bringing this case on behalf of the class and in discharging my duties as a representative plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent \$15.5 million settlement on behalf of the Class, and my understanding from Class Counsel that service awards are regularly awarded in similar circumstances by federal courts, I respectfully request that the Court approve my request for a service award of \$10,000.00.

8. I also note that Plaintiffs' counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that that Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and  $\frac{1}{3}$  percent of the \$15.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional in complicated securities class actions like this one, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of \$10,000.00.

I, Richard Hamilton, being duly cautioned and sworn, depose and state that I have read the foregoing declaration and the same is true and correct to the best of my knowledge and belief.

Executed this 10<sup>th</sup> day of September, 2020.



Richard Hamilton  
Richard Hamilton

# Exhibit 11

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

CLASS ACTION

Judge: Hon. Vanessa D Gilmore

**DECLARATION OF ROY H. CETLIN IN SUPPORT OF PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF ALLOCATION,  
AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Roy H. Cetlin, hereby state as follows under the penalty of perjury:

1. My name is Roy H. Cetlin. I am over the age of 18 and am competent to give this declaration. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am a Plaintiff and Court-appointed class representative in the above-captioned securities class action (the "Action"). I submit this declaration in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that throughout the course of this Action I have had the obligation to do my best to represent not only my own interests, but to also faithfully represent the interests of all other members of the certified class, including by carrying out the obligations set forth in the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C.

§78u-4. I respectfully submit that I have discharged those duties to the best of my ability, including by working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and Court orders, and otherwise generally following the course of the litigation and consulting with my counsel at important junctures in the Action.

4. I am currently semi-retired, having previously worked as a consultant in the cosmetic and fragrance industry including working in sales, marketing, and management. I am currently the owner and President of 2230439 Ontario Ltd., a Canadian investment company. I have been investing in securities for over 40 years, and I regularly monitor and perform research related to my investments in securities. Based on my own research of Applied Optoelectronics, Inc. (“AOI”), I purchased and sold AOI securities during the Class Period alleged in the Action and suffered a loss as a result of the Defendants’ conduct alleged in the Action. On my own initiative, I contacted Levi & Korsinsky, LLP (“Levi & Korsinsky” or “Class Counsel”) to obtain more information concerning this Action. In 2019, I discussed the possibility of becoming a named Plaintiff and a class representative in this Action with Class Counsel, and with the Lead Plaintiff’s agreement I decided to do so. In connection with that decision I retained Levi & Korsinsky to represent me and the Class.

**I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS**

5. I have been actively involved in the prosecution of this Action since 2019 when I decided to become a named plaintiff. In connection with my representation of the Class, over the past several years I have, among other things:

- Researched news related to AOI and its securities;

- Independently contacted Levi & Korsinsky, discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained Levi & Korsinsky to file a complaint and a motion for appointment as a class representative on my behalf;
- Reviewed the initial and consolidated amended complaints filed against Defendants;
- Reviewed and discussed with counsel the Court's order denying Defendants' motion to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Participated in conference calls with my co-Plaintiffs and Class Counsel to discuss important issues and events related to this Action;
- Traveled to, and sat for, deposition on June 14, 2019 in Toronto, Ontario, Canada;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at Levi & Korsinsky (particularly Shannon Hopkins and Andrew Rocco) regarding important developments in this case;
- Consulted with Class Counsel regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement.

6. In total, I conservatively estimate that I have spent at least 63.15 hours in connection with bringing this case on behalf of the class and in discharging my duties as a representative plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent \$15.5 million settlement on behalf of the Class, and my understanding from Class Counsel that service awards are regularly awarded in similar circumstances by federal courts, I respectfully request that the Court approve my request for a service award of \$10,000.00.

8. I also note that Plaintiffs' counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that that Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and  $\frac{1}{3}$  percent of the \$15.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional in complicated securities class actions like this one, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of \$10,000.00.

I, Roy Cetlin, being duly cautioned and sworn, depose and state that I have read the foregoing declaration and the same is true and correct to the best of my knowledge and belief.

Executed this 11<sup>th</sup> day of September, 2020



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Roy H. Cetlin

# Exhibit 12

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

CLASS ACTION

Judge: Hon. Vanessa D Gilmore

**DECLARATION OF KENNETH X. LUTHY IN SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF  
ALLOCATION, AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND  
LITIGATION EXPENSES**

I, Kenneth X. Luthy, hereby state as follows under the penalty of perjury:

1. My name is Kenneth X. Luthy. I am over the age of 18 and am competent to give this declaration. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am a Plaintiff and Court-appointed class representative in the above-captioned securities class action (the "Action"). I submit this declaration in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that throughout the course of this Action I have had the obligation to do my best to represent not only my own interests, but to also faithfully represent the interests of all other members of the certified class, including by carrying out the obligations set forth in the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C.

§78u-4. I respectfully submit that I have discharged those duties to the best of my ability, including by working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and Court orders, and otherwise generally following the course of the litigation and consulting with my counsel at important junctures in the Action.

4. I am currently retired. I graduated from Fairleigh Dickinson University in 1966, earning a Bachelor's degree in business administration. I received a Master of Business Administration degree with a concentration in finance from Seton Hall University in 1970, and thereafter became a Certified Public Accountant. I have owned my own businesses for over 30 years, including two New Jersey corporations, Suburban Furniture Corporation and Suburban Warehouse Corporation. I have been investing in securities for over fifteen years, and regularly monitor and perform research related to these investments. Based on my own research of Applied Optoelectronics, Inc. ("AOI"), I purchased and sold AOI securities during the Class Period alleged in the Action and suffered a loss as a result of the Defendants' conduct alleged in the Action. On my own initiative, I contacted Levi & Korsinsky, LLP ("Levi & Korsinsky" or "Class Counsel") in 2017 to obtain more information concerning this Action and I have kept in contact the firm to receive continued updates regarding this litigation since that time. In 2019, I discussed the possibility of becoming a named Plaintiff and a class representative in this Action with Class Counsel, and with the Lead Plaintiff's agreement I decided to do so. In connection with that decision I retained Levi & Korsinsky to represent me and the Class.

**I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS**

5. I have been actively involved in the prosecution of this Action since 2019 when I decided to become a named plaintiff. In connection with my representation of the Class, over the past three years I have, among other things:

- Researched news related to AOI and its securities;
- Independently contacted Levi & Korsinsky, discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained Levi & Korsinsky to file a complaint and a motion for appointment as a class representative on my behalf;
- Reviewed the initial and consolidated amended complaints filed against Defendants;
- Reviewed and discussed with Class Counsel the Court's order denying Defendants' motion to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Participated in conference calls with my co-Plaintiffs and Class Counsel to discuss important issues and events related to this Action;
- Traveled to, and sat for, deposition on June 25, 2019 in West Palm Beach, Florida, U.S.A.;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at Levi & Korsinsky (particularly Shannon Hopkins and Gregory Potrepka) regarding important developments in this case;
- Consulted with Class Counsel regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement.

6. In total, I conservatively estimate that I have spent at least 105 hours in connection with bringing this case on behalf of the class and in discharging my duties as a representative plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent \$15.5 million settlement on behalf of the Class, and my understanding from Class Counsel that service awards are regularly awarded in similar circumstances by federal courts, I respectfully request that the Court approve my request for a service award of \$10,000.00.

8. I also note that Plaintiffs' counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that that Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and  $\frac{1}{3}$  percent of the \$15.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional in complicated securities class actions like this one, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of \$10,000.00.



# Exhibit 13

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

LAWRENCE ROUGIER, *et. al.*, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

APPLIED OPTOELECTRONICS, INC., CHIH-  
HSIANG (THOMPSON) LIN, and STEFAN J.  
MURRAY,

Defendants.

Case No. 4:17-cv-2399-VDG-CAB

CLASS ACTION

Judge: Hon. Vanessa D Gilmore

**DECLARATION OF JOHN KUGEL IN SUPPORT OF PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT, PLAN OF ALLOCATION,  
AND COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, John Kugel, hereby state as follows under the penalty of perjury:

1. My name is John Kugel. I am over the age of 18 and am competent to give this declaration. I have personal knowledge of the matters set forth herein, and could and would testify competently to these matters.

2. I am a Plaintiff and Court-appointed class representative in the above-captioned securities class action (the "Action"). I submit this declaration in support of: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; and (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. As a representative plaintiff, I understand that throughout the course of this Action I have had the obligation to do my best to represent not only my own interests, but also to faithfully represent the interests of all other members of the certified class, including by carrying out the obligations set forth in the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. §78u-4. I respectfully submit that I have discharged those duties to the best of my ability, including

by working with my counsel, producing documents, sitting for my deposition, reviewing important litigation briefs and Court orders, and otherwise generally following the course of the litigation and consulting with my counsel at important junctures in the Action.

4. I have accepted a position with Trinity Solar as an in-home solar consultant which will begin on October 5, 2020. I attended Kean College and Rutgers University. I have the following professional designations: securities series 7, 35, 66 licenses, and life insurance. I have been investing in securities for approximately twenty-three years, and regularly monitor and perform research related to these investments. Based on my own research of Applied Optoelectronics, Inc. (“AOI”), I purchased and sold AOI securities during the Class Period alleged in the Action and suffered a loss as a result of the Defendants’ conduct alleged in the Action. On my own initiative, I contacted Bragar Eigel & Squire, P.C. (“BES”) in 2018 to obtain more information concerning an investigation arising out of an analyst report that AOI was experiencing product quality issues and subsequent market consequences. I first became aware of this Action through BES and I have kept in contact with the firm to receive continued updates regarding this litigation since that time. In 2019, I discussed the possibility of becoming a named Plaintiff and a class representative in this Action with BES, and with the Lead Plaintiff’s agreement I decided to do so. In connection with that decision I retained BES to represent me and the Class, and understood that Levi & Korsinsky, LLP (“Levi & Korsinsky” or “Class Counsel”) was the Court-appointed Lead Counsel and would move to be appointed as Class Counsel.

**I. SUMMARY OF WORK PERFORMED ON BEHALF OF THE CLASS**

5. I have been actively involved in the prosecution of this Action since 2019 when I decided to become a named plaintiff. In connection with my representation of the Class, over the past two years I have, among other things:

- Researched news related to AOI and its securities;

- Independently contacted BES, discussed the basis of possible securities claims against Defendants with my attorneys, and ultimately retained BES to work with Class Counsel in filing a complaint and a motion for appointment as a class representative on my behalf;
- Reviewed the initial and consolidated amended complaints filed against Defendants;
- Reviewed and discussed with BES the Court's order denying Defendants' motion to dismiss;
- Responded to Defendants' interrogatories;
- Searched for, located, and produced documents in response to Defendants' requests for production of documents;
- Prepared over the course of multiple sessions to be deposed by defense counsel;
- Participated in conference calls with my co-Plaintiffs, BES, and Class Counsel to discuss important issues and events related to this Action;
- Traveled to, and sat for, deposition on June 27, 2019 in New York, New York, U.S.A.;
- Read and reviewed numerous briefs, pleadings, and mediation submissions;
- Consulted regularly with my counsel at BES (particularly Brandon Walker and Marion Passmore) regarding important developments in this case;
- Consulted with BES regarding the possibility of pursuing mediation, and regarding overall settlement prospects and objectives; and
- Evaluated and ultimately approved the terms of the proposed settlement.

6. In total, I conservatively estimate that I have spent at least forty (40) hours in connection with bringing this case on behalf of the Class and in discharging my duties as a representative plaintiff and class representative.

7. Based on the time and effort I have spent on this case, the success that has been achieved in obtaining an excellent \$15.5 million settlement on behalf of the Class, and my understanding from BES and Class Counsel that service awards are regularly awarded in similar circumstances by federal courts, I respectfully request that the Court approve my request for a service award of \$10,000.00.

8. I also note that Plaintiffs' counsel agreed to represent me and the Class on a fully contingent basis, and also agreed to advance all litigation costs and expenses. I understand that Class Counsel intend to seek an award of attorneys' fees in the amount of 33 and  $\frac{1}{3}$  percent of the \$15.5 million Settlement Fund, plus reimbursement of expenses. Based on my experience working with my counsel, my general knowledge that contingent fees of one-third of the recovery are unexceptional in complicated securities class actions like this one, the excellent result achieved, and my understanding that even a one-third fee will not result in any significant "multiple" on the value of their time based on their hourly rates that are consistent with those approved by courts across the country in similar complex class actions, I support their fee and expense application.

9. Accordingly, I respectfully request that the Court approve: (1) Plaintiffs' Motion for Final Approval of the Proposed Settlement and the Proposed Plan of Allocation; (2) Counsel's Motion for Attorneys' Fees and Litigation Expenses, and (3) my application for a service award in the amount of \$10,000.00.

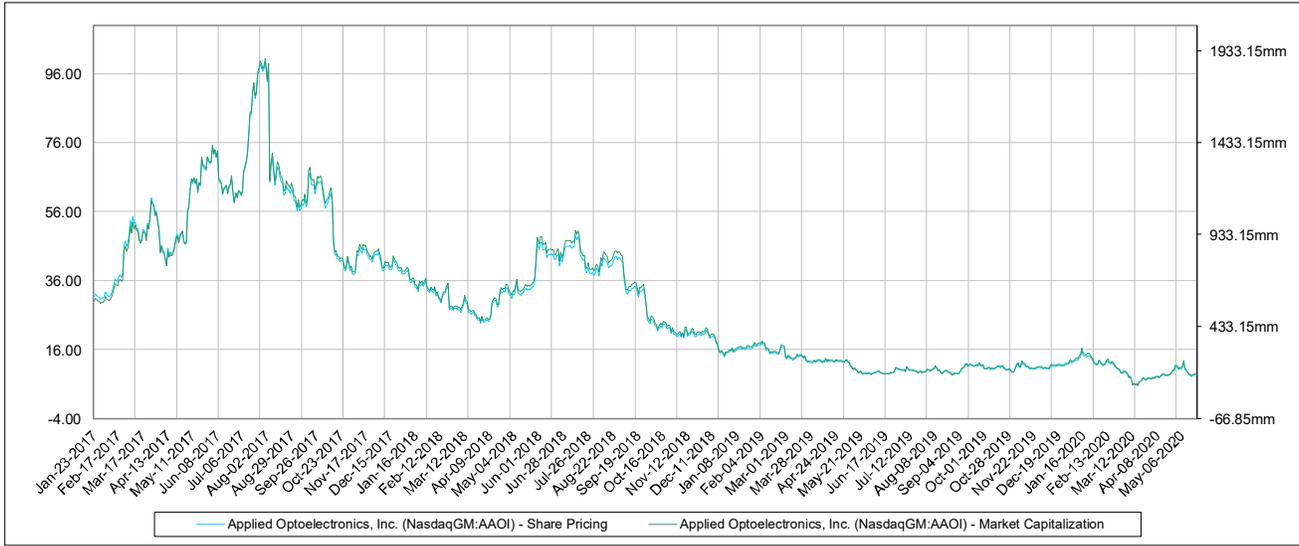
I, John Kugel, being duly cautioned and sworn, depose and state that I have read the foregoing declaration and the same is true and correct to the best of my knowledge and belief.

Executed this 28<sup>th</sup> day of September, 2020

  
John R. Kugel (Sep 28, 2020 16:00 EDT)  
John Kugel

# Exhibit 14

S&P  
Capital IQ



Dates	Applied Optoelectronics, Inc. (NasdaqGM:AAOI) - Share Pricing	Applied Optoelectronics, Inc. (NasdaqGM:AAOI) - Market Capitalization
Jan-23-2017	31.29	572.62mm
Jan-24-2017	32.00	585.61mm
Jan-25-2017	31.71	580.30mm
Jan-26-2017	31.28	572.43mm
Jan-27-2017	31.15	570.06mm
Jan-30-2017	30.41	556.51mm
Jan-31-2017	30.76	562.92mm
Feb-01-2017	30.93	566.03mm
Feb-02-2017	31.31	572.98mm
Feb-03-2017	32.60	596.59mm
Feb-06-2017	31.79	581.77mm
Feb-07-2017	31.56	577.56mm
Feb-08-2017	31.34	573.53mm
Feb-09-2017	31.75	581.04mm
Feb-10-2017	32.66	597.69mm
Feb-13-2017	33.92	620.75mm
Feb-14-2017	36.38	665.77mm
Feb-15-2017	35.97	658.26mm
Feb-16-2017	35.79	654.97mm
Feb-17-2017	37.27	682.05mm
Feb-21-2017	37.57	687.54mm
Feb-22-2017	37.12	679.31mm
Feb-23-2017	37.47	685.71mm
Feb-24-2017	45.98	841.45mm
Feb-27-2017	47.46	868.53mm
Feb-28-2017	45.92	840.35mm
Mar-01-2017	46.85	857.37mm
Mar-02-2017	49.23	900.93mm
Mar-03-2017	53.32	975.77mm
Mar-06-2017	51.46	941.74mm
Mar-07-2017	54.54	998.10mm
Mar-08-2017	52.56	961.87mm
Mar-09-2017	52.66	983.58mm
Mar-10-2017	50.92	951.08mm
Mar-13-2017	51.06	953.69mm
Mar-14-2017	48.19	900.09mm
Mar-15-2017	47.40	885.33mm
Mar-16-2017	47.96	895.79mm
Mar-17-2017	50.77	948.28mm
Mar-20-2017	50.33	940.06mm
Mar-21-2017	48.23	900.83mm
Mar-22-2017	52.63	983.02mm
Mar-23-2017	51.51	962.10mm
Mar-24-2017	55.02	1027.66mm
Mar-27-2017	59.88	1118.43mm
Mar-28-2017	58.56	1093.78mm
Mar-29-2017	58.02	1083.69mm
Mar-30-2017	55.35	1033.82mm
Mar-31-2017	56.15	1048.76mm
Apr-03-2017	53.47	998.71mm
Apr-04-2017	51.19	956.12mm
Apr-05-2017	44.68	834.53mm
Apr-06-2017	46.31	864.97mm
Apr-07-2017	44.68	834.53mm
Apr-10-2017	44.46	830.42mm
Apr-11-2017	42.38	791.57mm
Apr-12-2017	40.82	762.43mm

Apr-13-2017	45.30	846.11mm
Apr-17-2017	43.33	809.31mm
Apr-18-2017	44.20	825.56mm
Apr-19-2017	43.73	816.78mm
Apr-20-2017	44.31	827.62mm
Apr-21-2017	45.54	850.59mm
Apr-24-2017	48.78	911.11mm
Apr-25-2017	49.40	922.69mm
Apr-26-2017	47.47	886.64mm
Apr-27-2017	49.36	921.94mm
Apr-28-2017	49.39	937.76mm
May-01-2017	50.13	951.81mm
May-02-2017	47.30	898.08mm
May-03-2017	46.47	882.32mm
May-04-2017	46.81	888.77mm
May-05-2017	55.96	1062.50mm
May-08-2017	57.39	1089.65mm
May-09-2017	62.11	1180.01mm
May-10-2017	64.97	1234.34mm
May-11-2017	64.23	1220.28mm
May-12-2017	65.45	1243.46mm
May-15-2017	64.01	1216.10mm
May-16-2017	64.97	1234.34mm
May-17-2017	61.38	1166.14mm
May-18-2017	63.98	1215.53mm
May-19-2017	63.54	1207.17mm
May-22-2017	71.24	1353.46mm
May-23-2017	69.15	1313.76mm
May-24-2017	68.63	1303.88mm
May-25-2017	67.88	1289.63mm
May-26-2017	71.51	1358.59mm
May-30-2017	70.48	1339.02mm
May-31-2017	69.82	1326.48mm
Jun-01-2017	70.01	1330.09mm
Jun-02-2017	74.68	1418.82mm
Jun-05-2017	72.44	1376.26mm
Jun-06-2017	73.41	1394.69mm
Jun-07-2017	71.48	1358.02mm
Jun-08-2017	73.14	1389.56mm
Jun-09-2017	64.71	1229.40mm
Jun-12-2017	64.61	1227.50mm
Jun-13-2017	63.85	1213.06mm
Jun-14-2017	60.95	1157.97mm
Jun-15-2017	62.23	1182.28mm
Jun-16-2017	62.88	1194.63mm
Jun-19-2017	63.20	1200.71mm
Jun-20-2017	61.08	1160.44mm
Jun-21-2017	63.10	1198.81mm
Jun-22-2017	63.58	1207.93mm
Jun-23-2017	65.87	1251.44mm
Jun-26-2017	61.59	1170.13mm
Jun-27-2017	58.44	1110.28mm
Jun-28-2017	61.00	1158.92mm
Jun-29-2017	60.00	1139.92mm
Jun-30-2017	61.79	1173.93mm
Jul-03-2017	61.39	1166.33mm
Jul-05-2017	60.62	1151.70mm
Jul-06-2017	61.47	1167.85mm
Jul-07-2017	67.30	1278.61mm
Jul-10-2017	68.64	1304.07mm
Jul-11-2017	70.04	1330.66mm
Jul-12-2017	72.64	1380.06mm
Jul-13-2017	78.04	1482.65mm
Jul-14-2017	84.20	1599.68mm
Jul-17-2017	84.18	1599.30mm
Jul-18-2017	90.18	1713.30mm
Jul-19-2017	92.54	1758.13mm
Jul-20-2017	88.80	1687.08mm
Jul-21-2017	89.95	1708.93mm
Jul-24-2017	95.63	1816.84mm
Jul-25-2017	96.80	1839.07mm
Jul-26-2017	98.76	1876.30mm
Jul-27-2017	97.82	1858.45mm
Jul-28-2017	96.64	1836.03mm
Jul-31-2017	97.49	1852.18mm
Aug-01-2017	99.61	1892.45mm
Aug-02-2017	93.50	1776.37mm
Aug-03-2017	97.99	1861.68mm
Aug-04-2017	64.60	1227.31mm
Aug-07-2017	69.69	1324.01mm
Aug-08-2017	71.20	1374.39mm
Aug-09-2017	67.47	1302.39mm
Aug-10-2017	63.55	1226.72mm
Aug-11-2017	65.84	1270.92mm
Aug-14-2017	68.92	1330.38mm
Aug-15-2017	68.18	1316.09mm
Aug-16-2017	65.79	1269.96mm
Aug-17-2017	64.51	1245.25mm
Aug-18-2017	64.10	1237.34mm
Aug-21-2017	60.60	1169.77mm
Aug-22-2017	61.02	1177.88mm
Aug-23-2017	63.51	1225.95mm
Aug-24-2017	62.39	1204.33mm

Aug-25-2017	62.30	1202.59mm
Aug-28-2017	61.25	1182.32mm
Aug-29-2017	62.69	1210.12mm
Aug-30-2017	61.50	1187.15mm
Aug-31-2017	59.12	1141.21mm
Sep-01-2017	58.98	1138.50mm
Sep-05-2017	56.09	1082.72mm
Sep-06-2017	58.06	1120.74mm
Sep-07-2017	56.16	1084.07mm
Sep-08-2017	56.76	1095.65mm
Sep-11-2017	58.11	1121.71mm
Sep-12-2017	57.99	1119.39mm
Sep-13-2017	59.69	1152.21mm
Sep-14-2017	57.27	1105.49mm
Sep-15-2017	58.30	1125.38mm
Sep-18-2017	66.29	1279.61mm
Sep-19-2017	67.23	1297.75mm
Sep-20-2017	63.96	1234.63mm
Sep-21-2017	63.60	1227.68mm
Sep-22-2017	63.80	1231.54mm
Sep-25-2017	61.11	1179.62mm
Sep-26-2017	62.85	1213.21mm
Sep-27-2017	64.73	1249.50mm
Sep-28-2017	64.21	1239.46mm
Sep-29-2017	64.67	1248.34mm
Oct-02-2017	64.52	1245.44mm
Oct-03-2017	61.73	1191.59mm
Oct-04-2017	59.43	1147.19mm
Oct-05-2017	56.99	1100.09mm
Oct-06-2017	58.17	1122.87mm
Oct-09-2017	58.79	1134.84mm
Oct-10-2017	60.35	1164.95mm
Oct-11-2017	61.44	1185.99mm
Oct-12-2017	58.84	1135.80mm
Oct-13-2017	47.01	907.44mm
Oct-16-2017	43.38	837.37mm
Oct-17-2017	43.74	844.32mm
Oct-18-2017	42.29	816.33mm
Oct-19-2017	42.17	814.02mm
Oct-20-2017	41.47	800.50mm
Oct-23-2017	41.81	807.07mm
Oct-24-2017	41.66	804.17mm
Oct-25-2017	40.43	780.43mm
Oct-26-2017	38.68	746.65mm
Oct-27-2017	39.27	758.04mm
Oct-30-2017	42.12	813.05mm
Oct-31-2017	40.74	786.41mm
Nov-01-2017	38.97	752.25mm
Nov-02-2017	39.28	758.23mm
Nov-03-2017	37.82	730.05mm
Nov-06-2017	37.80	729.66mm
Nov-07-2017	37.89	731.40mm
Nov-08-2017	43.64	845.84mm
Nov-09-2017	43.20	837.31mm
Nov-10-2017	45.30	878.01mm
Nov-13-2017	44.58	864.06mm
Nov-14-2017	43.90	850.88mm
Nov-15-2017	45.40	879.95mm
Nov-16-2017	44.80	868.32mm
Nov-17-2017	45.04	872.97mm
Nov-20-2017	43.48	842.74mm
Nov-21-2017	42.90	831.50mm
Nov-22-2017	41.95	813.08mm
Nov-24-2017	42.22	818.32mm
Nov-27-2017	41.24	799.32mm
Nov-28-2017	42.68	827.23mm
Nov-29-2017	43.30	839.25mm
Nov-30-2017	43.66	846.23mm
Dec-01-2017	43.38	840.80mm
Dec-04-2017	44.05	853.79mm
Dec-05-2017	42.46	822.97mm
Dec-06-2017	40.74	789.63mm
Dec-07-2017	38.84	752.80mm
Dec-08-2017	38.69	749.90mm
Dec-11-2017	40.52	785.37mm
Dec-12-2017	40.15	778.19mm
Dec-13-2017	40.35	782.07mm
Dec-14-2017	39.09	757.65mm
Dec-15-2017	38.99	755.71mm
Dec-18-2017	39.27	761.14mm
Dec-19-2017	42.07	815.41mm
Dec-20-2017	41.30	800.48mm
Dec-21-2017	40.52	785.37mm
Dec-22-2017	39.96	774.51mm
Dec-26-2017	38.91	754.16mm
Dec-27-2017	38.66	749.32mm
Dec-28-2017	38.86	753.19mm
Dec-29-2017	37.82	733.03mm
Jan-02-2018	37.91	734.78mm
Jan-03-2018	37.89	734.39mm
Jan-04-2018	38.38	743.89mm
Jan-05-2018	38.89	753.77mm
Jan-08-2018	38.37	743.69mm

Jan-09-2018	35.54	688.84mm
Jan-10-2018	35.31	684.38mm
Jan-11-2018	35.94	696.60mm
Jan-12-2018	35.85	694.85mm
Jan-16-2018	34.17	662.29mm
Jan-17-2018	34.00	658.99mm
Jan-18-2018	32.79	635.54mm
Jan-19-2018	35.03	678.96mm
Jan-22-2018	34.50	668.69mm
Jan-23-2018	35.09	680.12mm
Jan-24-2018	34.22	663.26mm
Jan-25-2018	35.10	680.31mm
Jan-26-2018	35.99	697.56mm
Jan-29-2018	33.33	646.01mm
Jan-30-2018	32.84	636.51mm
Jan-31-2018	32.39	627.79mm
Feb-01-2018	33.49	649.11mm
Feb-02-2018	32.81	635.93mm
Feb-05-2018	32.48	629.53mm
Feb-06-2018	33.42	647.75mm
Feb-07-2018	31.53	611.12mm
Feb-08-2018	32.05	621.20mm
Feb-09-2018	30.72	595.42mm
Feb-12-2018	30.25	586.31mm
Feb-13-2018	29.51	571.97mm
Feb-14-2018	31.28	606.27mm
Feb-15-2018	31.99	620.04mm
Feb-16-2018	31.99	620.04mm
Feb-20-2018	33.33	646.01mm
Feb-21-2018	34.55	669.65mm
Feb-22-2018	27.51	533.20mm
Feb-23-2018	28.02	543.09mm
Feb-26-2018	28.00	542.70mm
Feb-27-2018	27.33	529.72mm
Feb-28-2018	27.93	544.66mm
Mar-01-2018	27.82	542.51mm
Mar-02-2018	27.95	545.05mm
Mar-05-2018	27.53	536.86mm
Mar-06-2018	27.45	535.29mm
Mar-07-2018	26.78	522.23mm
Mar-08-2018	27.95	545.05mm
Mar-09-2018	28.70	559.67mm
Mar-12-2018	30.95	603.55mm
Mar-13-2018	29.51	575.47mm
Mar-14-2018	29.12	567.86mm
Mar-15-2018	26.79	522.42mm
Mar-16-2018	26.78	522.23mm
Mar-19-2018	26.22	511.31mm
Mar-20-2018	26.67	520.08mm
Mar-21-2018	26.71	520.86mm
Mar-22-2018	25.96	506.24mm
Mar-23-2018	25.36	494.54mm
Mar-26-2018	24.53	478.35mm
Mar-27-2018	24.60	479.72mm
Mar-28-2018	23.65	461.19mm
Mar-29-2018	25.06	488.69mm
Apr-02-2018	24.02	468.41mm
Apr-03-2018	24.00	468.02mm
Apr-04-2018	24.29	473.67mm
Apr-05-2018	24.61	479.91mm
Apr-06-2018	24.09	469.77mm
Apr-09-2018	24.36	475.04mm
Apr-10-2018	25.43	495.90mm
Apr-11-2018	29.12	567.86mm
Apr-12-2018	29.59	577.03mm
Apr-13-2018	30.19	588.73mm
Apr-16-2018	29.97	584.44mm
Apr-17-2018	28.33	552.46mm
Apr-18-2018	28.29	551.68mm
Apr-19-2018	31.64	617.00mm
Apr-20-2018	32.99	643.33mm
Apr-23-2018	32.46	632.99mm
Apr-24-2018	32.90	641.57mm
Apr-25-2018	32.62	636.11mm
Apr-26-2018	33.84	659.90mm
Apr-27-2018	33.76	659.60mm
Apr-30-2018	31.96	624.43mm
May-01-2018	31.53	616.03mm
May-02-2018	30.75	600.79mm
May-03-2018	32.14	627.95mm
May-04-2018	31.84	622.09mm
May-07-2018	33.64	657.26mm
May-08-2018	35.13	687.81mm
May-09-2018	32.26	631.62mm
May-10-2018	32.09	628.29mm
May-11-2018	31.78	622.22mm
May-14-2018	32.19	630.25mm
May-15-2018	32.40	634.36mm
May-16-2018	33.32	652.37mm
May-17-2018	33.74	660.60mm
May-18-2018	33.22	650.41mm
May-21-2018	33.51	656.09mm
May-22-2018	33.26	651.20mm

May-23-2018	33.67	659.23mm
May-24-2018	33.93	664.32mm
May-25-2018	34.49	675.28mm
May-29-2018	35.72	699.36mm
May-30-2018	40.62	795.30mm
May-31-2018	46.77	915.71mm
Jun-01-2018	45.02	881.45mm
Jun-04-2018	46.95	919.23mm
Jun-05-2018	47.04	921.00mm
Jun-06-2018	44.86	878.31mm
Jun-07-2018	44.98	880.66mm
Jun-08-2018	45.36	888.10mm
Jun-11-2018	42.52	832.50mm
Jun-12-2018	43.52	852.08mm
Jun-13-2018	43.58	853.25mm
Jun-14-2018	43.74	856.39mm
Jun-15-2018	43.38	849.34mm
Jun-18-2018	43.47	851.10mm
Jun-19-2018	42.10	824.28mm
Jun-20-2018	42.15	825.26mm
Jun-21-2018	43.13	844.44mm
Jun-22-2018	43.75	856.58mm
Jun-25-2018	40.25	788.06mm
Jun-26-2018	42.75	837.00mm
Jun-27-2018	41.26	807.83mm
Jun-28-2018	42.63	834.65mm
Jun-29-2018	44.90	879.10mm
Jul-02-2018	45.98	900.24mm
Jul-03-2018	45.97	900.05mm
Jul-05-2018	46.00	900.63mm
Jul-06-2018	46.02	901.03mm
Jul-09-2018	45.33	887.52mm
Jul-10-2018	45.79	896.52mm
Jul-11-2018	45.76	895.94mm
Jul-12-2018	48.80	955.46mm
Jul-13-2018	47.78	935.49mm
Jul-16-2018	48.67	952.91mm
Jul-17-2018	47.40	928.05mm
Jul-18-2018	43.00	841.90mm
Jul-19-2018	42.50	832.11mm
Jul-20-2018	41.78	818.01mm
Jul-23-2018	41.99	822.12mm
Jul-24-2018	38.26	749.09mm
Jul-25-2018	38.30	749.88mm
Jul-26-2018	39.72	777.68mm
Jul-27-2018	38.23	748.51mm
Jul-30-2018	37.91	742.24mm
Jul-31-2018	38.43	752.42mm
Aug-01-2018	37.40	732.26mm
Aug-02-2018	38.14	746.74mm
Aug-03-2018	39.42	771.80mm
Aug-06-2018	38.98	763.19mm
Aug-07-2018	37.23	728.93mm
Aug-08-2018	40.92	806.04mm
Aug-09-2018	40.10	789.89mm
Aug-10-2018	42.50	837.16mm
Aug-13-2018	42.28	832.83mm
Aug-14-2018	41.68	821.01mm
Aug-15-2018	41.34	814.32mm
Aug-16-2018	39.58	779.65mm
Aug-17-2018	40.16	791.07mm
Aug-20-2018	40.27	793.24mm
Aug-21-2018	40.61	799.94mm
Aug-22-2018	41.83	823.97mm
Aug-23-2018	42.79	842.88mm
Aug-24-2018	42.87	844.45mm
Aug-27-2018	42.11	829.48mm
Aug-28-2018	42.74	841.89mm
Aug-29-2018	42.39	835.00mm
Aug-30-2018	41.62	819.83mm
Aug-31-2018	41.36	814.71mm
Sep-04-2018	36.72	723.31mm
Sep-05-2018	34.25	674.66mm
Sep-06-2018	32.24	635.06mm
Sep-07-2018	32.04	631.12mm
Sep-10-2018	33.13	652.59mm
Sep-11-2018	33.05	651.02mm
Sep-12-2018	33.66	663.03mm
Sep-13-2018	33.79	665.60mm
Sep-14-2018	34.19	673.47mm
Sep-17-2018	34.04	670.52mm
Sep-18-2018	32.54	640.97mm
Sep-19-2018	31.18	614.18mm
Sep-20-2018	32.87	647.47mm
Sep-21-2018	32.72	644.52mm
Sep-24-2018	33.21	654.17mm
Sep-25-2018	33.56	661.06mm
Sep-26-2018	31.34	617.34mm
Sep-27-2018	28.36	558.64mm
Sep-28-2018	24.66	485.75mm
Oct-01-2018	24.00	472.75mm
Oct-02-2018	23.36	460.15mm
Oct-03-2018	24.91	490.68mm

Oct-04-2018	24.54	483.39mm
Oct-05-2018	23.99	472.55mm
Oct-08-2018	22.85	450.10mm
Oct-09-2018	22.56	444.39mm
Oct-10-2018	21.32	419.96mm
Oct-11-2018	22.02	433.75mm
Oct-12-2018	22.92	451.48mm
Oct-15-2018	22.35	440.25mm
Oct-16-2018	23.37	460.34mm
Oct-17-2018	23.15	456.01mm
Oct-18-2018	22.85	450.10mm
Oct-19-2018	21.91	431.58mm
Oct-22-2018	22.31	439.46mm
Oct-23-2018	22.25	438.28mm
Oct-24-2018	20.55	404.79mm
Oct-25-2018	21.56	424.69mm
Oct-26-2018	20.52	404.20mm
Oct-29-2018	20.32	400.26mm
Oct-30-2018	20.04	394.75mm
Oct-31-2018	19.63	386.67mm
Nov-01-2018	20.14	396.72mm
Nov-02-2018	20.49	403.61mm
Nov-05-2018	19.44	382.93mm
Nov-06-2018	20.30	399.87mm
Nov-07-2018	19.38	381.75mm
Nov-08-2018	21.70	429.63mm
Nov-09-2018	21.66	428.84mm
Nov-12-2018	19.63	388.55mm
Nov-13-2018	20.16	399.14mm
Nov-14-2018	20.19	399.74mm
Nov-15-2018	21.34	422.50mm
Nov-16-2018	20.99	415.57mm
Nov-19-2018	19.69	389.84mm
Nov-20-2018	19.65	389.04mm
Nov-21-2018	20.26	401.12mm
Nov-23-2018	20.33	402.51mm
Nov-26-2018	20.41	404.09mm
Nov-27-2018	20.00	395.97mm
Nov-28-2018	20.66	409.04mm
Nov-29-2018	20.28	401.52mm
Nov-30-2018	20.59	407.65mm
Dec-03-2018	21.58	427.26mm
Dec-04-2018	21.16	418.94mm
Dec-06-2018	20.02	396.37mm
Dec-07-2018	19.14	378.95mm
Dec-10-2018	19.74	390.83mm
Dec-11-2018	19.77	391.42mm
Dec-12-2018	19.84	392.81mm
Dec-13-2018	19.10	378.15mm
Dec-14-2018	17.60	348.46mm
Dec-17-2018	17.11	338.76mm
Dec-18-2018	15.41	305.10mm
Dec-19-2018	14.91	295.20mm
Dec-20-2018	15.22	301.34mm
Dec-21-2018	14.53	287.67mm
Dec-24-2018	13.84	274.01mm
Dec-26-2018	14.93	295.59mm
Dec-27-2018	14.92	295.40mm
Dec-28-2018	15.03	297.57mm
Dec-31-2018	15.43	305.49mm
Jan-01-2019	15.43	305.49mm
Jan-02-2019	15.88	314.40mm
Jan-03-2019	15.06	298.17mm
Jan-04-2019	15.54	307.67mm
Jan-07-2019	15.68	310.44mm
Jan-08-2019	16.01	316.98mm
Jan-09-2019	16.12	319.15mm
Jan-10-2019	16.27	322.12mm
Jan-11-2019	16.39	324.50mm
Jan-14-2019	15.95	315.79mm
Jan-15-2019	16.16	319.95mm
Jan-16-2019	15.95	315.79mm
Jan-17-2019	16.04	317.57mm
Jan-18-2019	16.59	328.46mm
Jan-21-2019	16.59	328.46mm
Jan-22-2019	16.27	322.12mm
Jan-23-2019	16.21	320.94mm
Jan-24-2019	16.72	331.03mm
Jan-25-2019	17.45	345.49mm
Jan-28-2019	16.89	334.40mm
Jan-29-2019	16.85	333.61mm
Jan-30-2019	17.32	342.91mm
Jan-31-2019	17.38	344.10mm
Feb-01-2019	17.29	342.32mm
Feb-04-2019	17.79	352.22mm
Feb-05-2019	17.29	342.32mm
Feb-06-2019	17.39	344.30mm
Feb-07-2019	15.83	313.31mm
Feb-08-2019	15.88	314.40mm
Feb-11-2019	15.77	312.22mm
Feb-12-2019	14.66	290.25mm
Feb-13-2019	14.94	295.79mm
Feb-14-2019	14.72	291.44mm

Feb-15-2019	15.03	297.57mm
Feb-18-2019	15.03	297.57mm
Feb-19-2019	14.93	295.59mm
Feb-20-2019	14.61	289.26mm
Feb-21-2019	14.60	289.06mm
Feb-22-2019	15.42	305.30mm
Feb-25-2019	16.81	332.72mm
Feb-26-2019	16.53	328.66mm
Feb-27-2019	16.35	325.08mm
Feb-28-2019	13.50	268.42mm
Mar-01-2019	13.24	263.25mm
Mar-04-2019	13.97	277.76mm
Mar-05-2019	13.64	271.20mm
Mar-06-2019	13.30	264.44mm
Mar-07-2019	13.01	258.67mm
Mar-08-2019	12.88	256.09mm
Mar-11-2019	13.30	264.44mm
Mar-12-2019	13.49	268.22mm
Mar-13-2019	14.08	279.95mm
Mar-14-2019	13.84	275.18mm
Mar-15-2019	14.00	278.36mm
Mar-18-2019	14.07	279.75mm
Mar-19-2019	13.82	274.78mm
Mar-20-2019	13.44	267.22mm
Mar-21-2019	13.75	273.39mm
Mar-22-2019	12.71	252.71mm
Mar-25-2019	12.32	244.95mm
Mar-26-2019	12.35	245.55mm
Mar-27-2019	12.20	242.57mm
Mar-28-2019	12.19	242.37mm
Mar-29-2019	12.20	242.57mm
Apr-01-2019	12.60	250.52mm
Apr-02-2019	12.13	241.18mm
Apr-03-2019	12.46	247.74mm
Apr-04-2019	12.75	253.50mm
Apr-05-2019	12.72	252.91mm
Apr-08-2019	12.50	248.53mm
Apr-09-2019	12.06	239.78mm
Apr-10-2019	12.30	244.56mm
Apr-11-2019	12.37	245.95mm
Apr-12-2019	13.09	260.26mm
Apr-15-2019	12.36	245.75mm
Apr-16-2019	12.64	251.32mm
Apr-17-2019	12.57	249.92mm
Apr-18-2019	12.59	250.32mm
Apr-19-2019	12.59	250.32mm
Apr-22-2019	12.37	246.02mm
Apr-23-2019	12.40	246.62mm
Apr-24-2019	12.78	254.17mm
Apr-25-2019	12.41	246.81mm
Apr-26-2019	12.58	250.20mm
Apr-29-2019	12.44	247.41mm
Apr-30-2019	12.52	249.00mm
May-01-2019	12.27	244.03mm
May-02-2019	12.09	240.45mm
May-03-2019	12.60	250.59mm
May-06-2019	12.69	252.38mm
May-07-2019	12.08	240.25mm
May-08-2019	12.06	239.85mm
May-09-2019	10.93	217.94mm
May-10-2019	10.71	213.55mm
May-13-2019	10.16	202.59mm
May-14-2019	10.38	206.97mm
May-15-2019	10.01	199.60mm
May-16-2019	9.71	193.61mm
May-17-2019	9.17	182.85mm
May-20-2019	9.27	184.84mm
May-21-2019	9.52	189.83mm
May-22-2019	9.08	181.05mm
May-23-2019	8.86	176.67mm
May-24-2019	9.03	180.05mm
May-27-2019	9.03	180.05mm
May-28-2019	8.84	176.27mm
May-29-2019	8.95	178.46mm
May-30-2019	8.98	179.06mm
May-31-2019	8.66	172.68mm
Jun-03-2019	8.81	175.67mm
Jun-04-2019	9.19	183.25mm
Jun-05-2019	9.23	184.04mm
Jun-06-2019	9.30	185.44mm
Jun-07-2019	9.50	189.43mm
Jun-10-2019	9.60	191.42mm
Jun-11-2019	9.12	181.85mm
Jun-12-2019	9.05	180.45mm
Jun-13-2019	8.94	178.26mm
Jun-14-2019	8.89	177.26mm
Jun-17-2019	8.87	176.86mm
Jun-18-2019	8.92	177.86mm
Jun-19-2019	8.79	175.27mm
Jun-20-2019	8.88	177.06mm
Jun-21-2019	9.29	185.24mm
Jun-24-2019	9.11	181.65mm
Jun-25-2019	9.10	181.45mm

Jun-26-2019	9.49	189.23mm
Jun-27-2019	10.56	210.56mm
Jun-28-2019	10.28	204.98mm
Jul-01-2019	10.18	202.99mm
Jul-02-2019	10.03	199.99mm
Jul-03-2019	9.88	197.00mm
Jul-04-2019	9.88	197.00mm
Jul-05-2019	9.85	196.41mm
Jul-08-2019	9.59	191.22mm
Jul-09-2019	10.85	216.34mm
Jul-10-2019	10.31	205.58mm
Jul-11-2019	9.90	197.40mm
Jul-12-2019	9.97	198.80mm
Jul-15-2019	9.97	198.80mm
Jul-16-2019	9.82	195.81mm
Jul-17-2019	9.68	193.02mm
Jul-18-2019	9.60	191.42mm
Jul-19-2019	9.62	191.82mm
Jul-22-2019	9.09	181.25mm
Jul-23-2019	9.31	185.64mm
Jul-24-2019	9.50	189.43mm
Jul-25-2019	9.18	183.05mm
Jul-26-2019	9.31	185.64mm
Jul-29-2019	9.28	185.04mm
Jul-30-2019	9.48	189.03mm
Jul-31-2019	10.01	199.60mm
Aug-01-2019	9.93	198.00mm
Aug-02-2019	9.96	198.60mm
Aug-05-2019	9.80	195.41mm
Aug-06-2019	10.12	201.79mm
Aug-07-2019	10.21	203.58mm
Aug-08-2019	10.90	218.32mm
Aug-09-2019	10.57	211.71mm
Aug-12-2019	9.75	195.28mm
Aug-13-2019	9.85	197.28mm
Aug-14-2019	9.31	186.47mm
Aug-15-2019	8.88	177.86mm
Aug-16-2019	9.24	185.07mm
Aug-19-2019	9.53	190.88mm
Aug-20-2019	9.67	193.68mm
Aug-21-2019	9.66	193.48mm
Aug-22-2019	9.39	188.07mm
Aug-23-2019	9.12	182.66mm
Aug-26-2019	9.12	182.66mm
Aug-27-2019	8.50	170.25mm
Aug-28-2019	8.67	173.65mm
Aug-29-2019	8.92	178.66mm
Aug-30-2019	8.90	178.26mm
Sep-02-2019	8.90	178.26mm
Sep-03-2019	8.74	175.05mm
Sep-04-2019	9.10	182.26mm
Sep-05-2019	9.79	196.08mm
Sep-06-2019	10.30	206.30mm
Sep-09-2019	10.58	211.91mm
Sep-10-2019	11.44	229.13mm
Sep-11-2019	11.54	231.13mm
Sep-12-2019	11.06	221.52mm
Sep-13-2019	11.17	223.72mm
Sep-16-2019	11.40	228.33mm
Sep-17-2019	11.30	226.33mm
Sep-18-2019	11.03	220.92mm
Sep-19-2019	10.95	219.32mm
Sep-20-2019	11.15	223.32mm
Sep-23-2019	11.22	224.72mm
Sep-24-2019	11.13	222.82mm
Sep-25-2019	11.70	234.24mm
Sep-26-2019	11.20	224.22mm
Sep-27-2019	11.13	222.82mm
Sep-30-2019	11.22	224.72mm
Oct-01-2019	10.23	204.90mm
Oct-02-2019	10.25	205.30mm
Oct-03-2019	10.22	204.70mm
Oct-04-2019	10.49	210.00mm
Oct-07-2019	10.47	209.70mm
Oct-08-2019	10.08	201.79mm
Oct-09-2019	10.39	208.10mm
Oct-10-2019	10.16	203.49mm
Oct-11-2019	10.40	208.20mm
Oct-14-2019	10.56	211.51mm
Oct-15-2019	10.96	219.52mm
Oct-16-2019	10.84	217.11mm
Oct-17-2019	10.65	213.31mm
Oct-18-2019	10.85	217.31mm
Oct-21-2019	10.84	217.11mm
Oct-22-2019	10.30	206.30mm
Oct-23-2019	10.14	203.09mm
Oct-24-2019	9.84	197.08mm
Oct-25-2019	9.91	198.81mm
Oct-28-2019	10.16	203.83mm
Oct-29-2019	9.84	197.41mm
Oct-30-2019	9.36	187.78mm
Oct-31-2019	9.36	187.78mm
Nov-01-2019	9.57	191.99mm

Nov-04-2019	10.60	212.65mm
Nov-05-2019	11.33	227.30mm
Nov-06-2019	11.71	234.92mm
Nov-07-2019	10.69	215.00mm
Nov-08-2019	10.88	218.82mm
Nov-11-2019	12.15	244.36mm
Nov-12-2019	11.66	234.50mm
Nov-13-2019	11.34	228.07mm
Nov-14-2019	10.90	219.22mm
Nov-15-2019	10.87	218.52mm
Nov-18-2019	10.54	211.98mm
Nov-19-2019	10.25	206.15mm
Nov-20-2019	10.28	206.81mm
Nov-21-2019	10.20	205.20mm
Nov-22-2019	10.24	206.01mm
Nov-25-2019	10.29	207.01mm
Nov-26-2019	10.55	212.24mm
Nov-27-2019	10.68	214.86mm
Nov-28-2019	10.68	214.86mm
Nov-29-2019	10.70	215.26mm
Dec-02-2019	10.71	215.46mm
Dec-03-2019	10.35	208.22mm
Dec-04-2019	10.39	209.02mm
Dec-05-2019	10.46	210.43mm
Dec-06-2019	10.37	208.62mm
Dec-09-2019	10.32	207.62mm
Dec-10-2019	10.28	206.81mm
Dec-11-2019	10.96	220.49mm
Dec-12-2019	11.28	226.96mm
Dec-13-2019	10.94	220.01mm
Dec-16-2019	11.07	222.73mm
Dec-17-2019	11.24	226.15mm
Dec-18-2019	11.18	224.94mm
Dec-19-2019	11.30	227.36mm
Dec-20-2019	11.12	223.74mm
Dec-23-2019	11.15	224.34mm
Dec-24-2019	11.12	223.74mm
Dec-25-2019	11.12	223.74mm
Dec-26-2019	11.61	233.60mm
Dec-27-2019	11.52	231.78mm
Dec-30-2019	11.61	233.60mm
Dec-31-2019	11.88	239.03mm
Jan-02-2020	12.50	251.50mm
Jan-03-2020	12.12	243.86mm
Jan-06-2020	12.15	244.46mm
Jan-07-2020	12.43	250.09mm
Jan-08-2020	12.70	255.53mm
Jan-09-2020	13.06	262.77mm
Jan-10-2020	12.93	260.15mm
Jan-13-2020	13.54	272.43mm
Jan-14-2020	13.86	278.87mm
Jan-15-2020	15.60	313.88mm
Jan-16-2020	14.35	288.62mm
Jan-17-2020	14.12	284.10mm
Jan-21-2020	13.70	275.65mm
Jan-22-2020	14.25	286.71mm
Jan-23-2020	14.23	286.31mm
Jan-24-2020	13.96	280.88mm
Jan-27-2020	13.26	266.79mm
Jan-28-2020	12.94	260.36mm
Jan-29-2020	11.93	240.03mm
Jan-30-2020	11.65	234.40mm
Jan-31-2020	11.30	227.36mm
Feb-03-2020	11.62	233.80mm
Feb-04-2020	12.40	249.49mm
Feb-05-2020	12.13	244.06mm
Feb-06-2020	11.58	232.99mm
Feb-07-2020	11.27	226.75mm
Feb-10-2020	11.30	227.36mm
Feb-11-2020	11.51	231.58mm
Feb-12-2020	12.46	250.70mm
Feb-13-2020	12.75	256.53mm
Feb-14-2020	11.90	239.43mm
Feb-18-2020	11.75	236.41mm
Feb-19-2020	12.08	243.05mm
Feb-20-2020	11.82	237.82mm
Feb-21-2020	11.28	226.96mm
Feb-24-2020	10.59	212.97mm
Feb-25-2020	10.20	205.13mm
Feb-26-2020	10.18	204.82mm
Feb-27-2020	9.56	192.35mm
Feb-28-2020	8.93	180.67mm
Mar-02-2020	9.03	182.69mm
Mar-03-2020	9.40	190.18mm
Mar-04-2020	9.38	189.77mm
Mar-05-2020	9.04	182.89mm
Mar-06-2020	8.79	177.83mm
Mar-09-2020	7.72	156.19mm
Mar-10-2020	8.12	164.28mm
Mar-11-2020	7.04	142.43mm
Mar-12-2020	5.68	114.91mm
Mar-13-2020	6.11	123.61mm
Mar-16-2020	5.64	114.11mm

Mar-17-2020	5.96	120.58mm
Mar-18-2020	5.50	111.27mm
Mar-19-2020	6.55	132.52mm
Mar-20-2020	6.74	136.36mm
Mar-23-2020	6.90	139.60mm
Mar-24-2020	7.70	155.78mm
Mar-25-2020	7.45	150.72mm
Mar-26-2020	6.96	140.81mm
Mar-27-2020	7.48	151.33mm
Mar-30-2020	7.60	153.76mm
Mar-31-2020	7.59	153.56mm
Apr-01-2020	7.32	148.09mm
Apr-02-2020	7.69	155.58mm
Apr-03-2020	7.45	150.72mm
Apr-06-2020	7.92	160.23mm
Apr-07-2020	7.94	160.64mm
Apr-08-2020	8.01	162.05mm
Apr-09-2020	7.76	157.00mm
Apr-13-2020	7.99	161.65mm
Apr-14-2020	8.19	165.70mm
Apr-15-2020	8.72	176.42mm
Apr-16-2020	8.59	173.79mm
Apr-17-2020	8.44	170.75mm
Apr-20-2020	8.37	169.34mm
Apr-21-2020	8.28	167.52mm
Apr-22-2020	8.42	170.35mm
Apr-23-2020	8.76	177.23mm
Apr-24-2020	9.09	184.11mm
Apr-27-2020	9.77	197.88mm
Apr-28-2020	9.76	197.68mm
Apr-29-2020	10.98	222.39mm
Apr-30-2020	10.72	217.12mm
May-01-2020	10.11	204.77mm
May-04-2020	10.42	211.05mm
May-05-2020	10.34	209.43mm
May-06-2020	10.78	218.34mm
May-07-2020	12.20	247.10mm
May-08-2020	10.19	207.26mm
May-11-2020	9.71	197.50mm
May-12-2020	9.28	188.75mm
May-13-2020	8.70	176.95mm
May-14-2020	8.50	172.89mm
May-15-2020	8.15	165.77mm
May-18-2020	8.35	169.84mm
May-19-2020	8.44	171.67mm
May-20-2020	8.61	175.12mm
May-21-2020	8.66	176.14mm



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