

Nicole Lavallee (SBN 165755)
Daniel E. Barenbaum (SBN 209261)
Jeffrey V. Rocha (SBN 304852)
BERMAN TABACCO
425 California Street, Suite 2300
San Francisco, CA 94104
Telephone: (415) 433-3200
Facsimile: (415) 433-6382
Email: nvallee@bermantabacco.com
dbarenbaum@bermantabacco.com
jrocha@bermantabacco.com

*Counsel for the Lead Plaintiff Alameda County Employees’
Retirement Association and Lead Counsel for the Class*

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

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

CLASS ACTION

**DECLARATION OF DANIEL E.
BARENBAUM IN SUPPORT OF LEAD
PLAINTIFF’S MOTION FOR FINAL
APPROVAL OF PROPOSED CLASS
ACTION SETTLEMENT AND LEAD
COUNSEL’S MOTION FOR
ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES,
AND AWARD OF COSTS AND
EXPENSES TO PLAINTIFFS**

Date: March 2, 2023

Time: 10:00 a.m.

Dept.: 4 – 17th Floor

Judge: Hon. Vince Chhabria

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KEY DEFINED TERMS

PARTIES AND COUNSEL

Lead Plaintiff or ACERA	Lead Plaintiff Alameda County Employees’ Retirement Association
OFPRS	Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System
Plaintiffs	Collectively, Lead Plaintiff and OFPRS
Lead Counsel	Berman Tabacco
OFPRS’ Counsel	Saxena White P.A.
Plaintiffs’ Counsel	Collectively, Lead Counsel and OFPRS’ Counsel
Portola	Portola Pharmaceuticals, Inc.
Officer Defendants	Defendants Scott Garland, Mardi Dier, and Sheldon Koenig
Director Defendants	Defendants Hollings C. Renton, Jeffrey W. Bird, Laura Brege, Dennis Fenton, John H. Johnson, David C. Stump, and H. Ward Wolff
Portola Defendants	Collectively, Portola, Officer Defendants, and Director Defendants
Underwriter Defendants	Defendants Goldman Sachs & Co. LLC; Citigroup Global Markets Inc.; Cowen and Company, LLC; William Blair & Company, L.L.C.; and Oppenheimer & Co. Inc.
Defendants	Collectively, Portola Defendants and Underwriter Defendants
Defendants’ Counsel	Paul, Weiss, Rifkind, Wharton & Garrison LLP for Portola Defendants; Morrison & Foerster LLP for Underwriter Defendants

OTHER TERMS

ASC 606	Accounting Standards Codification, Topic 606, <u>Revenue from Contracts with Customer</u>
Claims Administrator or Epiq	Court-appointed Claims Administrator, Epiq Class Action and Claims Solutions, Inc.
Exchange Act	Securities Exchange Act of 1934, 15 U.S.C. § 78a, <u>et seq.</u>
GAAP	Generally Accepted Accounting Principles
N.D. Cal. Guidance	Northern District’s Procedural Guidance for Class Action Settlements (last modified Aug. 4, 2022), https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/ .

PSLRA	Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4 and 15 U.S.C. § 77z-1
Rule	Federal Rules of Civil Procedure
Secondary Public Offering	Portola’s Secondary Public Offering on or about August 14, 2019
Securities Act	Securities Act of 1933, 15 U.S.C. § 77a, <i>et seq.</i>
Settlement Class Period or Class Period	January 8, 2019 through February 28, 2020, inclusive.

KEY DOCUMENTS IN CHRONOLOGICAL ORDER

LP/LC Order	Order Granting Motion to Appoint Lead Plaintiff and Lead Counsel, Vacating Hearing, and Setting Briefing Schedule for Amended Pleadings, entered April 22, 2020 (ECF No. 49) ¹
Consolidated Complaint or CC	Consolidated Complaint for Violations of the Securities Laws, filed May 20, 2020 (ECF No. 51)
MTD CC Tr.	Transcript of Zoom Webinar Proceedings of the Official Electronic Sound Recording 11:19 – 12:30 p.m. for the Hearing on Defendants’ Motion to Dismiss the Consolidated Complaint held on September 24, 2020 (ECF No. 83)
FAC	First Amended Complaint for Violations of the Securities Laws, filed November 5, 2020 (ECF No. 87)
SAC	Second Amended Complaint for Violations of the Securities Laws, filed March 31, 2021 (ECF No. 113)
MTD SAC or Motion to Dismiss the SAC	Notice of Motion and Motion to Dismiss the Second Amended Consolidated Class Action Complaint: Memorandum of Points and Authorities in Support Thereof, filed May 5, 2021 (ECF No. 119)
MTD SAC Opp.	Lead Plaintiff’s Opposition to Defendants’ Motion to Dismiss The Second Amended Consolidated Class Action Complaint, filed June 9, 2021 (ECF No. 121)
MTD SAC Order	Order Granting in Part and Denying in Part Defendants’ Motion to Dismiss Second Amended Consolidated Class Action Complaint, filed August 10, 2021 (ECF No. 143)
Joint CMC Statement	Joint Case Management Statement and [Proposed] Order, filed August 25, 2021 (ECF No. 146)
TAC	Third Amended Complaint for Violations of the Securities Laws, filed August 31, 2021 (ECF No. 149)

¹ References throughout to “ECF No. ___” are to the above-captioned case docket, unless otherwise specified.

MTD TAC or Motion to Dismiss the TAC	Notice of Motion and Motion to Dismiss the Third Amended Consolidated Class Action Complaint; Memorandum of Points and Authorities in Support Thereof, filed September 21, 2021 (ECF No. 163)
MTD TAC Opp.	Lead Plaintiff's Opposition to Defendants' Motion to Dismiss the Third Amended Consolidated Class Action Complaint, filed October 12, 2021 (ECF No. 165)
MTD TAC Reply	Reply Memorandum of Points and Authorities in Further Support of Motion to Dismiss the Third Amended Consolidated Class Action Complaint, filed October 26, 2021 (ECF No. 169)
MTD TAC Tr.	Transcript of Zoom Webinar Proceedings of the Official Electronic Sound Recording 10:23 – 10:51 a.m. for the Hearing on Defendants' Motion to Dismiss the Third Amended Consolidated held on January 20, 2022 (ECF No. 185)
Motion for Class Cert. or Certification	Lead Plaintiff's Notice of Motion and Motion for Class Certification; Memorandum of Points and Authorities in Support Thereof, filed February 17, 2022 (ECF No. 190)
Class Cert. Opp.	Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Class Certification, filed April 25, 2022 (ECF No. 202)
Class Cert. Reply	Lead Plaintiff's Reply in Support of Motion for Class Certification, filed June 2, 2022 (ECF No. 217)
Preliminary Approval Motion	Lead Plaintiff's Notice of Motion and Motion For Preliminary Approval of Proposed Class Action Settlement; Memorandum of Points And Authorities In Support Thereof, filed September 19, 2022 (ECF No. 231)
Preliminary Approval Order	Order Preliminarily Approving Settlement and Providing For Notice, entered October 31, 2022 (ECF No. 242)
Stipulation, Settlement, or Stipulation of Settlement	Stipulation and Agreement of Settlement, filed September 19, 2022 (Exhibit A to the Preliminary Approval Order (ECF No. 231-2))
Final Approval Motion or Mot.	Lead Plaintiff's Notice of Motion and Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation; Memorandum of Points and Authorities In Support Thereof
Fee and Expense Motion or Mot.	Lead Counsel's Notice of Motion and Motion for: (I) Attorneys' Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs; Memorandum of Points and Authorities in Support Thereof
Barenbaum Declaration or Barenbaum Decl.	Declaration of Daniel E. Barenbaum In Support Lead Plaintiff's Motion For Final Approval of Proposed Class Action Settlement and Lead Counsel's Motion For Attorneys' Fees, Reimbursement of Expenses, and Award of Costs and Expenses To Plaintiffs

EXHIBITS TO THE DECLARATION OF DANIEL E. BARENBAUM²

- Exhibit 1 Summary Table of the Hours and Lodestar of Berman Tabacco
- Exhibit 2 Summary Table of the Hours of Berman Tabacco by Category
- Exhibit 3 Summary Table of the Expenses of Berman Tabacco
- Exhibit 4 Berman Tabacco Firm Resume
- Exhibit 5 Declaration of Susan Weiss on Behalf of Lead Plaintiff Alameda County Employees' Retirement Association In Support of Lead Plaintiff's Notice of Motion And Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For Attorneys' Fees, Reimbursement of Expenses, and Award of Costs And Expenses To Plaintiffs ("**Weiss Declaration**" or "**Weiss Decl.**")
- Exhibit 6 Saxena White P.A. Firm Resume
- Exhibit 7 Declaration of David R. Kaplan on Behalf of Saxena White P.A. In Support of Lead Plaintiff's Notice of Motion and Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For Attorneys' Fees, Reimbursement of Expenses, and Award of Costs And Expenses To Plaintiffs ("**Kaplan Declaration**" or "**Kaplan Decl.**")
- Exhibit 8 Declaration of Chase Rankin on Behalf of Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System In Support of Lead Plaintiff's Notice of Motion and Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For (I) Attorneys' Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs ("**Rankin Declaration**" or "**Rankin Decl.**")
- Exhibit 9 Declaration of Eric Blow Regarding Dissemination and Publication of Settlement Notice ("**Blow Notice Declaration**" or "**Blow Notice Decl.**")
- Exhibit 10 True and correct excerpted pages from Janeen McIntosh & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review*, NERA Economic Consulting (Jan. 25, 2022)

² True and correct copies of all Exhibits are attached to the Barenbaum Declaration. All references to **Exhibit** or **Ex.** refer to the exhibits attached to the Barenbaum Declaration.

I, Daniel E. Barenbaum, declare:

1. I am a partner in the San Francisco office of Berman Tabacco, Lead Counsel³ in the above-captioned matter for Lead Plaintiff ACERA and the Settlement Class. I am one of the attorneys overseeing this litigation and participated in the prosecution (and resolution) of this action since its inception and have personal knowledge of all material matters related to this action. I have also been kept informed of developments in the action by other attorneys working with me and/or under my direction. As a result of my own substantial involvement in this litigation, I have personal knowledge of the facts set forth in this declaration unless otherwise indicated.

2. I respectfully submit this declaration in support of Lead Plaintiff's Motion for: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of the Settlement Class, and (III) Final Approval of Proposed Plan of Allocation ("Final Approval Motion").

3. I also respectfully submit this declaration in support of Lead Counsel's Motion for: (I) Attorneys' Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs ("Fee and Expense Motion").

4. For the reasons discussed herein and in the memoranda of law filed concurrently herewith, I, on behalf of Lead Counsel, respectfully submit that: (i) the terms of the Settlement are fair, reasonable, and adequate in all respects and should be finally approved by the Court; (ii) the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved by the Court; (iii) the Settlement Class satisfies the requirements of Rule 23(a) and Rule 23(b)(3) and should be certified to effectuate the Settlement; and (iv) the attorneys' fees, attorneys' litigation expenses, and Plaintiffs' cost and expense reimbursements sought in the Fee and Expense Motion are reasonable and supported by the facts and the law, and should be granted.

³ All capitalized terms not otherwise defined herein have the same meaning as set forth in the September 19, 2022 Stipulation of Settlement. Unless otherwise indicated, all emphasis is added and all alterations, internal quotation marks, and citations (if any) are omitted.

5. Counsel for both the Portola Defendants and Underwriter Defendants have informed Lead Counsel that Defendants support the Settlement and take no position on the motion for attorney's fees and expenses.

I. Preliminary Statement

6. After extensive investigation, litigation, and discovery for approximately two-and-a-half years, as well as extensive arm's-length negotiations and mediation between highly experienced counsel, ACERA and OFPRS have agreed to settle all claims against Defendants in this action in exchange for a total payment of \$17.5 million cash, which has been deposited into an interest-bearing escrow account (the "Settlement Fund"), for the benefit of the Settlement Class.

7. Although Lead Counsel believes the claims alleged against Defendants are meritorious, Lead Counsel recognizes the significant risk and uncertainty attendant to any litigation (especially a complex class action such as this)—and magnified in this one—and the difficulties, substantial expense, and length of time necessary to prosecute the litigation through fact and expert discovery, class certification, summary judgment motions, trial, post-trial motions, and appeals.

8. Lead Plaintiff and Lead Counsel had a clear understanding of the strengths and weaknesses of the case when they negotiated the Settlement. As detailed below, before agreeing to the Settlement, Lead Counsel conducted an extensive investigation into the events and transactions underlying the claims and vigorously litigated the case, including, *inter alia*, reviewing and analyzing publicly available information and data concerning Portola and potential defendants, interviewing witnesses, and consulting with consultants and experts on issues related to damages and loss causation and accounting fraud. Lead Counsel researched the applicable law with respect to the alleged claims, including the claims against Defendants and the potential defenses thereto. Lead Counsel also extensively researched and briefed motions, including opposing four motions to dismiss and class certification. Moreover, Plaintiffs, Lead Counsel, and OFPRS' Counsel engaged in lengthy, fact-intensive negotiations with the

Defendants. Thus, at the time the Settlement was reached, Lead Counsel had a thorough understanding of the strengths and weaknesses of the parties' positions.

9. As described herein, Lead Counsel has vigorously prosecuted this action. In particular, Lead Counsel exhausted considerable resources and efforts, including, inter alia: (i) interviews with former Portola employees and customers; (ii) extensive consultation with, and analysis by, forensic accounting and damages and class certification/market efficiency consultants; (iii) detailed reviews of Portola's public filings, annual reports, press releases, conference call transcripts, and other publicly available information; (iv) the review of analysts' reports and articles relating to Portola; (v) the drafting of a consolidated complaint and three amended complaints; (vi) research of the applicable law with respect to the claims asserted in the four complaints and the potential defenses thereto; (vii) extensive briefing regarding the asserted legal and factual claims, both in opposing Defendants' motions to dismiss each of the four complaints and in preparing a motion for and reply brief in support of class certification; (viii) the review of tens of thousands of documents produced in discovery,⁴ including third-party discovery of Plaintiffs' investment managers; and (ix) the taking or defending of seven depositions, including expert depositions, Plaintiffs' depositions, and depositions of Plaintiffs' external investment managers.

10. Further, in reaching the Settlement, Plaintiffs and Plaintiffs' Counsel weighed, among other things, the substantial and certain cash benefit to the Settlement Class against: (i) the difficulties involved in proving the required elements of materiality, falsity, scienter, loss causation, and damages; (ii) the difficulties in overcoming Defendants' challenges to class certification of a litigation class, the potential decertification of a litigation class (if certified), and the delays involved in the inevitable appeals of a decision on class certification of a litigation class; (iii) the fact that, even if Plaintiffs were to prevail at summary judgment and trial, any monetary recovery could have been less than the Settlement Amount, or nothing; and

⁴ Defendants produced to Lead Plaintiff of over 32,000 documents (including over 211,000 produced pages as well as voluminous spreadsheets).

(iv) the delays that would follow even a favorable judgment including appeals, and the possibility that an appeal could overturn a Settlement Class recovery if one were to be awarded at trial. These risks and challenges are outlined below.

11. The Settlement was reached only after extensive arm's length negotiations that were assisted by an experienced mediator, Robert A. Meyer, Esq. of JAMS, Inc. ("Mr. Meyer" or the "Mediator"). For the reasons set forth herein, I believe that the Settlement represents a very favorable outcome for the Settlement Class and that its approval is in the best interest of the Settlement Class.

12. As discussed in further detail below, the Plan of Allocation was developed with the assistance of Plaintiffs' loss causation and damages consultant based on the methodologies and calculations that the consultant has submitted to date in this action and that would have been presented at trial, providing for the distribution of the Net Settlement Fund to Settlement Class Members who timely submit Claim Forms that are approved for payment on a pro rata basis based on approximate individual losses of eligible Settlement Class Members that are attributable to the fraud and misrepresentations alleged against Defendants.

13. As discussed in the memorandum in support of the Fee and Expense Motion, the requested fee of 25% of the Settlement Fund (which amounts to \$4,375,000) is well within the range of percentage awards granted by courts in this Circuit. Additionally, the fee requested represents a negative multiplier of less than 0.5 on the collective lodestar of Lead Counsel and OFPRS' Counsel. Moreover, Lead Counsel's request for reimbursement of Litigation Expenses as well as Plaintiffs' expenses pursuant to the PSLRA, 15 U.S.C. § 78u 4(a)(4), are reasonable and of the type typically reimbursed in securities fraud class actions.

14. On October 31, 2022, this Court preliminarily approved the Settlement, preliminarily certified the Settlement Class for settlement purposes, and approved the program for providing Notice to the Settlement Class. See Preliminary Approval Order. While the deadline to submit objections and requests for exclusion has not passed, I am informed by the Claims Administrator, Epiq, that, to date, Epiq has received no notice of a Settlement Class

Member objecting to the Settlement, Plan of Allocation, or Fee and Expense Motion.⁵ I am further informed by the Claims Administrator that it has not received any requests for exclusion.

15. For all the reasons set forth herein and in the accompanying memoranda, including with respect to the exceptional result obtained and the numerous significant litigation risks and challenges to the continued pursuit of the claims against Defendants, Lead Counsel respectfully submits that the Settlement and Plan of Allocation are fair, reasonable, and adequate and should be approved, and that its Fee and Expense Motion likewise should be approved.

16. Defendants take no position on any of the calculations contained in this declaration, including Lead Counsel's calculations of likely recoverable damages under the Plan of Allocation, average distribution per share and attorneys' fees per share.

II. Summary of Lead Plaintiff's Claims Against Defendants

17. The following summarizes the factual claims of this action, as currently alleged in the operative complaint, the TAC. Defendants vigorously deny all allegations.

18. Plaintiffs allege that Defendant Portola began bringing to market on a commercial scale its new and claimed-to-be novel drug, Andexxa (Portola's only viable product), which was designed to address bleeding emergencies resulting from the use of certain anti-coagulants. TAC ¶¶59, 68. During the Class Period, Portola sold short-dated 6-12 month product. *Id.* ¶12. Andexxa was extremely expensive and only utilized in emergencies, so relatively few doses were stocked by customers, and it was unknown whether or when the drug would be used. *Id.* ¶¶60, 126, 214. "Presumably because of these challenges, Portola offered customers a very generous return policy for Andexxa...." (MTD SAC Order 3), where customers or distributors could return Andexxa from 3 months prior to expiration through 6

⁵ Neither Epiq nor Lead Counsel expect to be served with objections. *See* Blow Decl. ¶¶17-18. The Court ordered that objections should be filed with the Court. *See* Preliminary Approval Order 7-8 (¶16); *see also* N.D. Cal. Guidance ("The notice should instruct class members who wish to object to the settlement to send their written objections only to the court. All objections will be scanned into the electronic case docket, and the parties will receive electronic notices of filings.")

months after (*id.* at 3-4). That meant that short-dated product sold in late 2018 or into 2019 could have been returned well into 2020. *Id.* at 4.

19. Plaintiffs allege that—despite a generous return policy, likely impending returns from short-dated and soon-expiring product, and a lack of appropriate bases to predict how much product might be returned—Portola recognized most Andexxa revenue immediately upon sale to its distributors in direct violation of recently adopted GAAP rule ASC 606. TAC ¶¶152, 180-203. In order to recognize revenue for Andexxa sales, ASC 606 required that the Company have a high-level certainty that significant revenue reversal would not occur in the future. *Id.* ¶171.

20. Relatedly, Plaintiffs also allege that Portola regularly and repeatedly attempted to paint a picture of incredibly high and regular demand and utilization throughout the Class Period. That was allegedly false and misleading for two reasons. First, those statements were based on the improperly recognized revenue under ASC 606. TAC ¶218(e). Second, Portola knew internally that demand was anemic and usage of Andexxa was limited once sold. *Id.* ¶¶209-21.

21. The alleged truth about the demand and utilization for Andexxa and revenues recognized from sales of it emerged through disclosures on January 9, February 26, and February 28, 2020. TAC ¶¶22, 134-36, 186(b), 252, 257. Analysts and the market reacted. *Id.* ¶¶260, 269-70. As that truth was allegedly revealed to investors, Portola's stock price declined. *Id.* ¶¶250-79. As a result of Defendants' alleged wrongful acts and omissions and the decline in the market value of Portola's securities, Lead Plaintiff, OFPRS, and Settlement Class Members suffered significant losses and damages. *Id.*

22. Plaintiffs and OFPRS assert claims under (1) Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and the rules and regulations promulgated thereunder, including U.S. Securities and Exchange Commission ("SEC") Rule 10b-5, 17 C.F.R. § 240.10b-5, and (2) Sections 11, 12(a)(2), and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o. TAC ¶1. OFPRS purchased Portola common stock in the August 2019

Secondary Public Offering. Id. ¶¶ 29; see also OFPRS’ Certification and Authorization (appended to the TAC (ECF No. 149-2)).

III. Relevant Procedural History

23. The following summarizes the relevant procedural history of this action, including the investigation and filing of this action, the motion to dismiss proceedings on four consolidated class action complaints, class certification briefing, discovery, settlement negotiations, and the Settlement.

A. The Initial Complaints

24. This securities fraud class action commenced on January 16, 2020, with the filing of the initial complaint, captioned Hayden v. Portola Pharmaceuticals, Inc., et al. (“Hayden”), No. 3:20-cv-00367-VC (N.D. Cal.). ECF No. 1. Two subsequent complaints were filed on February 7, 2020 and February 28, 2020, respectively: McCutcheon v. Portola Pharmaceuticals, Inc., et al. (“McCutcheon”), No. 3:20-cv-00949-EMC (N.D. Cal.), and Southeastern Pennsylvania Transportation Authority v. Portola Pharmaceuticals, Inc., et al. (“SPTA”), No. 3:20-cv-01501-WHA (N.D. Cal.).^{6,7}

25. The Hayden, McCutcheon, and SPTA complaints all asserted claims under the Exchange Act: Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder.⁸ The SPTA complaint

⁶ By Order entered March 29, 2022, this Court consolidated the McCutcheon and SPTA actions into the Hayden action. See ECF No. 199.

⁷ The Hayden complaint alleged a class period of “between November 5, 2019 and January 9, 2020, inclusive.” Class Action Compl. ¶1, ECF No. 1. (The McCutcheon complaint alleged a class period of between May 8, 2019 and January 9, 2020, inclusive. Class Action Compl., McCutcheon, No. 3:20-cv-00949-EMC (N.D. Cal. Feb. 7, 2020), ECF No. 1 (“McCutcheon Compl.”), at ¶1. And the SPTA complaint alleged a class period of “between January 8, 2019 and February 26, 2020, inclusive.” Compl. for Violations of the Federal Securities Laws, SPTA, No. 3:20-cv-01501-WHA (N.D. Cal. Feb. 28, 2020), ECF No. 1 (“SPTA Compl.”), at ¶1.

⁸ See Class Action Compl. ¶7, ECF No. 1. McCutcheon Compl. ¶8; SPTA Compl. at 1.

additionally asserted claims under the Securities Act: Sections 11, 12(a)(2), and 15, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o.⁹

B. Appointment of Lead Plaintiff

26. On April 22, 2020, this Court appointed ACERA as Lead Plaintiff for the Class and approved Lead Plaintiff's choice of the counsel, Berman Tabacco, as Lead Counsel. See LP/LC Order (ECF No. 49).

C. The Amended Complaints, Investigation, Motions to Dismiss, Discovery, and Class Certification Briefing

27. On May 20, 2020, after an extensive investigation by Lead Counsel, Lead Plaintiff and OFPRS filed a Consolidated Complaint alleging violations of Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, as well as for violations of Sections 11, 12(a)(2), and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o. ECF No. 51. Lead Plaintiff included OFPRS as a named plaintiff because OFPRS had purchased Portola shares, in part, directly through Portola's August 2019 Secondary Public Offering and thus counter any potential argument(s) that Lead Plaintiff lacks standing to pursue the Securities Act claims on behalf of the proposed Settlement Class. See, e.g., Class Cert. Opp. at 24-25. ECF No. 202.

28. On July 1, 2020, Defendants moved to dismiss the CC. ECF No. 67. On September 24, 2020, the Court granted the motion to dismiss the CC with leave to amend. ECF No. 82.

29. On November 5, 2020, after further investigation, extensive consultation with expert consultants, and refinement of the claims, Plaintiffs filed the FAC. ECF No. 87. On December 15, 2020, Defendants moved to dismiss the FAC. ECF No. 90. On March 10, 2021, the Court entered an Order granting the motion to dismiss the FAC with leave to amend. ECF No. 111.

⁹ SPTA Compl. ¶1.

30. On March 31, 2021, Plaintiffs filed the SAC. ECF No. 113. On May 5, 2021, Defendants moved to dismiss the SAC. ECF No. 119. On August 10, 2021, the Court entered an Order Granting In Part And Denying In Part Defendants' Motion To Dismiss Second Amended Consolidated Class Action Complaint. ECF No. 143. Therein, the Court stated that "plaintiffs have articulated a highly plausible theory of securities fraud," denied the motion to dismiss as to the Securities Act claims, and granted the motion with leave to amend for the Exchange Act claims to replead loss causation. Id. at 1.

31. On September 1, 2021, the Court held the initial case management conference ("CMC").

32. On September 8, 2021, the Court entered its Pretrial Schedule Order. ECF No. 156. Therein, in line with the Court's statements at the CMC, the Court allowed discovery to proceed. See, e.g., ECF No. 156, at 2. Among other things, the Pretrial Schedule Order set the deadline to file a class certification motion for February 17, 2022, the fact discovery cutoff for June 9, 2022, and trial for December 12, 2022.

33. On August 31, 2021, Plaintiffs filed the TAC, which is the operative complaint in this action. ECF No. 149. On September 21, 2021, Defendants moved to dismiss the TAC. ECF No. 163. On January 20, 2022, the Court entered an order denying the defendants' motion to dismiss the TAC. ECF No. 178.¹⁰

34. Both before and after filing the TAC, Plaintiffs, through Lead Counsel, undertook a thorough investigation and analysis of the facts, legal issues, and circumstances relevant to the claims here. See supra ¶¶8-9, 27-33.

35. On February 22, 2022, the Court entered its Amended Pretrial Schedule Order. ECF No. 191. Among other things, the Court amended the pretrial schedule to allow more time

¹⁰ The Settlement Class Period is two days longer than the class period alleged in the TAC (the operative consolidated complaint). The class period alleged in the TAC encompassed January 8, 2019 through February 26, 2020. The Settlement Class Period encompassed January 8, 2019 through February 28, 2020. The modestly extended Settlement Class Period results from the Court's Orders surrounding the issue of loss causation on the motions to dismiss the SAC and TAC and the iterative briefing and oral argument that informed those Orders.

for class certification discovery and briefing (with the hearing moved five weeks to June 9, 2022) and to set the following deadlines: fact discovery cutoff for August 25, 2022; expert discovery cutoff for November 10, 2022; and trial for March 20, 2023. Id. at 2-3.

36. On March 3, 2022, the Portola Defendants and Underwriter Defendants filed their answers to the TAC. See ECF Nos. 195 and 196, respectively.

37. Between entry of the September 8, 2020 Pretrial Schedule Order and June 8, 2022, the parties conducted discovery, including Defendants' production to Plaintiffs of over 32,000 documents (including over 211,000 produced pages and voluminous electronic spreadsheets); Lead Plaintiff's production of over 3,400 pages and OFPRS' production of over 1,900 pages to Defendants; seven depositions; and third-party discovery.

38. In connection with the above-referenced discovery, counsel for the parties exchanged many meet and confer letters¹¹ and emails and held a number of lengthy telephonic conferences¹² to discuss the nature and scope of the parties' requests, objections, and responses. Following a lengthy meet and confer process, the parties submitted a joint letter to Magistrate Judge Illman on June 1, 2022 addressing two discovery disputes ("Joint Letter re Discovery Dispute") (ECF No. 214), one of which, raised by Lead Plaintiff, related to the scope and nature of the allegations and claims.

39. On February 17, 2022, Plaintiffs filed their Motion for Class Certification (ECF No. 190), along with the expert report of Zachary Nye, Ph.D. On April 25, 2022, Defendants filed their Class Certification Opposition (ECF No. 202), along with the expert reports of Mark J. Garmaise and Jack R. Wiener. On June 2, 2022, Plaintiffs filed their Class Certification Reply (ECF No. 217), along with the reply expert reports of Dr. Nye and Thomas Lee Hazen.

¹¹ The Parties exchanged meet-and-confer letters on, inter alia, the following dates: November 22, 2021; December 13, 2021; December 15, 2021; December 22, 2021; December 23, 2021; December 30, 2021; February 9, 2022; February 25, 2022; March 2, 2022; March 11, 2022; March 23, 2022; and March 24, 2022.

¹² The Parties held meet-and-confer teleconferences on, inter alia, the following dates: November 3, 2021; November 10, 2021; November 16, 2021; December 6, 2021; December 14, 2021; January 6, 2022; February 22, 2022; and March 18, 2022.

40. ACERA and OFPRS were deposed on April 20 and 19, 2022, respectively. External money manager employees from Jackson Square and William Blair were deposed on April 1 and 5, 2022, respectively. Plaintiffs' expert Dr. Nye was deposed on March 30, 2022. And Defendants' experts Dr. Garmaise and Mr. Weiner were deposed on May 16 and 18, 2022, respectively.

D. Mediation

41. In late March 2022, the parties discussed the possibility of, and agreed to engage in, mediation. Soon thereafter, the parties selected a nationally recognized mediator—Robert A. Meyer, Esquire—to mediate a possible settlement of this action. On May 13, 2022, the parties submitted and exchanged detailed mediation statements. On May 20, 2022, the parties submitted (but did not exchange) detailed confidential reply mediation statements.

42. On May 24, 2022, the parties participated in a full-day hybrid mediation session with Mr. Meyer that continued into the evening, with some participating in person in Los Angeles and others participating by video. The action did not settle on that date. Over the following two-plus weeks, Mr. Meyer continued to engage the parties in mediation dialog, having multiple substantive calls with various parties and their related representatives.

E. Negotiations and Settlement with Defendants

43. On June 3, 2022, Mr. Meyer made an informed mediator's proposal to settle the action for \$17.5 million. On June 9, 2022, the parties were informed by Mr. Meyer that all had agreed to his mediator's proposal and that the parties had an agreement in principle to settle the action, subject to approval by this Court. On that same date, the parties agreed on all material terms of the Settlement and executed a binding term sheet/agreement to settle this action, subject to Court approval. The parties filed a stipulation with the Court informing it of the settlement in principle (ECF No. 219); the Court vacated two scheduled hearings and suspended all further deadlines set out in the Amended Pretrial Scheduling Order (ECF No. 224).

44. On September 19, 2022, after further negotiations on settlement components and drafting, the parties executed the Stipulation of Settlement. ECF No. 231-2. The

mediation/settlement negotiations were informed by knowledge gleaned from, inter alia, the investigation and analysis detailed in ¶¶6, 8-9, 24-40, supra, and a thorough understanding of the strengths and weaknesses of the claims and defenses in the case. As described above, that understanding was informed by, among other things, an understanding of factual and legal issues and arguments as part of consulting extensively with damages and accounting consultants; preparing four complaints; briefing and arguing four oppositions to motions to dismiss, a class certification motion, and a discovery motion; preparing for and engaging in extensive written and oral meet-and-confers; briefing mediation statements and participating in mediation; and reviewing and considering produced discovery and expert opinions.

45. On September 19, 2022, Lead Plaintiff filed a motion for preliminary approval of the Settlement. ECF No. 231.

46. On October 21, 2022, Lead Plaintiff filed a Notice of Compliance with Judge's Standing Order re Class Action Settlement, which included an amended copy of the Summary Notice to include minimal language clarifying that released claims are only those based on the identical factual predicate, language that was already included in the long-form Notice and Stipulation of Settlement. ECF No. 237.

47. On October 27, 2022, the Court held a hearing on Lead Plaintiff's motion for preliminary approval. ECF No. 240. The Court ordered that a revised proposed order be filed attaching the revised proposed Summary Notice. The Parties submitted the revised Proposed Order and accompanying papers on that same day. ECF No. 241.

48. On October 31, 2022, the Court issued an order granting preliminary approval of the settlement, certifying the Settlement Class, approving the notice program to the Settlement Class, and appointing Epiq as Claims Administrator in the Action. See Preliminary Approval Order. The Settlement Funds have since been deposited via four separate wires (on December 2, 8, 14, and 16, 2022) into an escrow account.

IV. The Proposed Settlement

49. Lead Counsel believes that the \$17.5 million Settlement here is an excellent result for the Settlement Class, and that the Settlement should be finally approved. When compared to the risk that the claims asserted in the Complaint would produce a similar or smaller recovery—or none at all—after summary judgment, trial and appeals, possibly years in the future, the Settlement is fair, reasonable, and adequate.

A. Settlement Considerations

50. In connection with Lead Plaintiff’s preparation of the consolidated complaints (including the TAC) and the Motion for Class Certification, and for mediation, Lead Counsel consulted with its damages consultant to evaluate loss causation and damages.

51. To estimate price inflation during the Settlement Class Period, Lead Plaintiff’s damages consultant performed an event study of the alleged corrective events, and Company-specific returns on each date were estimated using a regression analysis, which measures the relationship between Portola stock returns and (a) changes in market-wide factors that would be expected to impact all stocks; and (b) changes in industry-wide factors that would be expected to impact stock in Portola’s sector. Then, the Company-specific returns (i.e., net of market and industry effects) observed on each alleged corrective event date formed the basis of the estimate of price inflation present during the Settlement Class Period, subject to modification based on the market reaction to any confounding news released on the same dates.

52. To estimate aggregate class-wide damages under the Exchange Act, Plaintiffs’ loss causation/damages consultant estimated the timing and quantity of investor transactions in Portola common stock during the Settlement Class Period using the proportional “80/20 Multi-Trader Model,” which posits two active traders with different holdings and propensities to trade. The so-called “80/20” split between the two sets of traders specifies a large set of “slow” traders (i.e., they hold 80% of the shares available, but trade 20% of the volume) and a small set of “fast” traders (i.e., they hold 20% of shares available, but trade 80% of the volume). Applying the theory of per-share damages to the daily trading behavior predicted by the 80/20 Multi-

Trader Model with market loss constraints (the methodology generally adopted by defendants), Lead Plaintiff's damages consultant calculated that aggregate maximum possible damages for the Exchange Act claims are estimated to be as much as \$301.1 million. This estimate, however, assumes that 100% of each drop was related to the fraud alleged and that none of Defendants' litany of defenses and challenges to the factual and legal positions taken by Plaintiffs prevail.

53. Therefore, the proposed Settlement recovery here of \$17.5 million—none of which will revert to Defendants—constitutes approximately 5.8% of those estimated maximum alleged damages. That percentage is in line with reported values for securities fraud class actions generally in the Ninth Circuit. See Final Approval Mot. § III.A.1.d. Damages for the Securities Act claims are not additive to those for the Exchange Act claims, but rather are subsumed within them. See id. 13 n.11. Nonetheless, using an 80/20 Multi-Trader model (and assuming Defendants prevail on proving negative causation for all losses to Settlement Class Members other than their losses in Portola common stock that resulted from the alleged corrective disclosures), Lead Plaintiff's damages consultant calculated that aggregate damages for the Securities Act claims are \$46.3 million.

B. Risks Faced by Plaintiffs in the Action

54. Given the risks of litigation and the fact that, even where a plaintiff's case appears strong, there is no guarantee against a defense verdict, Lead Counsel believes that the proposed Settlement is fundamentally fair, reasonable, adequate and in the best interest of the Settlement Class.

55. Defendants have denied, and continue to deny, each and every claim and factual inference asserted by Plaintiffs in the TAC.

56. In connection with the briefing on Defendants' four motions to dismiss, Lead Plaintiff's Motion for Class Certification, and mediation; and discovery meet-and-confer calls, correspondence, the informal discovery dispute letter brief, the Parties exchanged extensive analyses of key legal and factual issues in this action. These issues include, inter alia, the

necessary elements of falsity, materiality, scienter, loss causation, and damages, as well as issues related to class certification. (Plaintiffs have also reviewed discovery produced by Defendants and third parties and are steeped in the factual issues of the litigation and whether they support claims asserted in the operative complaint.) Lead Counsel recognizes that these issues would pose significant risks regarding the ability to prevail on the merits and to the scope and amount of damages if the case were to proceed to summary judgement, trial, and/or appeal.¹³

57. For example, Defendants would contend that they made no actionable material misrepresentations or omissions by arguing, *inter alia*, that (a) the scope of the case was confined to more modest 2018 sales and did not include 2019 sales, creating a “narrow” and “discrete” issue focusing solely only on the failure to disclose the 90% depleted \$299,000 2018 year-end return reserve balance (*see generally* MTD TAC; *see also* Joint CMC Statement 3-4); (b) the return reserve balance and issue of whether Portola complied with GAAP and ASC 606 in recognizing revenue were (according to Defendants) immaterial to Plaintiffs’ investment managers’ and Class Members’ decisions to invest in Portola (*see* MTD SAC 2, 5, 7, 11; Joint CMC Stmt. 3-4); (c) alternative immaterial factors caused the 2018 end-of-year return reserve balance to drop by 90% to \$299,000, and thus there was no actionable omission in the 2018 Form 10-K; (d) despite raising ASC 606 and revenue recognition as “Critical Audit Matters,” Portola’s auditor, Ernst & Young (“E&Y”), provided a clean audit opinion upon which Defendants relied and did not require a restatement, thus bolstering the validity of Defendants’ reporting and statements (*see* Joint CMC Stmt. 4; MTD SAC 12); and (e) Defendants’ decisions and statements about both demand and returns and reserve provisioning were good faith non-actionable opinions under *Omnicare v. Laborers Dist. Council Constr. Indus.*, 575 U.S. 175 (2015) (*see* MTD SAC 7-14.).

¹³ Lead Plaintiff discussed the strengths of the case balanced against the substantial risks of continued litigation at length in the Preliminary Approval Motion (at 9-15), which is incorporated by reference herein. A summary of that discussion is presented here and in the Final Approval Motion (at § III.A.1.a.).

58. Defendants would also contend that they did not act with the requisite scienter by arguing, inter alia, that (a) there is little inferential evidence that key defendants knew that reported revenue figures were materially misleading or that their reserve provisioning process or statements of revenue did not comply with GAAP, particularly given E&Y's audit opinion; (b) alternative factors caused the 2018 end-of-year return reserve balance to drop by 90% to \$299,000, and thus knowledge of that drop and the small year-end remainder in the 2018 reserve account does not support an inference of scienter; and (c) there are no other common indicia of scienter, such as a restatement or SEC action or investigation. See MTD SAC Opp. 19-20.

59. Defendants would similarly challenge (and have challenged) loss causation and the scope of damages recoverable in this case by arguing, inter alia, that (a) the February 26, 2020 corrective disclosure was primarily about Bevyxxa, and not Andexxa; (b) the corrective disclosures Plaintiffs point to and their resulting stock drops stem from a change in circumstances for Portola's Andexxa sales in the fourth quarter of 2019, and not misstatements or omissions about GAAP / ASC 606, return reserves, or demand and utilization; (c) Plaintiffs' damages expert must disaggregate the stock drops related to the GAAP / ASC 606 theory from the "demand and utilization" theory, which Defendants claim is untenable (see, e.g., MTD TAC 7-8, 12; MTD SAC 13; Class Cert. Opp. 14-17, 22.); (d) since (Defendants' assert) "demand and utilization" claims were dismissed, so too were the January 9 and February 26, 2020 corrective disclosures originally associated with those claims, leaving just the February 28, 2022 disclosure and the relatively minor stock-price drop associated with it; and (e) Plaintiffs and the Settlement Class were not damaged because (Defendants argue) there was no actionable misrepresentation or omission or scienter, as detailed supra at ¶¶57-58.

60. Moreover, Defendants would assert that the action could not have been certified as a litigation class action. First, they argue that individual issues predominate and defeat the class predominance requirement of Rule 23(b)(3), where they assert that: (1) Plaintiffs failed to offer a class-wide damages methodology, (2) there are price impact rebuttals for three of the

four corrective disclosure dates alleged in the TAC, and (3) there are individualized issues that defeat OFPRS' standing to assert Securities Act claims for the August 2019 Secondary Public Offering. See Class Cert. Opp. 13-22, 24. Second, Defendants argue that there are problems with the adequacy and typicality requirements for class certification under Rule 23(a), where (they assert that): there are individualized rebuttals regarding to issues of reliance and OFPRS' Securities Act standing, e.g., (1) the fraud-on-the-market doctrine is inapplicable here because (Defendants suggest) Plaintiffs and their outside investment managers did not rely on the integrity of the market nor the public misstatements / omissions that Plaintiffs allege are at the heart of the GAAP / ASC 606 claims, and (2) OFPRS has not adequately demonstrated through tracing that it purchased shares from the Secondary Public Offering and therefore does not have standing to assert Securities Act claims on behalf of the proposed Class. See Class Cert. Opp. 4-12, 24-25.

61. Lead Counsel has carefully evaluated the merits of the case and the proposed Settlement. Lead Counsel believes that the case was strong and that there was sufficient evidence to proceed to the jury on the claims. Lead Counsel recognizes, however, that Defendants would strenuously challenge the allegations and proof regarding each element of the causes of action, including materiality, falsity, scienter, and loss causation, and that the vigorously contested motion for class certification presented significant challenges. Defendants would further challenge the class-wide damages alleged by Plaintiffs, arguing that actual damages were significantly less, if not nonexistent. Based on its extensive experience, Lead Counsel understands the risks of litigation and the fact that, even where a plaintiff's case appears strong, there is no guarantee of a plaintiffs' verdict, and that resolution through verdict and appeal can take years and is speculative. As such, Lead Counsel, OFPRS' Counsel, and Plaintiffs believe that the Settlement is fair, reasonable, and adequate, and in the best interest of the Settlement Class. See **Ex. 5** (Weiss Decl.) ¶¶5, 8 (ACERA); **Ex. 8** (Rankin Decl.) ¶9 (OFPRS); **Ex. 7** (Kaplan Decl.) ¶¶4, 12 (OFPRS' Counsel).

62. Continued litigation of this complex action—through the completion of class certification briefing, likely appeals of a decision on class certification, additional merits fact discovery, merits expert discovery, dispositive motion practice, pre-trial preparation, trial, a jury verdict, post-trial motion practice, and post-trial appeals—would have undoubtedly been a long and expensive endeavor. Whether Plaintiffs would have prevailed or lost at any or all of these litigation phases, the ultimate result and recovery for the Settlement Class (or lack thereof) would only have been determined and paid after years of post-trial appeals—a process post-trial that in some cases can take many years to complete. Even if Plaintiffs were able to secure a judgment against Defendants at trial, is entirely possible that they might ultimately recover nothing after reversal on appeal, leaving the Settlement Class to receive no compensation from after years of litigation. And even assuming a successful appeal, Settlement Class Members would have likely faced a complex, lengthy, and contested claims administration process to recover their individual awards.

63. Without settlement, resolution of this action would unquestionably entail considerable time, expense, and uncertainty, making the present value of a certain and substantial recovery far preferable to the mere chance of a greater recovery in the distant future (with the real possibility of a smaller one or none at all).

64. Additionally, to prove their claims, Plaintiffs would need to rely extensively on expert witnesses on issues ranging from, inter alia, accounting, market efficiency, loss causation, and damages. If the trier of fact were to find Defendants' experts more credible than Plaintiffs', Lead Plaintiff's claims would be negatively affected. Moreover, if the trier of fact was persuaded by one or several (if not many) of Defendants' arguments, total damages awarded could be limited or zero. For example, were the Court to only look to the February 28, 2020 corrective disclosure (just one of Defendants' arguments), damages could be as low as \$18.9 million, if not zero.

65. Further, as an example, Portola's auditor E&Y could serve in the eyes of trier of fact or the Court as not just factual support for Portola's actions, but also as a quasi-expert

testifying on Portola’s behalf. Defendants could convincingly argue that during the Class Period in 2019, Portola’s auditor provided a clean audit opinion and did not require a restatement after it raised and considered ASC 606 and revenue recognition as a Critical Audit Matter—in other words, that it had considered revenue recognition and ASC 606 and rejected it as an issue or problem. ASC 606 was a newly implemented rule with limited published guidance, which created significant uncertainty surrounding Plaintiffs’ arguments. Such evidence of testimony could have made a significant, if not insurmountable, impression on the Court and/or the jury, which would leave the value of Plaintiffs’ claim at nothing.

66. These issues would severely limit recoverable damages, as discussed supra, ¶¶54-64. Defendants would also likely argue that even if Plaintiffs could establish liability, Settlement Class Members would have trouble showing what part of the stock-price decline is attributable to the alleged fraud rather than other company-specific bad news.

67. In sum, all of these potential arguments and risks, on their own or together, pose significant challenges to Plaintiffs’ case. Were Defendants able to succeed at convincing a jury, the Court, or a court of appeals to accept any or several of their arguments, there is a significant risk that total recoverable damages in this action could drop to just a small fraction of the maximum possible damages calculated (supra, ¶¶10, 62, 65), or even to nothing.

V. Notice to the Settlement Class Meets the Requirements of Rule 23 and the PSLRA, and Comports with Due Process

68. Upon the Court’s issuing its Preliminary Approval Order on October 1, 2022 (ECF No. 242), Lead Plaintiff implemented the Notice plan, which is in compliance with the requirements of Rule 23; the PSLRA, 15 U.S.C. § 78u-4(a)(7) and 15 U.S.C. § 77z-1(a)(7); the N.D. Cal. Guidance; and this Court’s Standing Order for Civil Cases Before Judge Vince Chhabria (“Standing Order”). Lead Counsel worked closely with the Claims Administrator to ensure that notice of the Settlement was properly given to the Settlement Class Members, and I am informed and believe that the Claims Administrator has widely disseminated Notice of the

Settlement to potential Settlement Class Members. See Ex. 9 (Blow Notice Decl.). The following is a summary of Epiq's actions to date.

69. As detailed in the Blow Notice Declaration, on November 14, 2022, Epiq mailed by First Class Mail a total of 44,005 Notice Packets to all registered holders of Portola common stock during the Settlement Class Period. See Ex. 9 (Blow Notice Decl.) ¶10. First, Epiq mailed Notice Packets to nominees listed in its "proprietary database with names and addresses of the largest and most common banks, brokers, and other nominees" ("Nominee Database"). Id. ¶5. The database contained approximately 1,046 mailing records after Epiq reviewed and consolidated duplicate records. Id. Notices were mailed to nominees because "the large majority of potential Settlement Class Members are expected to be beneficial purchasers whose securities are held in 'street name.'" Id. The Notice sent to nominees directed them to "within ten (10) days after they received the Notice Packet either (a) provide to Epiq a list of the names and addresses of such persons for which they purchased Portola Inc. common stock during the Settlement Class Period; or (b) send a copy of the Notice and the Claim Form by first-class mail to all such persons." Id. ¶8.

70. Second, Epiq mailed Notice Packets to potential Settlement Class Members whose identity and contact information had been provided on November 10, 2022 to me by counsel for Portola. Ex. 9 (Blow Notice Decl.) ¶7. Specifically, on November 10, 2022, Portola's counsel provided me by email with a data file (and accompanying PDF) containing names and addresses of holders of record. I am informed that these files were provided to Portola's Counsel from Portola's transfer agent. Upon receiving the files, I promptly forwarded them to Epiq.

71. On November 21, 2022, Epiq caused the Summary Notice to be published in Investor's Business Daily/Weekly and transmitted it over PR Newswire, which is a widely disseminated national business newswire service. Ex. 9 (Blow Notice Decl.) ¶12.

72. Epiq also posted (and continues to post and update) information regarding the Settlement on a dedicated website established for the action,

www.PortolaSecuritiesLitigation.com, which went live on November 14, 2022. **Ex. 9** (Blow Notice Decl.) ¶14. The website contains downloadable copies of the Notice, Claim Form, and Stipulation, as well as copies of relevant Court documents including the TAC, Lead Plaintiff’s motion for preliminary approval and supporting papers; and the Court’s Preliminary Approval Order. *Id.* Lead Plaintiff’s Final Approval Motion with supporting papers and Lead Counsel’s Fee and Expense Motion with supporting papers will also be posted on the website when filed. *Id.* ¶14 n.2.

73. In addition, Lead Counsel has provided a link to

www.PortolaSecuritiesLitigation.com on its website.¹⁴

74. Since mailing Notice Packets to nominees on November 14, 2022, Epiq has received an additional 11,575 requests from brokers and other nominees for 31,366 Notice Packets so that they could be forwarded directly by the nominees to their customers. **Ex. 9** (Blow Notice Decl.) ¶9.

75. As of the date of this declaration, I am informed and believe that a total of 44,005 Notice Packets have been mailed to potential Settlement Class Members and nominees. **Ex. 9** (Blow Notice Decl.) ¶10. In addition, I am informed and believe that Epiq received back 47 Notice Packets that were sent to persons whose original mailings were returned by the U.S. Postal Service and that Epiq re-mailed 2 Notice Packets to those for whom updated addresses were subsequently obtained. *Id.*

76. The Notice is written in plain language and apprises Settlement Class Members of the nature of the action, the definition of the Settlement Class to be certified, the Settlement Class claims and issues, and the claims that will be released. Consistent with Rule 23(c)(2)(B) and 15 U.S.C. § 78u-4(a)(7) and the Court’s Preliminary Approval Order, the Settlement Notice: (1) describes the Settlement, Settlement Amount, and potential recovery both on an aggregate basis and an average per-share basis; (2) explains that the parties disagreed regarding

¹⁴ See <https://www.bermantabacco.com/case/portola-pharmaceuticals-inc-securities-litigation/>.

whether any damages were recoverable even if Plaintiffs prevailed on their claims and includes a brief description of why the parties are proposing the Settlement; (3) includes a brief description of the maximum amount of fees and expenses that Lead Counsel will seek; (4) describes the Plan of Allocation; (5) advises of the binding effect of a Judgment on Settlement Class Members under Rule 23(c)(3); (6) advises that a Settlement Class Member may enter an appearance through counsel if desired; (7) states that the Court will exclude from the Settlement Class any Settlement Class Member who requests exclusion (and sets forth the procedures and deadline for doing so); (8) describes how to object to the proposed Settlement and/or requested attorneys' fees and Litigation Expenses and/or the request for an award to Plaintiffs for their costs and expenses and describes what these payments amount to on an average per share if approved; (9) provides instructions on how to complete and submit a Claim Form; (10) provides the names, addresses, and telephone numbers of representatives of the Claims Administrator (including the settlement website) and Lead Counsel, both of whom will be available to answer questions from Settlement Class Members; (11) includes instructions on how to access the case docket via PACER or in person at the court; (12) states the date, time, and location of the Final Approval Hearing and that the date may change without further notice to the Settlement Class and advises Settlement Class Members to check the settlement website or the Court's PACER site to confirm that the date has not been changed; and (13) includes the deadlines for submitting Claim Forms, opting out of the Settlement, and filing any objections to the Settlement, the Plan of Allocation, or to Lead Counsel's requested attorneys' fees and Litigation Expenses or the request for an award to Plaintiffs for their costs and expenses.

77. In response to the Notice provided by Epiq, as of the date of this filing, Lead Counsel has not received any objections or requests for exclusion, nor any notice of the filing of any objections on the Court's docket. I am informed and believe that Epiq has not received any objections or requests for exclusion either. **Ex. 9** (Blow Notice Decl.) ¶¶15-18. Pursuant to the terms of the Preliminary Approval Order, the last day to either (i) file an objection or (ii) send notice of a request for exclusion is February 9, 2023. Should any objections or requests for

exclusion be served or filed after the filing of this motion, Lead Plaintiff will respond in its reply brief, which is scheduled to be filed on February 23, 2023.

78. Further, I am informed and believe that relevant governmental officials were notified of the settlement pursuant to the notice provision of the Class Action Fairness Act (“CAFA”). Lead Counsel is aware of no state or federal official who has raised an objection or concern regarding the Settlement.

VI. The Proposed Plan of Allocation

79. Lead Counsel believes that the proposed Plan of Allocation is fair, reasonable, and adequate, and should accordingly be granted final approval by the Court.

A. Creation and Application of the Proposed Plan of Allocation

80. Lead Counsel has consulted extensively with its loss causation/damages consultant to prepare the proposed Plan of Allocation, which is referenced in the Court-approved Notice (see Preliminary Approval Order 17-23) sent to Class Members and posted in a printable format on the Settlement website at www.PortolaSecuritiesLitigation.com.

81. The proposed Plan of Allocation describes the method for calculating each Claimant’s Recognized Loss (as defined in the Notice) for each share of Portola common stock purchased during the Settlement Class Period, as well as their pro rata share of the Net Settlement Fund. Specifically, the Net Settlement Fund is to be allocated in proportion to the Recognized Loss calculated by the Claims Administrator according to the formula provided by the damages consultant for each Authorized Claimant. Each Authorized Claimant shall receive his, her, or its pro rata share of the Net Settlement Fund.

82. The proposed Plan of Allocation, developed by Lead Plaintiff’s damages consultant, is based on the methodologies and calculations that the consultant has submitted to date in this action and that would have been presented at trial. Thus, the Plan of Allocation provides for a claims process that distributes the Net Settlement Fund pro rata based on the approximate individual losses of eligible Settlement Class Members. The Plan of Allocation is

based on the assumption that the price of Portola common stock was artificially inflated throughout the Settlement Class Period.

83. The computation of the estimated alleged artificial inflation in the price of Portola common stock during the Settlement Class Period is based on certain alleged misrepresentations asserted by Plaintiffs and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements that allegedly corrected the alleged misrepresentations. The Plan of Allocation sets forth Recognized Loss estimates based on Plaintiffs' determination, based on consultation with their damages consultant, that corrective disclosures removed artificial inflation from the price of Portola common stock on January 10, 2020, February 27, 2020, and March 2, 2020 (the "Corrective Disclosure Impact Dates"). Thus, in order for a Settlement Class Member to have a Recognized Loss under the Plan of Allocation, Portola common stock must have been purchased or acquired during the Settlement Class Period and held through at least one of these Corrective Disclosure Impact Dates.

84. The per-share Recognized Loss formulas used in the Plan of Allocation are based on the per-share compensable loss figures that Lead Plaintiff's damages consultant calculated for litigation purposes and are the estimated maximum amounts of damages Settlement Class Members could likely recover at trial. Thus, I am informed and believe that the Plan of Allocation provides a fair, reasonable, and effective method for calculating a Claimant's Recognized Loss and distributing the Net Settlement Fund among Claimants who suffered economic losses as a result of the alleged fraud.

85. Based on consultation with Lead Plaintiff's damages consultant, depending on the number of eligible shares purchased by investors who elect to participate in the Settlement and when those shares were purchased and sold, the average distribution is estimated to be \$0.62 per damaged share before deduction of Court-approved fees and expenses. The per share amount assumes all eligible Settlement Class Members submit valid and timely Claim Forms.

If fewer than all Settlement Class Members submit timely and valid Claim Forms, which is likely, the average distribution per share will be higher.

86. If, after a first distribution to eligible Settlement Class Members who submitted valid and timely Claim Forms, a sufficient amount of money remains unclaimed from the Net Settlement Fund, the Claims Administrator will make a second distribution according to the Plan of Allocation, should it be economically feasible to do so. After that, assuming any remainder is too small to distribute to Settlement Class Members, Lead Counsel will seek Court approval to have the Claims Administrator distribute any identified remainder in the Net Settlement Fund to FINRA Investor Education Foundation (or such other non-profit organizations approved by the Court)—an organization that promotes interests of Settlement Class Members and, I am informed and believe, with which the Parties, Plaintiffs’ Counsel, and Defendants’ Counsel have no relationships.

B. The Plan of Allocation is Fair, Reasonable, and Adequate

87. The Plan of Allocation is fair, reasonable, and adequate because it is similar to the plans approved in other securities fraud cases and allocates the Net Settlement Fund among Settlement Class Members in accordance with key principles that (a) investors are only entitled to recover for economic losses suffered as a result of the alleged violations of the federal securities laws asserted in the action (as opposed to losses caused by market or industry factors or company-specific factors unrelated to the alleged violations of law); (b) investors must have held through the stock price drop that revealed the true facts; and (c) damages for Exchange Act claims are limited by the 90-day look-back price pursuant to 15 U.S.C. §78u-4(e).

88. The Plan of Allocation does not differentiate between Settlement Class Members, but rather allocates the funds based on losses suffered depending on when the security was purchased, as is appropriate under the law.

89. Lead Counsel’s damage consultant determined that, depending on the number of eligible shares purchased by investors who elect to participate in the Settlement and when those shares were purchased and sold, the overall average distribution is estimated to be: \$0.62 per

damaged share, before deduction of Court-approved fees and expenses described below. The per-share amount assumes all eligible Settlement Class Members submit a valid and timely Claim Form. If fewer than all Settlement Class Members submit timely and valid Claim Forms, which is likely, the average distribution per share will be higher.

90. For all these reasons, Lead Counsel submits that the Plan of Allocation is fair and reasonable and should be approved together with the Settlement.

VII. Application for Attorneys' Fees, Reimbursement of Plaintiffs' Counsel's Expenses, and Award of Reimbursement of Expenses to Plaintiffs

A. Lead Counsel's Request for Attorneys' Fees

91. Lead Counsel requests attorneys' fees of 25% of the Settlement Fund, or \$4,375,000, plus accrued interest, on behalf of all Plaintiffs' Counsel (Lead Counsel and OFPRS' Counsel), who contributed to the prosecution of this action.

92. Lead Counsel has spent 13,310.70 hours on the prosecution of this matter, with a lodestar value of \$8,511,421.50. See Ex. 1 & 2. Additional named plaintiff OFPRS' Counsel has spent 2,120.75 hours on the prosecution of this matter, with a lodestar value of \$1,141,928.75. See Ex. 7 (Kaplan Decl.) ¶¶5, 7 and Ex. A, thereto. Thus, the total time expended by Plaintiffs' Counsel in prosecuting this case on behalf of the Settlement Class is 15,431.45 hours, with a lodestar value of \$10,403,962.79. These hours do not include (i) time spent on the preparation of the Fee and Expense motion and (ii) additional time that will be spent by Lead Counsel administering the Settlement through distribution.

93. Consistent with the Court's Standing Order (¶57), the proposed order will reflect a suggested holdback from any attorneys' fees awarded until after distribution of the Net Settlement Fund and the filing and Court's resolution of the Post-Distribution Accounting. In light of Plaintiffs' Counsel's commitment to litigating this highly complex action on behalf of the Settlement Class for two-plus years without receiving any compensation for their efforts, Lead Counsel suggests that 10% is a reasonable percentage of awarded fees to hold-back.

94. As described above and in the memorandum of law in support of the Fee and Expense Motion, filed contemporaneously herewith, the 25% fee is comparable to attorneys' fees awarded in similar securities class actions. Further, the lodestar multiplier of less than 0.5, based on the 15,431.45 hours expended by Plaintiffs' Counsel from case inception through December 31, 2022, is below the range of multipliers commonly awarded in complex common fund class action settlements. Lead Counsel's request is also consistent with a recent study from NERA Economic Consulting, which found that the median attorneys' fees award in securities cases with a settlement value of \$10 to 25 million was 27.5%—above the Ninth Circuit's 25% benchmark rate. See Janeen McIntosh & Svetlana Starykh *Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review*, NERA Economic Consulting (Jan. 25, 2022) (of which a true and correct copy of excerpted pages are attached as **Exhibit 10**).

95. Moreover, the fee request is justified by the effort and skill of Lead Counsel (with the assistance of OFPRS' Counsel) in, among other things, investigating the claims asserted in the action, drafting the complaints, opposing Defendants' motions to dismiss, preparing Lead Plaintiff's motion for class certification, pursuing discovery and defending against discovery requests (document requests and subpoenas, interrogatories, and fact and expert depositions), addressing discovery concerns (including extensive meet-and-confer conferences and correspondence (see supra ¶38 & notes 11 & 12), and the preparation and presentation of the Joint Letter re Discovery Dispute (ECF No. 214) to Magistrate Judge Illman (see supra ¶38)), and presenting a strong case throughout settlement discussions and mediation. All of the above was essential to achieving a meaningful resolution of this action, particularly in light of the vigorous opposition presented by Defendants' Counsel. See infra ¶99.

96. Lead Counsel Berman Tabacco has decades of experience in the prosecution and resolution of complex class actions and securities litigation, having prosecuted similar actions to this one since 1982. See Ex. 4 (Berman Tabacco firm resume). Berman Tabacco has prosecuted and will continue to prosecute this action vigorously on behalf of Lead Plaintiff, ACERA, and the Settlement Class, representing the interests of the Settlement Class vigorously,

fairly, and adequately, and will continue to commit the resources necessary to resolve this case on the best terms possible and administer it fairly for members of the Settlement Class.

97. Additionally, Lead Counsel’s assessment of the fee request as fair and reasonable is supported by Berman Tabacco’s decades of experience litigating and resolving securities class actions, and its intimate familiarity with the facts in the case.

98. OFPRS’ Counsel, Saxena White P.A. (“Saxena White”), has similarly robust experience and has been equally as committed to the prosecution of this action. See Ex. 6 (Saxena White firm resume). Lead Counsel’s assessment of the fee request as fair and reasonable is also supported by Saxena White’s robust experience and commitment to the prosecution of this action, including to maintaining standing on behalf of the proposed litigation class of asserting Securities Act claims for purchases made in the August 2019 Secondary Public Offering.

99. Plaintiffs’ Counsel were opposed in this action by highly skilled and nationally respected law firms in the area of securities litigation—Paul, Weiss, Rifkind, Wharton & Garrison LLP on behalf of the Portola Defendants, and Morrison & Foerster LLP on behalf of the Underwriter Defendants—both of which provided vigorous opposition. The attorneys who represented Defendants in this matter were formidable opponents who mounted strong and aggressive defenses on behalf of their clients, vigorously (and professionally) challenging a litany of factual allegations and factual and legal claims and positions. Indeed, this litigation was hard-fought by both sides at every stage. To combat such opponents, Plaintiffs’ Counsel was required to litigate at a very high level of skill, efficiency, and professionalism at every stage of the proceedings.

100. Plaintiffs’ Counsel’s lodestar figures do not include litigation expenses incurred. Litigation expense items are billed separately, and such charges are not duplicated in the firm’s current billing rates. Further, litigation expense items that were paid by invoice do not contain any general overhead costs and do not contain a surcharge over the amount paid to the corresponding vendor(s).

101. As one of the lead partners overseeing and litigating this action, I reviewed Berman Tabacco's time and expense records in preparation of this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the action. In addition, all time expended in preparing this Fee and Expense Motion has been excluded.

102. **Exhibits 1** and **2** are summary tables (in aggregate and by task category, respectively) of the hours expended from case inception through December 31, 2022, together with the 2022 hourly rates¹⁵ of all Berman Tabacco attorneys and staff and lodestar calculation. Berman Tabacco's attorneys' rates range from \$775.00 to \$1,065.00 for partners, from \$830.00 to \$890.00 for of counsel, and from \$400.00 to \$680.00 for other attorneys, including staff attorneys. Rates for various non-attorney positions are listed for specific employees on **Exhibit 1**. For personnel who are no longer employed by Berman Tabacco, the calculation is based upon the billing rates for such personnel in their final year of employment with Berman Tabacco. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.¹⁶ During my review of those records, I exercised billing judgement and reduced or excluded certain time entries.

103. The hourly rates for attorneys and professional support staff in my firm have been accepted by courts in other complex class actions. See, e.g., In re Aqua Metals, Inc. Sec. Litig., No. 4:17-cv-07142-HSG, slip op. at 13-14 (N.D. Cal. Mar. 2, 2022), ECF No. 182; In re Lithium Ion Batteries Antitrust Litig., No. 13-MD-02420-YGR, 2018 WL 3064391, at *1 (N.D. Cal. May 16, 2018); Koch v. Healthcare Servs. Grp., Inc., et al., No. 2:19-CV-01227-ER, slip

¹⁵ See Fee and Expense Motion 18 n.15. The Supreme Court and other courts have held that the use of current rates is proper since such rates compensate for inflation and the loss of use of funds. See Mo. v. Jenkins by Agyei, 491 U.S. 274, 283-84 (1989); Kelly v. Wengler, 822 F.3d 1085, 1099 (9th Cir. 2016) (“[a] reasonable hourly rate is ordinarily the prevailing market rate ... in the relevant community”); Patel v. Trans Union, LLC, No. 14-CV-00522-LB, 2018 WL 1258194, at *7 (N.D. Cal. Mar. 11, 2018) (San Francisco market rates were “appropriate given the deferred and contingent nature of counsel’s compensation.”).

¹⁶ Lead Counsel is prepared to submit copies in camera of detailed billing records if the Court so orders.

op. at 30-31 (E.D. Pa. Jan. 12, 2022), ECF No. 83; Okla. Police Pension & Ret. Sys. v. Sterling Bancorp, Inc, et al., No. 5:20-CV-10490-JEL-EAS, slip op. at 3-4 (E.D. Mich. Sept. 23, 2021), ECF No. 98; In re GSE Bonds Antitrust Litig., No. 19-CV-1704 (JSR), 2020 WL 3250593, at *4-5 (S.D.N.Y. June 16, 2020); In re Alphabet Inc. S'holder Deriv. Litig., No. 19CV341522, slip op. at 3-4 (Cal. Super. Ct. Santa Clara Cnty. Feb. 5, 2021).

104. Lead Counsel and OFPRS' Counsel undertook significant risk in prosecuting the action entirely on a contingent basis, receiving no compensation for its services or reimbursement for the expenses incurred during the time the action has been pending, and without guarantee of payment of any fee or reimbursement of any expense. Nevertheless, Lead Counsel and OFPRS' Counsel prosecuted this case vigorously, provided high-quality legal services, and achieved an excellent result for the Settlement Class.

105. The Notice to the Settlement Class advised that Lead Counsel would seek payment of up to 25% of the Settlement Fund, or approximately \$4,375,000, plus interest, for attorneys' fees. To date, I am aware of no objections to the fee request that have been filed with the Court, received by Lead Counsel, or received by the Claims Administrator. See Ex. 9 (Blow Notice Decl.) ¶¶17-18.

106. ACERA and OFPRS, who are class members, support Lead Counsel's application for an award of attorneys' fees of 25% of the Settlement Fund, plus interest, for the time and effort expended by Plaintiffs' Counsel. Ex. 5 (Weiss Decl.) ¶¶6, 8 (ACERA); Ex. 8 (Rankin Decl.) ¶¶10, 12 (OFPRS). Moreover, this 25% fee request is consistent with an ex-ante fee agreement negotiated by ACERA entered into at the outset of the litigation, a sophisticated institutional investor with experience negotiating fees with counsel and evaluating fee requests. See Ex. 5 (Weiss Decl.) ¶6 (ACERA).

B. Lead Counsel's Request for Reimbursement of Litigation Expenses

107. Lead Counsel also seeks reimbursement from the Settlement Funds of \$750,612.54, plus interest, in litigation expenses reasonably and necessarily incurred by collectively by Plaintiffs' Counsel in connection with commencing and prosecuting this action

through present, just prior to the filing of this Fee and Expense Motion. **Exhibit 3** is a summary table of the litigation expenses that Berman Tabacco incurred in connection with the prosecution of the action. Lead Counsel has incurred \$708,273.12 in unreimbursed litigation expenses on behalf of the Settlement Class in this case. Id.

108. These expenses are reflected on the books and records maintained by Lead Counsel. These books and records are prepared from expense vouchers, check records, and other source materials. They were prepared in the ordinary course of business and are an accurate record of the litigation expenses incurred. During my review of these expense records, I exercised billing judgement and reduced or excluded certain expenses. In my judgment, these expenses for which reimbursement is sought are reasonable in amount and were necessary for the effective and efficient prosecution of the litigation and expended for the benefit of the Settlement Class in this action. I also believe that the expenses submitted are of a type normally charged to and paid by fee-paying clients.

109. Exhibit C to the Kaplan Declaration (**Ex. 7**) is a summary table of the litigation expenses that Saxena White incurred in connection with the prosecution of the action. Saxena White has incurred \$42,339.42 in unreimbursed litigation expenses on behalf of the Settlement Class in this case. See Ex. 7 (Kaplan Decl.) ¶¶11-12 and Ex. C, thereto.

110. Thus, the total unreimbursed litigation expenses incurred by Lead Counsel in the prosecution and settlement of this action on behalf of the Settlement Class is \$750,612.54.

111. The types of expenses for which Lead Counsel seeks reimbursement were necessarily incurred in this action and are of the type routinely charged to classes in contingent litigation, including expenses associated with, inter alia, consultants and experts (e.g., accounting, loss causation/damages, and class certification/market efficiency), research, and discovery (e.g., document discovery hosting and depositions).

112. These expenses are reflected on the books and records maintained by Lead Counsel. These books and records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred. These expenses are

set forth in detail and identified by the specific category of expense—e.g., online/computer research, experts’ fees, photocopying, telephone and postage expenses, and other costs incurred for which Lead Counsel seeks reimbursement.

113. The largest portion of expenses, \$616,667.02, went to pay for the services of experts and consultants, including Plaintiff’s class certification expert, an accounting consultant who advised on the allegations in the four consolidated complaints filed, the drafting of oppositions to four motions to dismiss, and discovery; and a damages consultant who assisted, inter alia, on issues of loss causation/damages, and class certification/market efficiency in connection with the investigation of the claims, class certification, mediation, and preparing the Plan of Allocation. The second largest expense was \$43,986.58 for online research costs for legal research related to, inter alia, analyzing and bringing the claims, opposing defendants’ four motions to dismiss, filing Lead Plaintiff’s motion for class certification, addressing discovery concerns (e.g., preparing for meet-and-confer conferences and preparing detailed meet-and-confer correspondence and the Joint Discovery Letter submitted to Magistrate Judge Illman). Another large component of expense was \$10,129.60 to pay for the use of (and the expected decommissioning and archiving of) electronic document storage (or “hosting”) for the use of the digital document review platform through which Plaintiffs’ Counsel reviewed the more than 211,000 pages of documents and voluminous spreadsheets produced by Defendants and third parties in this action. A further significant expense was the \$16,290.45 in connection with court reporters and transcripts related to the seven depositions taken in this action and transcripts of proceedings in this Court. Plaintiffs’ Counsel also incurred expenses of \$9,822.50 in connection with the formal Mediation session conducted by Mr. Meyer, as well as pre- and post-mediation discussions with Mr. Meyer. The other expenses for which Lead Counsel seeks reimbursement include, inter alia, travel, meal and lodging costs, court fees, document-reproduction costs, telephone/fax charges, and postage and delivery expenses. See Ex. 3; see also Ex. 7 (Kaplan Decl.) ¶¶11-12 and Ex. C, thereto.

114. From the beginning of the case, Lead Counsel was aware that it might not recover any of their expenses and, at the very least, would not recover anything until the action was successfully resolved. Thus, Lead Counsel was motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the case. All of the litigation expenses incurred, which total \$750,612.54, were necessary to the successful prosecution and resolution of Lead Plaintiff's claims.

115. The Notice to the Settlement Class advised that Lead Counsel would seek reimbursement of litigation expenses not to exceed \$840,000, plus interest. To date, I am aware of no objections to the expense request that have been filed with the Court, received by Lead Counsel, or received by the Claims Administrator. See Ex. 9 (Blow Notice Decl.) ¶¶17-18. ACERA and OFPRS, who are class members, support the expense requests. Ex. 5 (Weiss Decl.) ¶¶7-8 (ACERA); Ex. 8 (Rankin Decl.) ¶¶11-12 (OFPRS).

C. Reimbursement Amounts to Plaintiffs are Fair and Reasonable

116. The PSLRA specifically provides that an “award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class” may be made to “any representative party serving on behalf of a class.” 15 U.S.C. § 78u-4(a)(4). Accordingly, Lead Plaintiff, on behalf of itself and OFPRS, seeks reimbursement of a portion of their collective reasonable costs incurred directly for work representing the Settlement Class in the aggregate amount of \$18,500, plus interest (\$10,000 for ACERA and \$8,500 for OFPRS). The amount of time and effort devoted to this action by ACERA and OFPRS is detailed in the accompanying Weiss Declaration (Ex. 5 at ¶¶4, 9-10) and Rankin Declaration (Ex. 8 at ¶¶5, 10-11). The request here is only for the reimbursement of some of the time spent by Lead Plaintiff in connection with its service as the Court-appointed Lead Plaintiff, and OFPRS as the additional named plaintiff, in this action, which is specifically permitted by the PSLRA.

117. As set forth herein, as well as in the Weiss Declaration, Rankin Declaration, and Kaplan Declaration, Plaintiffs took an active role in the leadership of this action and have been fully committed to pursuing this action as fiduciaries for the class. Ex. 5 (Weiss Decl.) ¶4

(ACERA); **Ex. 8** (Rankin Decl.) ¶¶5-8 (OFPRS). During the course of this litigation, both ACERA and OFPRS diligently pursued the effective prosecution of this action and has kept themselves informed of all pertinent case developments. *Id.* Further, Plaintiffs communicated regularly by phone and email with their respective counsel regarding case status, strategy, Court orders, pre-trial discovery, the collection of potentially relevant hard copy and electronic documents and communications from Plaintiffs' files, and Plaintiffs' depositions. *Id.*

118. Lead Plaintiff calculates that it spent well over 100 hours in work directly related to the representation of the Settlement Class. See **Ex. 5** (Weiss Decl.) ¶9 (reporting on the calculation of a partial portion of the time spent on this matter, which calculated to 104.25 hours). OFPRS estimates that it spent 111.5 hours (**Ex. 8** (Rankin Decl.) ¶13) in work directly related to the representation of the Settlement Class. In executing their duties and responsibilities in this action, Lead Plaintiff and OFPRS (among other tasks): (a) regularly communicated with their respective counsel regarding all litigation posture and strategy; (b) reviewed the four complaints and various other pleadings, motion papers (including those in opposition to four motions to dismiss and in support of Lead Plaintiff's motion for class certification); (c) collected and produced documents in response to, as well as written responses to, Defendants' discovery requests;¹⁷ (d) reviewed the Court's orders and opinions related to the motions to dismiss and case management conferences; (e) prepared declarations in support of Lead Plaintiff's motion for class certification; (f) worked with their respective counsel to prepare for and serve as witnesses under Rule 30(b)(6); (g) communicated regularly with their respective counsel regarding all settlement discussions and negotiations leading up to and following the Settlement; and (h) participated in the all-day mediation session in this case with the mediator, Mr. Meyer. **Ex. 5** (Weiss Decl.) ¶4 (ACERA); **Ex. 8** (Rankin Decl.) ¶7 (OFPRS).¹⁸

¹⁷ Lead Plaintiff searched for and produced over 3,400 pages (**Ex. 5** (Weiss Decl.) ¶4) and OFPRS searched for and produced over 1,900 pages to Defendants (**Ex. 8** (Rankin Decl.) ¶8).

¹⁸ In addition, Lead Plaintiff attended hearings on the motions to dismiss and case management conferences. **Ex. 5** (Weiss Decl.) ¶4 (ACERA). And OFPRS travelled from Oklahoma to New

119. As a public pension fund and institutional investor, ACERA manages more than \$10.5 billion in assets (as of November 30, 2022) for over 25,000 beneficiaries (see Ex. 5 (Weiss Decl.) ¶1 (ACERA)), and is precisely the type of class representative the PSLRA encouraged to step forward as a lead plaintiff (see 15 U.S.C. § 78u-4(a)(3)(B) (providing a rebuttable presumption that plaintiff with largest financial interest is most adequate plaintiff that shall be appointed lead plaintiff)). According to the House Conference Report on the PSLRA, “[t]he Conference Committee believes that increasing the role of institutional investors in class actions will ultimately benefit shareholders and assist courts by improving the quality of representation in securities class actions.” H.R. Conf. Rep. 104-369, 33 (1995) reprinted in 1995 U.S.C.C.A.N. 730, 732.

120. Additionally, as a public pension fund and institutional investor, OFPRS manages over \$3 billion in assets for approximately 25,000 plan participants as of June 30, 2022. Ex. 8 (Rankin Decl.) ¶1 (OFPRS), OFPRS, as the additional named plaintiff in this action who purchased Portola securities on the open market and directly in the Company’s August 2019 Secondary Public Offering, was arguably critical for asserting the Securities Act claim and is the type of class representative that the PSLRA encourages to step forward as a named plaintiff.

D. The Reaction of the Settlement Class to the Request for Attorneys’ Fees, Reimbursement of Plaintiffs’ Counsel’s Litigation Expenses, and Reimbursement of Plaintiffs’ Expenses

121. As noted, based on their involvement throughout the course of this action, ACERA and OFPRS support final approval of the settlement and Lead Counsel’s Fee and Expense Motion. See Ex. 5 (Weiss Decl.) ¶¶5-8 (ACERA); Ex. 8 (Rankin Decl.) ¶¶9-12 (OFPRS).

York City for OFPRS’ Rule 30(b)(6) deposition, as well as maintained the sealing of certain OFPRS’ confidential and business sensitive information. Ex. 8 (Rankin Decl.) ¶8 (OFPRS).

122. As mentioned above, consistent with the Court's Preliminary Approval Order, a total of 44,005 Notice Packets were mailed to potential Settlement Class Members advising them that Lead Counsel would (a) seek payment of up to 25% of the Settlement Fund, or approximately \$4,375,000 for attorneys' fees, plus interest; (b) seek reimbursement of expenses not to exceed \$840,000, plus interest; and (c) seek reimbursement of Plaintiffs' expenses not to exceed \$20,000 pursuant to U.S.C. §78u-4(a)(4). See Ex. 9 (Blow Notice Decl.) ¶10 & Ex. A, thereto. Additionally, the Summary Notice was published in Investor's Business Daily/Weekly, and disseminated over PR Newswire. See id. ¶12 & Exs. B & C, thereto. The Notice, the Stipulation, and other relevant pleadings have also been available on the settlement website maintained by Epiq at <https://www.PortolaSecuritiesLitigation.com> and a phone line set up to assist potential Settlement Class Members. See id. ¶13-14.

123. As mentioned above, while the deadline set by the Court for Settlement Class Members to object to the Fee and Expense Motion has not yet passed, to date we are not aware of any objections having been filed or received by either Lead Counsel or Epiq. Ex. 9 (Blow Notice Decl.) ¶¶17-18. We will respond to any objections received by the February 9, 2023 deadline, if any, in our reply briefing due February 23, 2023.

VIII. Conclusion

124. In view of the recovery to the Settlement Class and the very substantial risks of continued litigation against the Defendants, as described above and in the accompanying memorandum of law in support of Lead Plaintiff's Final Approval Motion, Lead Counsel respectfully submits that the Settlement and Plan of Allocation should be approved as fair, reasonable, and adequate, and that the Settlement Class should be finally certified.

125. In view of the recovery in the face of substantial risks, the quality of work performed, the risks and challenges to pursuing claims against Defendants, the contingent nature of the fee, and the standing and experience of Plaintiffs' Counsel, as described herein and in the accompanying memorandum of law in support of Lead Counsel's Fee and Expense Motion, Lead Counsel respectfully requests that: (1) the request for attorneys' fees of 25% of

the Settlement Fund, or \$4,375,000, plus interest, be approved; (2) Lead Counsel's litigation expenses in the amount of \$750,612.54, plus interest, be reimbursed; and (3) Plaintiffs' expenses of \$18,500 be reimbursed.

126. Attached hereto are true and correct copies of the following documents:

- Exhibit 1** Summary Table of the Hours and Lodestar of Berman Tabacco
- Exhibit 2** Summary Table of the Hours of Berman Tabacco by Category
- Exhibit 3** Summary Table of the Expenses of Berman Tabacco
- Exhibit 4** Berman Tabacco Firm Resume
- Exhibit 5** Declaration of Susan Weiss on Behalf of Lead Plaintiff Alameda County Employees' Retirement Association In Support of Lead Plaintiff's Notice of Motion And Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For Attorneys' Fees, Reimbursement of Expenses, and Award of Costs And Expenses To Plaintiffs
- Exhibit 6** Saxena White P.A. Firm Resume
- Exhibit 7** Declaration of David R. Kaplan on Behalf of Saxena White P.A. In Support of Lead Plaintiff's Notice of Motion and Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For Attorneys' Fees, Reimbursement of Expenses, and Award of Costs And Expenses To Plaintiffs
- Exhibit 8** Declaration of Chase Rankin on Behalf of Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System In Support of Lead Plaintiff's Notice of Motion and Motion For: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of The Settlement Class, and (III) Final Approval of Proposed Plan of Allocation and Lead Counsel's Motion For (I) Attorneys' Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs
- Exhibit 9** Declaration of Eric Blow Regarding Dissemination and Publication of Settlement Notice
- Exhibit 10** True and correct excerpted pages from Janeen McIntosh & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review*, NERA Economic Consulting (Jan. 25, 2022)

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

Executed at Mill Valley, California, on January 26, 2023.

/s/ Daniel E. Barenbaum
Daniel E. Barenbaum

Exhibit 1

PORTOLA PHARMACEUTICALS INC.**TIME REPORT**

FIRM NAME: Berman Tabacco

REPORTING PERIOD: Inception to December 31, 2022

<u>NAME</u>	<u>OFFICE</u>	<u>STATUS</u>	<u>CURRENT HOURLY RATE</u>	<u>CUMULATIVE HOURS TO DATE</u>	<u>CUMULATIVE LODESTAR TO DATE</u>
Daniel E. Barenbaum	SF	Partner	\$970.00	1997.30	\$1,937,381.00
Steven Buttacavoli	BOS	Partner	\$900.00	224.60	\$202,140.00
Patrick T. Egan	BOS	Partner	\$970.00	831.50	\$806,555.00
Nicole Lavallee	SF	Partner	\$1,065.00	826.20	\$879,903.00
Jeffrey Miles	SF	Associate	\$580.00	763.00	\$442,540.00
Jeffrey Rocha	SF	Associate	\$500.00	2045.10	\$1,022,550.00
Christina Sarraf	SF	Associate	\$400.00	580.10	\$232,040.00
Lindsey Silver	BOS	Associate	\$585.00	961.90	\$562,711.50
Alex Vahdat	SF	Associate	\$565.00	25.80	\$14,577.00
Jay Eng	BOS	Of Counsel	\$890.00	407.40	\$362,586.00
Anne O'Berry	BOS	Of Counsel	\$830.00	97.50	\$80,925.00
Mackline Bastien	BOS	Staff Attorney	\$420.00	579.40	\$243,348.00
Berna Lee	BOS	Staff Attorney	\$420.00	937.00	\$393,540.00
Elisabeth Beaudrie	BOS	Project Attorney	\$420.00	326.00	\$136,920.00
Wyndham Girard	BOS	Project Attorney	\$420.00	462.60	\$194,292.00
Kevin Mulcahy	BOS	Project Attorney	\$420.00	329.20	\$138,264.00
James Houghton	BOS	Investigator	\$595.00	585.00	\$348,075.00
Jeannine Scarsciotti	BOS	Financial Analyst	\$585.00	39.40	\$23,049.00
Kathy Becker	SF	Paralegal	\$410.00	644.30	\$264,163.00
Beto Segura	SF	Paralegal	\$380.00	445.90	\$169,442.00
Yelena Soboleva	SF	Paralegal	\$280.00	201.50	\$56,420.00
			TOTAL:	13,310.70	\$8,511,421.50

Exhibit 2

PORTOLA PHARMACEUTICALS INC.**TIME REPORT BY CATEGORY**

FIRM NAME: Berman Tabacco
REPORTING PERIOD: Inception to December 31, 2022

Categories:

- | | |
|--|------------------------------------|
| (1) Legal Research | (7) Class Certification |
| (2) Pleadings & Motions | (8) Court Appearance & Preparation |
| (3) Facutal Investigation & Analysis | (9) Trial Preparation |
| (4) Case Planning, Organization & Strategy | (10) Settlement Negotiations |
| (5) Merits Discovery | (11) Settlement Adminstration |
| (6) Depositions | (12) Appeals |

Status:

- | | |
|-----------------------|--------------------------|
| (P) Partner | (FA) Financial Analyst |
| (A) Associate | (FR) Forensic Accountant |
| (OC) Of Counsel | (I) Investigator |
| (SA) Staff Attorney | (IT) Technical |
| (PA) Project Attorney | (PL) Paralegal |

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	Hourly Rate	Cumulative Hours	Cumulative Lodestar
Attorneys:																
Daniel E. Barenbaum	P		1,109.10	28.90	13.80	376.60	23.00	22.60	210.30		179.10	33.90		\$970.00	1,997.30	\$1,937,381.00
Steven Buttacavoli	P		1.80			1.20		189.10			32.50			\$900.00	224.60	\$202,140.00
Patrick T. Egan	P		19.00			314.20	194.40	248.20	21.30		34.40			\$970.00	831.50	\$806,555.00
Nicole Lavallee	P		510.30	9.80	25.10	17.90	26.90	31.10	107.80		94.00	3.30		\$1,065.00	826.20	\$879,903.00
Jeffrey Miles	A		7.60			657.00	6.30	92.10						\$580.00	763.00	\$442,540.00
Jeffrey Rocha	A		998.30	26.60		878.60	16.70	3.00			121.90			\$500.00	2,045.10	\$1,022,550.00
Christina Sarraf	A	10.50	398.70			79.30	12.00	2.60			70.90	6.10		\$400.00	580.10	\$232,040.00
Lindsey Silver	A		956.40			5.50								\$585.00	961.90	\$562,711.50
Alex Vahdat	A							22.70			3.10			\$565.00	25.80	\$14,577.00
Jay Eng	OC		358.00	47.40							2.00			\$890.00	407.40	\$362,586.00
Anne O'Berry	OC		97.50											\$830.00	97.50	\$80,925.00
Mackline Bastien	SA					579.40								\$420.00	579.40	\$243,348.00
Berna Lee	SA					937.00								\$420.00	937.00	\$393,540.00
Elisabeth Beaudrie	PA					326.00								\$420.00	326.00	\$136,920.00
Wyndham Girard	PA					462.60								\$420.00	462.60	\$194,292.00
Kevin Mulcahy	PA					329.20								\$420.00	329.20	\$138,264.00
Subtotal Attorneys:		10.50	4,456.70	112.70	38.90	4,964.50	279.30	611.40	339.40	0.00	537.90	43.30	0.00		11,394.60	\$7,650,272.50
Professional Staff:																
James Houghton	I			585.00										\$595.00	585.00	\$348,075.00
Jeannine Scarsciotti	FA		24.20			9.70		1.50			4.00			\$585.00	39.40	\$23,049.00
Kathy Becker	PL		378.90	13.90		127.10	1.90	62.70			52.60	7.20		\$410.00	644.30	\$264,163.00
Beto Segura	PL		318.50	0.40		74.20	3.80	28.90			20.10			\$380.00	445.90	\$169,442.00
Yelena Soboleva	PL		182.60	11.60		6.80					0.50			\$280.00	201.50	\$56,420.00
Subtotal Professional Staff:		0.00	904.20	610.90	0.00	217.80	5.70	93.10	0.00	0.00	77.20	7.20	0.00		1,916.10	\$861,149.00
TOTALS:		10.50	5,360.90	723.60	38.90	5,182.30	285.00	704.50	339.40	0.00	615.10	50.50	0.00		13,310.70	\$8,511,421.50

Exhibit 3

PORTOLA PHARMACEUTICALS INC.**EXPENSE REPORT**

FIRM NAME: Berman Tabacco

REPORTING PERIOD: Inception to January 17, 2023

<u>DESCRIPTION</u>	<u>CUMULATIVE EXPENSES</u>
Document Hosting	\$10,129.60
Experts & Consultants	\$616,667.02
Filing Fees/Court Filing Retrieval Fees/transcript fees	\$16,290.45
Legal Research (westlaw and secondary sources)	\$43,986.58
Mediation	\$9,822.50
Other Research (pacer/Bloomberg/investigative research)	\$1,270.55
Photocopying (external)	\$333.14
Photocopying (in house)	\$5,231.52
Postage/Delivery/Express Delivery Services	\$3,051.39
Travel/Lodging and Meals	\$1,490.37
TOTALS:	\$708,273.12

Exhibit 4

THE FIRM

Berman Tabacco is a national law firm with 35 attorneys located in offices in Boston and San Francisco. Since its founding in 1982, the firm has devoted its practice to complex litigation, primarily representing plaintiffs seeking redress under U.S. federal and state securities, antitrust and consumer laws.

Over the past almost four decades, Berman Tabacco's attorneys have prosecuted hundreds of class actions, recovering billions of dollars on behalf of the firm's clients and the classes they represented. In addition to financial recoveries, the firm has achieved significant changes in corporate governance and business practices of defendant companies. Indeed, the firm appears as among the firms with the most settlements on the list of the top 100 largest securities class actions in SCAS' published report, *Top 100 U.S. Class Action Settlements of All Time (as of 12/31/2021)*.¹ According to ISS Securities Class Action Services' "Top 50 for 2015" report, Berman Tabacco was one of only six firms that recovered more than half-a-billion dollars for investors in 2015.² SCAS similarly ranked the firm among the few that obtained over half-a-billion in settlements in 2004 and 2009, and ranked the firm 3rd in terms of settlement averages for class actions in 2009, 2010 and 4th in 2004 (SCAS ceased rankings according to settlement sizes in 2012). The firm currently holds leadership positions in securities, antitrust and consumer cases around the country.

Berman Tabacco is rated AV Preeminent® by *Martindale-Hubbell*®. *Benchmark Litigation* ranked the firm as a *Top Ten Plaintiffs' Firm* for its work "on behalf of individuals and institutions who have suffered financial harm due to violations of securities or antitrust laws" for the seventh consecutive year (2017-2023). *Benchmark Litigation* also ranked the firm as *Highly Recommended* in 2023 – the twelfth consecutive time the firm has received that distinction.³ *The Legal 500* also ranked the firm as *recommended* in securities litigation in its 2017-2022 U.S. editions and as *recommended* in antitrust litigation in its 2019-2022 U.S. editions, noting in 2019 that the firm is known for its "soup-to-nuts excellence, from legal analysis through to trial preparation and trial," and that clients had noted that the firm makes a "very comprehensive effort, with no stone left unturned." In 2020, *The Legal 500* reported client praise for Berman including that the firm has "[a]n excellent team from top to bottom. It provides superb responsiveness and is able to dig in hard at a moment's notice." And further that, the team is "always prepared and [has] deep knowledge of the issue. It is a pleasure to observe a team that so well coordinated." Additionally, *Chambers USA* recognized the firm in its *Securities Litigation – Mainly Plaintiff* category in 2021 and 2022 in both its *USA Nationwide* and *California* editions. The firm was previously recognized by *Chambers USA* in the same category in 2017 and 2018 in its *USA Nationwide* edition. Berman Tabacco was also recognized in both securities and antitrust litigation by *U.S. News & World Report—Best Lawyers* in the twelfth Edition of the *Best Law Firms* rankings (2022 ed.) and was previously recognized in antitrust (2019-2021) and securities (2020-2021)

¹ *Top 100 U.S. Class Action Settlements of All Time as of December 31, 2021*, pp. 13, 18 (ISS SCAS 2022), <http://www.bermantabacco.com/wp-content/uploads/2022/01/SCAS-Top-100-US-Settlements-of-All-Time-as-of-2021-12-31.pdf>.

² ISS's report "lists the top 50 plaintiffs' law firms ranked by the total dollar value of the final class action settlements occurring in 2015 in which the law firm served as lead or co-lead counsel." ISS Securities Class Action Services, *Top 50 for 2015*, at p. 4 (May 2016), <https://www.bermantabacco.com/wp-content/uploads/2018/05/scastop502015.pdf>.

³ See <https://www.benchmarklitigation.com/Firm/Berman-Tabacco-California/Profile/109234#review>.

litigation. Berman Tabacco's lawyers are frequently singled out for favorable comments by our clients, presiding judges and opposing counsel.

SECURITIES PRACTICE

Berman Tabacco has almost 40 years of experience in securities litigation and has represented public pension funds and other institutional investors in this area since 1998. As reported by Cornerstone Research, the firm has successfully prosecuted some of the most significant shareholder class action lawsuits.⁴ Indeed, the firm appears as among the firms with the most settlements on the list of the top 100 largest securities class actions in SCAS' published report, *Top 100 U.S. Class Action Settlements of All Time (as of 12/31/2021)*.⁵ According to ISS Securities Class Action Services "Top 50 for 2015" report, Berman Tabacco was one of only six firms that recovered more than half-a-billion dollars for investors in 2015.⁶ SCAS similarly ranked the firm among the few that obtained over half-a-billion in settlements in 2004 and 2009, and ranked the firm 3rd in terms of settlement averages for class actions in 2009, 2010 and 4th in 2004 (SCAS ceased rankings according to settlement sizes in 2012).

Specifically, the firm has been appointed lead or co-lead counsel in more than 100 actions, recovering billions of dollars on behalf of defrauded investors and the classes they represent under the Private Securities Litigation Reform Act of 1995 ("PSLRA"). The firm has an extremely rigorous case-evaluation process and highly experienced litigation attorneys. Its dismissal rate for cases brought under the PSLRA is less than half the overall dismissal rate for such cases according to one authoritative study.⁷

Berman Tabacco serves as monitoring, evaluation and/or litigation counsel to nearly 100 institutional investors, including statewide public employee retirement systems in more than 16 states, 18 public funds with more than \$50 billion in assets, six of the 10 largest public pension plans in the country and 11 of the

⁴ Cornerstone Research, *Securities Class Action Filings: 2011 Year in Review* (2012), at p. 23, available at <http://securities.stanford.edu/research-reports/1996-2011/Cornerstone-Research-Securities-Class-Action-Filings-2011-YIR.pdf>.

⁵ *Top 100 U.S. Class Action Settlements of All Time as of December 31, 2021*, pp. 13, 18 (ISS SCAS 2022), <http://www.bermantabacco.com/wp-content/uploads/2022/01/SCAS-Top-100-US-Settlements-of-All-Time-as-of-2021-12-31.pdf>.

⁶ ISS's report "lists the top 50 plaintiffs' law firms ranked by the total dollar value of the final class action settlements occurring in 2015 in which the law firm served as lead or co-lead counsel." ISS Securities Class Action Services, *Top 50 for 2015*, at p. 4 (May 2016), <https://www.bermantabacco.com/wp-content/uploads/2018/05/scastop502015.pdf>.

⁷ Firm data reflects dismissal rates through present. Overall dismissal rates come from *Securities Class Action Filings: 2021 Year in Review*, pp. 18, 31 (Cornerstone Research 2022), <https://www.cornerstone.com/wp-content/uploads/2022/02/Securities-Class-Action-Filings-2021-Year-in-Review.pdf>.

largest 20.⁸ For many institutional investors, the firm's services include electronically monitoring the client's portfolio for losses due to securities fraud in U.S. securities cases.

The firm provides portfolio monitoring, case evaluation and litigation services to its institutional clients, including the litigation of class and individual claims pursuant to U.S. federal and state securities laws, as well as derivative cases pursuant to state law. The firm also offers institutional investors legal services in other areas, including (a) representing institutional investors in general commercial litigation; (b) representing institutional investors in their capacity as defendants in constructive fraudulent transfer cases; (c) negotiating resolution of disputes with money managers and custodians; and (d) pursuing shareholder rights, such as books and records demands and merger and acquisition cases.

RESULTS

SECURITIES SETTLEMENTS

Examples of the firm's settlements include:

Carlson v. Xerox Corp., No. 00-cv-1621 (D. Conn.). Representing the Louisiana State Employees' Retirement System as co-lead counsel, Berman Tabacco negotiated a \$750 million settlement to resolve claims of securities fraud against Xerox, certain top officers and its auditor KPMG LLP. When it received final court approval in January 2009, the recovery was the 10th largest securities class action settlement of all time. The judge praised plaintiffs' counsel for obtaining "a very large settlement" despite vigorous opposition in a case complicated by an alleged fraud that "involved multiple accounting standards that touched on numerous aspects of a multinational corporation's business, implicated operating units around the world, and spanned five annual reporting periods. ... [and] the rudiments of the accounting principles at issue in the case were complex, as were numerous other aspects of the case. ... The class received high-quality legal representation and obtained a very large settlement in the face of vigorous opposition by highly experienced and skilled defense counsel."

In re IndyMac Mortgage-Backed Litigation, No. 09-cv-4583 (S.D.N.Y.). Representing the Wyoming State Treasurer's Office and the Wyoming Retirement System as lead plaintiffs, Berman Tabacco achieved settlements totaling \$346 million in a case regarding the securitization and sale of mortgage-backed securities ("MBS") by IndyMac Bank and related entities. In February 2015, the court approved a \$340 million settlement with six underwriters of IndyMac MBS offerings, adding to a previous \$6 million partial settlement and making the total recovery one of the largest MBS class action settlements to date. This settlement is extraordinary, not only because of its size but also because \$340 million of the settlement amount was paid entirely by underwriters who had due diligence defenses. In most other MBS cases, by contrast, plaintiffs were able to recover the settlement fund monies from the issuing entities, who are held to

⁸ Based on a January 2020 query of the Standard & Poor's *Money Market Directories*, www.mmdwebaccess.com, whereby public pension funds were ranked according to defined benefit assets under management. Actual valuation dates vary.

a strict liability standard for which there is no due diligence defense. (The issuer in this action, IndyMac Bank, is no longer in existence.)

In re Bristol-Myers Squibb Securities Litigation, No. 02-cv-2251 (S.D.N.Y.). Berman Tabacco represented the Fresno County Employees' Retirement Association and Louisiana State Employees' Retirement System as co-lead plaintiffs and negotiated a settlement of \$300 million in July 2004. At that time, the settlement was the largest by a drug company in a U.S. securities fraud case.

In re The Bear Stearns Cos. Inc. Securities, Derivative and ERISA Litigation, Master File No. 08-MDL No. 1963/08 Civ. 2793 (S.D.N.Y.). Berman Tabacco acted as co-lead counsel for court-appointed lead plaintiff the State of Michigan Retirement Systems in this case arising from investment losses suffered in the Bear Stearns Companies' 2008 collapse. The firm negotiated \$294.9 million in settlements, comprised of \$275 million from Bear Stearns and \$19.9 million from auditor Deloitte & Touche LLP. The settlement received final approval November 9, 2012. At the time, the settlement for \$294.9 million represented one of the 40 largest securities class action settlements under the PSLRA. This is particularly significant in light of the fact that no government entity had pursued actions or claims against Bear Stearns or its former officers and directors related to the same conduct complained of in the firm's action.

In re El Paso Securities Litigation, No. H-02-2717 (S.D. Tex.). Representing the Oklahoma Firefighters Pension and Retirement System as co-lead plaintiff, Berman Tabacco helped negotiate a settlement totaling \$285 million, including \$12 million from auditors PricewaterhouseCoopers. The court granted final approval of the settlement in March 2007.

California Public Employees' Retirement System v. Moody's Corp., No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.). As sole counsel representing the California Public Employees' Retirement System (CalPERS), the firm obtained a combined \$255 million settlement with the credit rating agencies Moody's and Standard & Poor's to settle CalPERS' claim that "Aaa" ratings on three structured investment vehicles were negligent misrepresentations under California law. In addition to achieving a substantial recovery for investment losses, this case was groundbreaking in that (a) the settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages, and (b) it resulted in a published appellate court opinion finding that rating agencies can, in certain circumstances, be liable for negligent misrepresentations under California law for their ratings of privately-placed securities.

In re Centennial Technologies Securities Litigation, No. 97-cv-10304 (D. Mass.). Berman Tabacco served as sole lead counsel in a class action involving a massive accounting scandal that shot down the company's high-flying stock. Berman Tabacco negotiated a settlement that permitted a turnaround of the company and provided a substantial recovery for class members. The firm negotiated changes in corporate practice, including strengthening internal financial controls and obtaining 37% of the company's stock for the class. The firm also recovered \$20 million from Coopers & Lybrand, Centennial's auditor at the time. In addition, the firm recovered \$2.1 million from defendants Jay Alix & Associates and Lawrence J. Ramaekers for a total recovery of more than \$35 million for the class. The firm subsequently obtained a \$207 million judgment against former Centennial CEO Emanuel Pinez.

In re Digital Lightwave Securities Litigation, No. 98-152-cv-T-24C (M.D. Fla.). As co-lead counsel, Berman Tabacco negotiated a settlement that included changing company management and strengthening the company's internal financial controls. The class received 1.8 million shares of freely tradable common stock

that traded at just below \$4 per share when the court approved the settlement. At the time the shares were distributed to the members of the class, the stock traded at approximately \$100 per share and class members received more than 200% of their losses after the payment of attorneys' fees and expenses. The total value of the settlement, at the time of distribution, was almost \$200 million.

In re Lernout & Hauspie Securities Litigation, No. 00-11589 (D. Mass.), and *Quaak v. Dexia, S.A.*, No. 03-11566 (D. Mass.). In December 2004, as co-lead counsel, Berman Tabacco negotiated what was then the third-largest settlement ever paid by accounting firms in a securities class action – a \$115 million agreement with the U.S. and Belgian affiliates of KPMG International. The case stemmed from KPMG's work for Lernout & Hauspie Speech Products, a software company driven into bankruptcy by a massive fraud. In March 2005, the firm reached an additional settlement worth \$5.27 million with certain of Lernout & Hauspie's former top officers and directors. In the related *Quaak* case, the firm negotiated a \$60 million settlement with Dexia Bank Belgium to settle claims stemming from the bank's alleged role in the fraudulent scheme at Lernout & Hauspie. The court granted final approval of the Dexia settlement in June 2007, bringing the total settlement value to more than \$180 million.

In re BP PLC Securities Litigation, No. 10-md-2185 (S.D. Tex.). The firm was co-lead counsel representing co-lead plaintiff Ohio Public Employees Retirement System. Lead plaintiffs reached a \$175 million settlement to resolve claims brought on behalf of a class of investors who purchased BP's American Depositary Shares ("ADS") between April 26, 2010 and May 28, 2010. The action alleged that BP and two of its former officers made false and misleading statements regarding the severity of the Gulf of Mexico oil spill. More specifically, plaintiffs alleged that BP misrepresented that its best estimate of the oil spill flow rate was from 1,000 to 5,000 barrels of oil per day, when internal BP estimates showed substantially higher potential flow rates. On February 13, 2017, the court granted final approval of the settlement, ending more than six years of hard fought litigation that included extensive fact and expert discovery, multiple rounds of briefing on defendants' motions to dismiss, two rounds of briefing on class certification, a successful defense of BP's appeal of the district court's class certification decision and briefing on cross-motions for summary judgment. This settlement reportedly represents one of only four mega securities class action settlements (settlements of \$100 million or more) in 2017. See *Securities Class Action Settlements—2017 Review and Analysis*, p. 4 (Cornerstone Research 2018), <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Settlements-2017-Review-and-Analysis>. It was also listed as the highest valued settlement during the first half of 2017 by ISS Securities Class Action Services. See ISS Securities Class Action Services, *Top 100 U.S. Class Action Settlements of All Time as of Dec. 31, 2017* (2018), p. 2, available at <https://www.bermantabacco.com/wp-content/uploads/2018/03/SCAS-Top-100-Settlements-of-All-Time-2017-12-31.pdf>.

In re Fannie Mae 2008 Securities Litigation, No. 08-cv-7831 (S.D.N.Y.). As co-lead counsel representing the Massachusetts Pension Reserves Investment Management Board, a co-lead plaintiff for the common stock class, Berman Tabacco helped negotiate a \$170 million settlement with Fannie Mae. To achieve the settlement, which was approved in March 2015, plaintiffs had to overcome the challenges posed by the federal government's placement of Fannie Mae into conservatorship and by the Second Circuit's upholding of dismissal of similar claims against Freddie Mac, Fannie Mae's sibling Government-Sponsored Enterprise.

In re Symbol Technologies, Inc. Securities Litigation, No. 2:02-cv-01383 (E.D.N.Y.). Berman Tabacco represented the Louisiana Municipal Police Employees' Retirement System as co-lead plaintiff, obtaining a \$139 million partial settlement in June 2004. Subsequently, Symbol's former auditor, Deloitte & Touche

LLP, agreed to pay \$24 million, bringing the total settlement to \$163 million. The court granted final approval in September 2006.

In re Prison Realty Securities Litigation, No. 3:99-cv-0452 (M.D. Tenn.) (*In re Old CCA Securities Litigation*, No. 3:99-cv-0458). The firm represented the former shareholders of Corrections Corporation of America, which merged with another company to form Prison Realty Trust, Inc. The action charged that the registration statement issued in connection with the merger contained untrue statements. Overcoming arguments that the class' claims of securities fraud were released in prior litigation involving the merger, the firm successfully defeated the motions to dismiss. It subsequently negotiated a global settlement of approximately \$120 million in cash and stock for this case and other related litigation.

Oracle Cases, Coordination Proceeding, Special Title (Rule 1550(b)) No. 4180 (Cal. Super. Ct. San Mateo Cty.). In this coordinated derivative action, Oracle Corporation shareholders alleged that the company's Chief Executive Officer, Lawrence J. Ellison, profited from illegal insider trading. Acting as co-lead counsel, the firm reached a settlement, pursuant to which Mr. Ellison would personally make charitable donations of \$100 million over five years in Oracle's name to an institution or charity approved by the company and pay \$22 million in attorneys' fees and expenses associated with the prosecution of the case. The innovative agreement, approved by a judge in December 2005, benefited Oracle through increased goodwill and brand recognition, while minimizing concerns that would have been raised by a payment from Mr. Ellison to the company, given his significant ownership stake. The lawsuit resulted in important changes to Oracle's internal trading policies that decrease the chances that an insider will be able to trade in possession of material, non-public information.

In re International Rectifier Securities Litigation, No. 07-cv-2544 (C.D. Cal.). As co-lead counsel representing the Massachusetts Laborers' Pension Fund, the firm negotiated a \$90 million settlement with International Rectifier Corporation and certain top officers and directors. The case alleged that the company engaged in numerous accounting improprieties to inflate its financial results. The court granted final approval of the settlement in February 2010. At the settlement approval hearing, the Honorable John F. Walter, the presiding judge, praised counsel, stating: "I think the work by the lawyers – all the lawyers in this case – was excellent. ... In this case, the papers were excellent. So it makes our job easier and, quite frankly, more interesting when I have lawyers with the skill of the lawyers that are present in the courtroom today who have worked on this case ... the motion practice in this case was, quite frankly, very intellectually challenging and well done. ... I've presided over this consolidated action since its commencement and have nothing but the highest respect for the professionalism of the attorneys involved in this case. ... The fact that plaintiffs' counsel were able to successfully prosecute this action against such formidable opponents is an impressive feat."

In re State Street Bank & Trust Co. ERISA Litigation, No. 07-cv-8488 (S.D.N.Y.). The firm acted as co-lead counsel in this consolidated class action case, which alleged that defendant State Street Bank and Trust Company and its affiliate, State Street Global Advisors, Inc., (collectively, "State Street") breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") by failing to prudently manage the assets of ERISA plans invested in State Street fixed income funds during 2007. After well over a year of litigation, during which Berman Tabacco and its co-counsel reviewed approximately 13 million pages of documents and took more than 30 depositions, the parties negotiated an all-cash \$89.75 million settlement, which received final approval in 2010.

In re Philip Services Corp. Securities Litigation, No. 98-cv-0835 (S.D.N.Y.). As co-lead counsel, Berman Tabacco negotiated settlements totaling \$79.75 million with the bankrupt company's former auditors, top officers, directors and underwriters. The case alleged that Philip Services and its top officers and directors made false and misleading statements regarding the company's publicly reported revenues, earnings, assets and liabilities. The district court initially dismissed the claims on grounds of *forum non conveniens*, but the firm successfully obtained a reversal by the United States Court of Appeals for the Second Circuit. The court granted final approval of the settlements in March 2007.

In re Reliant Securities Litigation, No. 02-cv-1810 (S.D. Tex.). As lead counsel representing the Louisiana Municipal Police Employees' Retirement System, the firm negotiated a \$75 million cash settlement from the company and Deloitte & Touche LLP. The settlement received final approval in January 2006.

In re KLA-Tencor Corp. Securities Litigation, No. 06-cv-04065 (N.D. Cal.). Representing co-lead plaintiff Louisiana Municipal Police Employees' Retirement System, Berman Tabacco negotiated a \$65 million agreement to settle claims that KLA-Tencor illegally backdated stock option grants, issued false and misleading statements regarding grants to key executives and inflated the company's financial results by understating expenses associated with the backdated options. The court granted final approval of the settlement in 2008. At the conclusion of the case, Judge Charles R. Breyer praised plaintiffs' counsel for "working very hard" in exchange for an "extraordinarily reasonable" fee, stating: "I appreciate the fact that you've done an outstanding job, and you've been entirely reasonable in what you've done. Congratulations for working very hard on this."

City of Brockton Retirement System v. Avon Products Inc., No. 11-cv-04665 (S.D.N.Y.). As a member of the executive committee representing named plaintiffs City of Brockton Retirement System and Louisiana Municipal Police Employees' Retirement System, the firm negotiated a \$62 million settlement. The action alleged that Avon Products, Inc. violated federal securities laws by failing to disclose to investors the size and scope of the Company's violations of the Foreign Corrupt Practices Act of 1977 ("FCPA"). In response to Avon's piecemeal disclosures over the course of more than a year, which ultimately revealed the true extent of the FCPA violations, the company's stock lost nearly 20% of its pre-disclosure value. This case was one of the very few successful securities cases premised on FCPA violations.

Ehrenreich v. Witter, No. 95-cv-6637 (S.D. Fla.). The firm was co-lead counsel in this case involving Sensormatic Electronics Corp., which resulted in a settlement of \$53.5 million. When it was approved in 1998, the settlement was one of the largest class action settlements in the state of Florida.

In re Thomas & Betts Securities Litigation, No. 2:00-cv-2127 (W.D. Tenn.). The firm served as co-lead counsel in this class action, which settled for more than \$51 million in 2004. Plaintiffs had accused the company and other defendants of issuing false and misleading financial statements for 1996, 1997, 1998, 1999 and the first two quarters of 2000.

In re Enterasys Networks, Inc. Securities Litigation, No. C-02-071-M (D.N.H.). Berman Tabacco acted as sole lead counsel in a case against Enterasys Networks, Inc., in which the Los Angeles County Employees Retirement Association was lead plaintiff. The company settled in October 2003 for \$17 million in cash, stock valued at \$33 million and major corporate governance improvements that opened the computer networking company to greater public scrutiny. Changes included requiring the company to back a proposal to eliminate its staggered board of directors, allowing certain large shareholders to propose candidates to

the board and expanding the company's annual proxy disclosures. The settlement received final court approval in December 2003.

Giarraputo v. UNUMProvident Corp., No. 2:99-cv-00301 (D. Me.). As a member of the executive committee representing plaintiffs, Berman Tabacco secured a \$45 million settlement in a lawsuit stemming from the 1999 merger that created UNUMProvident. Shareholders of both predecessor companies accused the insurer of misleading the public about its business condition before the merger. The settlement received final approval in June 2002.

In re General Electric Co. Securities Litigation, No. 09 Civ. 1951 (S.D.N.Y.). The firm served as Lead Counsel on behalf of the State Universities Retirement System of Illinois in a lawsuit against General Electric Co. and certain of its officers. A settlement in the amount of \$40 million was reached with all the parties. The court approved the settlement on September 6, 2013.

In re UCAR International, Inc. Securities Litigation, No. 98-cv-0600 (D. Conn.). The firm represented the Florida State Board of Administration as the lead plaintiff in a securities claim arising from an accounting restatement. The case settled for \$40 million cash and the requirement that UCAR appoint an independent director to its board of directors. The settlement was approved in 2000.

In re American Home Mortgage Securities Litigation, No. 07-MD-1898 (E.D.N.Y.). As co-lead counsel representing the Oklahoma Police Pension & Retirement System, the firm negotiated a \$37.25 million settlement – including \$4.75 million from auditors Deloitte & Touche and \$8.5 million from underwriters – despite the difficulties American Home's bankruptcy posed to asset recovery. The plaintiffs contended that American Home had failed to write down the value of certain loans in its portfolio, which declined substantially in value as the credit markets unraveled. The settlement received final approval in 2010 and was distributed in 2011.

In re Avant, Securities Litigation, No. 96-cv-20132 (N.D. Cal.). Avant!, a software company, was charged with securities fraud in connection with its alleged theft of a competitor's software code, which Avant! incorporated into its flagship software product. Serving as lead counsel, the firm recovered \$35 million for the class. The recovery resulted in eligible class claimants receiving almost 50% of their losses after attorneys' fees and expenses.

In re SmartForce PLC d/b/a SkillSoft Securities Litigation, No. 02-cv-544 (D.N.H.). Representing the Teachers' Retirement System of Louisiana as co-lead plaintiff, Berman Tabacco negotiated a \$30.5 million partial settlement with SkillSoft. Subsequently, the firm also negotiated an \$8 million cash settlement with Ernst & Young Chartered Accountants and Ernst & Young LLP, SkillSoft's auditors at the time. The settlements received final approval in September 2004 and November 2005, respectively.

In re Sykes Enterprises, Inc. Securities Litigation, No. 8:00-cv-212-T-26F (M.D. Fla.). The firm represented the Florida State Board of Administration as co-lead plaintiff. Sykes Enterprises was accused of using improper means to match the company's earnings with Wall Street's expectations. The firm negotiated a \$30 million settlement.

In re Valence Securities Litigation, No. 95-cv-20459 (N.D. Cal.). Berman Tabacco served as co-lead counsel in this action against a Silicon Valley-based company for overstating its performance and the

development of an allegedly revolutionary battery technology. After the Ninth Circuit reversed the district court's decision to grant summary judgment in favor of defendants, the case settled for \$30 million in Valence common stock.

In re Sybase II, Securities Litigation, No. 98-cv-0252-CAL (N.D. Cal.). Sybase was charged with inflating its quarterly financial results by improperly recognizing revenue at its wholly owned subsidiary in Japan. Acting as co-lead counsel, the firm obtained a \$28.5 million settlement.

In re Force Protection Inc. Securities Litigation, No. 08-cv-845 (D.S.C.). As co-lead counsel representing the Laborers' Annuity and Benefit System of Chicago, the firm negotiated a \$24 million settlement in a securities class action against armored vehicle manufacturer Force Protection, Inc. The settlement addressed the claims of shareholders who accused the company and its top officers of making false and misleading statements regarding financial results, failing to maintain effective internal controls over financial reporting and failing to comply with government contracting standards.

In re Zynga Inc. Securities Litigation, No. 12-cv-04007 (N.D. Cal.). As co-lead counsel, the firm negotiated a \$23 million recovery to settle claims against the company and certain of its officers. The case alleged that the company and its highest-level officers falsely touted accelerated bookings and aggressive growth through 2012, while concealing crucial information that Zynga was experiencing significant declines in bookings for its games and upcoming Facebook platform changes that would negatively impact Zynga's bookings. Then, while Zynga's stock was trading at near a class-period high, defendants obtained an early release from the IPO lock-up on their shares to enable them and a few other insiders to reap over \$593 million in proceeds in a secondary offering of personally held shares. The secondary offering was timed just three months before Zynga announced its dismal Q2 2012 earnings at the end of the class period, which caused Zynga's stock to plummet. The court granted final approval of the settlement in February 2016.

In re ICG Communications Inc. Securities Litigation, No. 00-cv-1864 (D. Colo.). As co-lead counsel representing the Strategic Marketing Analysis Fund, the firm negotiated an \$18 million settlement with ICG Communications Inc. The case alleged that ICG executives misled investors and misrepresented growth, revenues and network capabilities. The court granted final approval of the settlement in January 2007.

In re Critical Path, Inc. Securities Litigation, No. 01-cv-0551 (N.D. Cal.). The firm negotiated a \$17.5 million recovery to settle claims of accounting improprieties at a California software development company. Representing the Florida State Board of Administration, the firm was able to obtain this recovery despite difficulties arising from the fact that Critical Path teetered on the edge of bankruptcy. The settlement was approved in June 2002.

Koch v. Healthcare Services Group, Inc., et al., No. 2:19-cv-01227-ER (E.D. Pa.). As lead counsel representing the Utah Retirement Systems in a class action brought on behalf of investors in Healthcare Services Group, Inc., one of the largest providers of housekeeping and laundry services to hospitals and other healthcare service organization, the firm negotiated a \$16.8 million settlement. The Court granted final approval of the settlement on January 12, 2022.

In re Sunrise Senior Living, Inc. Securities Litigation, No. 07-cv-00102 (D.D.C.). A federal judge granted final approval of a \$13.5 million settlement between Oklahoma Firefighters Pension and Retirement System, represented by Berman Tabacco, and Sunrise Senior Living Inc.

Hallet v. Li & Fung, Ltd., No. 95-cv-08917 (S.D.N.Y.). Cyrk Inc. was charged with misrepresenting its financial results and failing to disclose that its largest customer was ending its relationship with the company. In 1998, Berman Tabacco successfully recovered more than \$13 million for defrauded investors.

In re Warnaco Group, Inc. Securities Litigation, No. 00-cv-6266 (S.D.N.Y.). Representing the Fresno County Employees' Retirement Association as co-lead plaintiff, the firm negotiated a \$12.85 million settlement with several current and former top officers of the company.

Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc., et al., No. 2:20-cv-10490 (E.D. Mich.). As lead counsel representing sole Lead Plaintiff Oklahoma Police Pension and Retirement System in this securities fraud class action lawsuit against Sterling Bancorp, Inc., certain of its current and former officers and directors, and the underwriters for the Company's initial public offering, the firm negotiated a settlement of all claims in exchange for \$12.5 million, which was approved by the court on September 23, 2021.

Gelfer v. Pegasystems, Inc., No. 98-cv-12527 (D. Mass.). As co-lead counsel, Berman Tabacco negotiated a settlement valued at \$12.5 million, \$4.5 million in cash and \$7.5 million in shares of the company's stock or cash, at the company's option.

Sand Point Partners, L.P. v. Pediatrix Medical Group, Inc., No. 99-cv-6181 (S.D. Fla.). Berman Tabacco represented the Florida State Board of Administration, which was appointed co-lead plaintiff along with several other public pension funds. The complaint accused Pediatrix of Medicaid billing fraud, claiming that the company illegally increased revenue and profit margins by improperly coding treatment rendered. The case settled for \$12 million on the eve of trial in 2002.

In re Molten Metal Technology Inc. Securities Litigation, No. 1:97-cv-10325 (D. Mass.), and *Axler v. Scientific Ecology Group, Inc.*, No. 1:98-cv-10161 (D. Mass.). As co-lead counsel, Berman Tabacco played a key role in settling the actions after Molten Metal and several affiliates filed a petition for bankruptcy reorganization in Massachusetts. The individual defendants and the insurance carriers in Molten Metal agreed to settle for \$11.91 million. After the bankruptcy, a trustee objected to the use of insurance proceeds for the settlement. The parties agreed to pay the trustee \$1.325 million of the Molten Metal settlement. The parties also agreed to settle claims against Scientific Ecology Group for \$1.25 million, giving Molten Metal's investors \$11.835 million.

In re CHS Electronics, Inc. Securities Litigation, No. 99-8186-CIV (S.D. Fla.). The firm helped obtain an \$11.5 million settlement for co-lead plaintiff Warburg, Dillon, Read, LLC (now UBS Warburg).

In re Summit Technology Securities Litigation, No. 96-cv-11589 (D. Mass.). Berman Tabacco, as co-lead counsel, negotiated a \$10 million settlement for the benefit of the class.

In re Exide Corp. Securities Litigation, No. 98-cv-60061 (E.D. Mich.). Exide was charged with having altered its inventory accounting system to artificially inflate profits by reselling used, outdated or unsuitable batteries as new ones. As co-lead counsel for the class, Berman Tabacco recovered more than \$10 million in cash for class members.

In re Fidelity/Micron Securities Litigation, No. 95-cv-12676 (D. Mass.). The firm recovered \$10 million in cash for Micron investors after a Fidelity Fund manager touted Micron while secretly selling the stock.

In re Par Pharmaceutical Securities Litigation, No. 06-cv-03226 (D.N.J.). As counsel for court-appointed plaintiff, the Louisiana Municipal Police Employees' Retirement System, Berman Tabacco obtained an \$8.1 million settlement from the company and its former CEO and CFO, which the court approved in January 2013. The case alleged that the company had misled investors about its accounting practices, including overstatement of revenues.

In re Interspeed, Inc. Securities Litigation, No. 00-cv-12090-EFH (D. Mass.). Berman Tabacco served as co-lead counsel and negotiated a \$7.5 million settlement on behalf of the class. The settlement was reached in an early stage of the proceedings, largely as a result of the financial condition of Interspeed and the need to salvage a recovery from its available assets and insurance.

In re Aqua Metals, Inc. Securities Litigation, No. 4:17-CV-07142-HSG (N.D. Cal.). Berman Tabacco served as co-lead counsel for court-appointed lead plaintiff Plymouth County Retirement Association and negotiated a \$7 million settlement on behalf of the class. The court granted final approval of the settlement on March 2, 2022.

In re Abercrombie & Fitch Co. Securities Litigation, No. M21-83 (S.D.N.Y.). As a member of the executive committee in this case, the firm recovered more than \$6 million on behalf of investors. The case alleged that the clothing company misled investors with respect to declining sales, which affected the company's financial condition. The court granted final approval of the settlement in January 2007.

In re Digital Domain Media Group, Inc. Securities Litigation, No. 12-14333-CIV (S.D. Fla.). As co-lead counsel, Berman Tabacco obtained a \$5.5 million settlement on behalf investors of Digital Domain Media Group, Inc. ("DDMG") that was approved by both bankruptcy court and the Southern District of Florida. The lead plaintiffs alleged that DDMG, a digital production company that was forced to file for bankruptcy in September 2012, less than 10 months after its initial public offering ("IPO"), misled investors in documents filed with the U.S. Securities and Exchange Commission as part of the IPO and in other statements made throughout the class period. Among other things, the lawsuit alleged that the defendants misled the public about DDMG's ability to raise capital and fund its operations, falsely reassuring investors about the company's ability to meet operating expenses while it "burned" cash at a rate that threatened its viability. In fact, according to a September 18, 2012 article in the Palm Beach Post, DDMG had difficulties meeting payroll as far back as 2010. According to the same article, then-Chairman and CEO John C. Textor "himself predicted a 'train wreck' in an email to an investor in early 2010."

In re WorldCom, Inc. Securities Litigation, No. 02-cv-3288 (S.D.N.Y.). As counsel to court-appointed bondholder representatives, the County of Fresno, California and the Fresno County Employees' Retirement Association, Berman Tabacco helped a team of lawyers representing the lead plaintiff, the New York State Common Retirement Fund, obtain settlements worth more than \$6.13 billion.

Daccache, et al. v. Raymond James Financial, Inc., et al., No. 16-cv-21575 (S.D. Fla); *Shaw et al. v. Raymond James Financial, Inc., et al.*, No. 5:16-cv-00129-GWC (D. Vt. May 17, 2016). Berman Tabacco served on the Plaintiffs' Steering Committee in this RICO class action brought on behalf of investors in limited partnerships associated with the Jay Peak ski resort in Vermont. Plaintiffs, foreign nationals whose investments were made through the federal "EB-5 Immigrant Investor Program," alleged that over \$200

million in investor funds were misappropriated and/or otherwise misused in an elaborate, Ponzi-like scheme. Defendants' scheme was revealed in April 2016, when the SEC announced multiple securities fraud charges and an asset freeze against Jay Peak and related business entities, the resort's Florida-based owner and the resort's principal officer. Plaintiffs alleged that those individuals and entities, as well as certain financial institutions and their employees, devised and executed a complex money laundering scheme wherein investor funds were improperly transferred from escrow accounts to investment accounts that were controlled by Jay Peak's owner and used for purposes other than those specified in the limited partnership documents. Among other things, plaintiffs alleged the improper commingling of investor funds and the misappropriation of more than \$50 million in investor funds by Jay Peak's owner for his personal use. Plaintiffs sought recovery under Florida's RICO Act and also asserted claims for common law fraud, breach of fiduciary duty, negligence, civil conspiracy, and breach of contract. On April 13, 2017, Defendant Raymond James & Associates, Inc. agreed to a \$150 million settlement, which was approved on June 30, 2017.

ANTITRUST PRACTICE

Berman Tabacco has a national reputation for our work prosecuting antitrust class actions involving price-fixing, market allocation agreements, patent misuse, monopolization and group boycotts among other types of anticompetitive conduct. Representing clients ranging from Fortune 500 companies and public pension funds to individual consumers, the experienced senior attorneys in our Antitrust Practice Group have engineered substantial settlements and changed business practices of defendant companies, recovering more than \$1 billion for our clients overall.

Berman Tabacco has played a major role in the prosecution of numerous landmark antitrust cases. For example, the firm was lead counsel in the Toys "R" Us litigation, which developed the antitrust laws with respect to "hub and spoke" conspiracies and resulted in a \$56 million settlement. Berman Tabacco brought the first action centered on so-called "reverse payments" between a brand name drug maker and a generic drug maker, resulting in an \$80 million settlement from the drug makers, which had been accused of keeping a generic version of their blood pressure medication off the market.

The firm's victories for victims of antitrust violations have come at the trial court level and also through landmark appellate court victories, which have contributed to shaping private enforcement of antitrust law. For example, in the Cardizem CD case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action and obtained a pioneering ruling in the federal court of appeals regarding the "reverse payment" by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer's payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a *per se* unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

In the firm's case against diamond giant De Beers, the Third Circuit, sitting *en banc*, vacated an earlier panel decision and upheld the certification of a nationwide settlement class, removing the last obstacle to final approval of an historic \$295 million settlement. The Third Circuit's important decision provides a roadmap for obtaining settlement class certification in complex, nationwide class actions involving laws of numerous states.

In 2016, the firm won reversal of a grant of summary judgment for defendant automakers in a group boycott-conspiracy case involving the export of new motor vehicles from Canada to the U.S. The California Court of Appeal found that plaintiffs had presented evidence of “patently anticompetitive conduct” with evidence gathered in the pre-trial phase, which was powerful enough to go to a jury. The ruling is a rare example of an appellate court analyzing and reversing a trial court’s evidentiary rulings to find evidence of a conspiracy.

Today the firm currently represents clients in significant antitrust class actions around the country, including actively representing major public pension funds in prosecuting price-fixing in the financial derivatives and commodities markets in the Euribor and Yen LIBOR actions and the Foreign Currency Exchange Rate action.

While the majority of antitrust cases settle, our attorneys have experience taking antitrust class actions to trial. Because we represent only plaintiffs in antitrust matters, we do not have the conflicts of interest of other national law firms that represent both plaintiffs and defendants. Our experience also allows us to counsel medium and larger-sized corporations considering whether to participate as a class member or opt-out and pursue an individual strategy.

RESULTS

ANTITRUST SETTLEMENTS

Over the past nearly three decades, Berman Tabacco has actively prosecuted scores of complex antitrust cases that led to substantial settlements for its clients. These include:

In re NASDAQ Market-Makers Antitrust Litigation, No. 94-cv-3996 (S.D.N.Y.). The firm played a significant role in one of the largest antitrust settlements on record in a case that involved alleged price-fixing by more than 30 NASDAQ Market-Makers on about 6,000 NASDAQ-listed stocks over a four-year period. The settlement was valued at nearly \$1 billion.

In re Foreign Currency Conversion Fee Antitrust Litigation, MDL No. 1409 (S.D.N.Y.). Berman Tabacco, as head of discovery against defendant Citigroup Inc., played a key role in reaching a \$336 million settlement. The agreement settled claims that the defendants, which include the VISA, MasterCard and Diners Club networks and other leading bank members of the VISA and MasterCard networks, violated federal and state antitrust laws in connection with fees charged to U.S. cardholders for transactions effected in foreign currencies.

In re DRAM Antitrust Litigation, No. M:02-cv-01486 (N.D. Cal.). As liaison counsel, the firm actively participated in this multidistrict litigation, which ultimately resulted in significant settlements with some of the world’s leading manufacturers of Dynamic Random Access Memory (DRAM) chips. The defendant chip-makers allegedly conspired to fix prices of the DRAM memory chips sold in the United States during the class period. The negotiated settlements totaled nearly \$326 million.

Sullivan v. DB Investments, Inc., No. 04-02819 (D.N.J.). Berman Tabacco represented a class of diamond resellers, such as diamond jewelry stores, in this case alleging that the De Beers group of companies unlawfully monopolized the worldwide supply of diamonds in a scheme to overcharge resellers and

consumers. In May 2008, a federal judge approved the settlement, which included a cash payment to class members of \$295 million, an agreement by De Beers to submit to the jurisdiction of the United States court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future. This case is significant not only because of the large cash recovery but also because previous efforts to obtain jurisdiction over De Beers in both private and government actions had failed. On August 27, 2010, the United States Court of Appeals for the Third Circuit agreed to hear arguments over whether to uphold the district court's certification of the settlement class. By agreeing to schedule an *en banc* appeal before the full court, the Third Circuit vacated a July 13, 2010 ruling by a three-judge panel of the appeals court that, in a 2-to-1 decision, had ordered a remand of the case back to the district court, which may have required substantial adjustments to the original settlement. On February 23, 2011, the Third Circuit, sitting *en banc*, again heard oral argument from the parties. On December 20, 2011, the *en banc* Third Circuit handed down its decision affirming the district court in all respects.

In re Lithium Ion Batteries Antitrust Litigation, No. 13-md-2420-YGR (N.D. Cal.). As co-lead class counsel for Direct Purchaser Plaintiffs ("DPPs") in this multidistrict antitrust litigation, the firm achieved settlements totaling \$139.3 million. The litigation arose from an alleged worldwide conspiracy to fix prices of lithium-ion rechargeable batteries ("LiBs"). LiBs are components of LiB camcorders, digital cameras and laptop computers. The alleged conspiracy involved some of the largest companies in the world—Sony, Samsung SDI, Panasonic, Sanyo, LG Chem, Toshiba, Hitachi Maxell and NEC Corp. The lawsuit alleges that defendants participated in a conspiracy to fix the prices of LiBs, which affected the prices paid for the batteries and certain products in which the batteries are used. Plaintiffs successfully defeated multiple motions to dismiss involving complex issues of antitrust standing and the pleading of conspiracy allegations. Berman Tabacco and the team negotiated multiple settlements totaling \$139.3 million. The court granted final approval on May 16, 2018.

In re Sorbates Direct Purchaser Antitrust Litigation, No. C 98-4886 CAL (N.D. Cal.). The firm served as lead counsel alleging that six manufacturers of Sorbates, a food preservative, violated antitrust laws through participation in a worldwide conspiracy to fix prices and allocations to customers in the United States. The firm negotiated a partial settlement of \$82 million with four of the defendants in 2000. Following intensive pretrial litigation, the firm achieved a further \$14.5 million settlement with the two remaining defendants, Japanese manufacturers, in 2002. The total settlement achieved for the class was \$96.5 million.

In re Disposable Contact Lens Antitrust Litigation, MDL No. 1030 (M.D. Fla.). The firm acted as co-lead counsel and chief trial counsel. Representing both a national class and the State of Florida, the firm helped secure settlements from defendants Bausch & Lomb and the American Optometric Association before trial and from Johnson & Johnson after five weeks of trial. The settlements were valued at more than \$92 million and also included significant injunctive relief to make disposable contact lenses available at more discount outlets and more competitive prices.

In re Cardizem CD Antitrust Litigation, No. 99-01278 (E.D. Mich.). In another case involving generic drug competition, Berman Tabacco, as co-lead counsel, helped secure an \$80 million settlement from French-German drug maker Aventis Pharmaceuticals and the Andrx Corporation of Florida. The payment to consumers, state agencies and insurance companies settled claims that the companies conspired to prevent the marketing of a less expensive generic version of the blood pressure medication Cardizem CD. The state attorneys general of New York and Michigan joined the case in support of the class. The firm achieved a significant appellate victory in a first of its kind ruling that the brand name drugmaker's payment

of \$40 million per year for the generic company to delay bringing its generic version of blood-pressure medication Cardizem CD to market constituted an agreement not to compete that is a *per se* violation of the antitrust laws.

In re Toys "R" Us Antitrust Litigation, MDL No. 1211 (E.D.N.Y.). Berman Tabacco negotiated a \$56 million settlement to answer claims that the retailer violated laws by colluding to cut off or limit supplies of popular toys to stores that sold the products at lower prices. The case developed the antitrust laws with respect to a "hub and spoke" conspiracy, where a downstream power seller coerces upstream manufacturers to the detriment of consumers. One component of the settlement required Toys "R" Us to donate \$36 million worth of toys to needy children throughout the United States over a three-year period.

In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation, MDL No. 05-1671 (C.D. Cal.). Berman Tabacco, as co-lead counsel, negotiated a \$48 million settlement with Union Oil Company and Unocal. The agreement settled claims that the defendants manipulated the California gas market for summertime reformulated gasoline and increased prices for consumers. The noteworthy settlement delivered to consumers a combination of clean air benefits and funding for alternative fuel research.

In re Abbott Laboratories Norvir Antitrust Litigation, Nos. 04-1511, 04-4203 (N.D. Cal.). Berman Tabacco acted as co-lead counsel in a case on behalf of indirect purchasers alleging that the defendant pharmaceutical company engaged in an illegal leveraged monopoly in the sale of its AIDS boosting drug known as Norvir (or Ritanovir). Plaintiffs were successful through summary judgment, including the invalidation of two key patents based on prior art, but were reversed on appeal in the Ninth Circuit as to the leveraged monopoly theory. The case settled for \$10 million, which was distributed net of fees and costs on a *cy pres* basis to 10 different AIDS research and charity organizations throughout the United States.

Automotive Refinishing Paint Antitrust, J.C.C.P. No. 4199 (Cal. Super. Ct.). In this class action, indirect purchaser-plaintiffs brought suit in California State Court against five manufacturers of automotive refinishing coatings and chemicals alleging that they violated California law by unlawfully conspiring to fix paint prices. Settlements were reached with all defendants totaling \$9.4 million, 55% of which was allocated among an End-User Class consisting of consumers and distributed on a *cy pres*, or charitable, basis to thirty-nine court-approved organizations throughout California, and the remaining 45% of which was distributed directly to a Refinishing Class consisting principally of auto-body shops located throughout California.

CONSUMER PRACTICE

With almost 40 years of class action litigation experience, Berman Tabacco is committed to bringing justice to the victims of fraudulent and abusive practices. Over the years, the firm has prosecuted and obtained recoveries for consumers against various business such as banks, computer electronics and software companies, brokers and product manufacturers.

Most recently, Berman Tabacco is seeking to apply its extensive complex class action experience to fight against unlawful and predatory lending practices. Berman Tabacco currently serves as lead counsel in several class actions brought on behalf of individuals arguing that their need for short-term cash has been exploited by illegal online payday lending schemes. The cases allege that payday lenders issued loans in

the name of sham companies established by Native American tribes, including American Web Loan, Plain Green and Great Plains Lending, in a brazen attempt to dodge usury laws and charge unlawful triple-digit interest rates.

In addition to recovering monies for consumers, the firm has obtained ground-breaking decisions for the benefit of consumers, including in cases against Wells Fargo, Morgan Stanley and Kwikset.

RESULTS

CONSUMER SETTLEMENTS

Examples of the firm's settlements include:

In re Think Finance, LLC, et al., No. 17-33964-hdh11 (Bankr. N.D. Tex.). Berman Tabacco played a pivotal role in securing a partial settlement worth approximately \$56 million to date on behalf of consumers who took out unlawful, high-interest loans issued in the name of Native American-affiliated online lenders, Plain Green and Great Plains Lending. Plaintiffs allege that non-tribal entities and individuals, including a Texas-based payday lender called Think Finance, improperly attempted to use tribal sovereign immunity as a shield for their unlawful, triple-digit lending enterprise. The partial settlement represents a significant achievement given that the bulk of the recovery was secured through Chapter 11 bankruptcy proceedings that Think Finance initiated while litigation was pending against it, a step that typically leads to a substantially limited, if any, recovery for plaintiffs. Berman Tabacco continues to pursue claims against the non-settling defendants involved in the unlawful lending enterprise.

McLaughlin v. Wells Fargo Bank, N.A., d/b/a Wells Fargo Home Mortgage, No. 3:15-CV-02904 (N.D. Cal.). Berman Tabacco served as local counsel for a class of borrowers with mortgages held and serviced by Wells Fargo in an action alleging that the bank's payoff statements violated the Truth in Lending Act ("TILA") as they failed to disclose insurance claim funds. Plaintiffs achieved a precedent-setting opinion holding that TILA requires the bank to include insurance claim funds in its mortgage payoff statements. *See McLaughlin v Wells Fargo Bank NA*, No. 3:15-cv-02904-WHA, 2015 WL 10889993 (N.D. Cal. Oct. 29, 2015). The case settled for 88% of the total maximum statutory damages available under TILA. The settlement also requires Wells Fargo to disclose insurance claim funds on all of its payoff statements going forward.

Trabakoolas v. Watts Water Technologies, Inc., No. 4:12-Cv-01172-Ygr (N.D. Cal.). Berman Tabacco served on the plaintiffs' steering committee and served as liaison counsel for this successful product liability design defect class action involving toilet nut connectors. Plaintiffs alleged a toilet connector manufactured by Watts Water Technologies, Inc., which had been installed in approximately 25 percent of homes and commercial properties built in the U.S. since the year 2000, suffered from a design defect. This defect could result in water flowing into the home, potentially causing catastrophic water damage. The settlement provided a fund of \$23 million to reimburse class members who experienced property damage and to pay for replacement of toilet nut connectors for those with allegedly defective parts.

Roskind v. Morgan Stanley Dean Witter & Co., 80 Cal. App. 4th 345 (Cal. App. 1st Dist. 2000). Berman Tabacco obtained a landmark ruling from the California Court of Appeal, holding that federal law does not preempt investors from bringing unfair business practices claims under the Business & Professions Code of

California. Defendant brought this matter to the U.S. Supreme Court but the firm was successful in upholding this ruling. See *Roskind v. Morgan Stanley Dean Witter & Co.*, 2000 Cal. Lexis 6583 (Aug. 16, 2000) (petition for review denied); *Morgan Stanley Dean Witter & Co. v. Roskind*, 531 U.S. 1119 (2001) (writ of certiorari denied).

Carlin v. DairyAmerica, Inc., No. 1:09-cv-00430 (E.D. Cal.). Berman Tabacco, as co-lead counsel, obtained a \$40 million on behalf of a class of dairy farmers who sold raw milk according to prices set by the federal government. Plaintiffs claimed that DairyAmerica, the nation's largest marketer of non-fat dry milk and a California-based milk processing firm, California Dairies, conspired to inflate their own profits at the expense of dairy farmers by misreporting critical data used by the government to set raw milk prices.

Kwikset Corp. v. Superior Court of Orange County; James Benson, Real Parties in Interest, No. S171845 (Cal.). Berman Tabacco represented three union clients as *amicus curiae* before the California Supreme Court in this consumer action alleging that Kwikset falsely labeled products as "Made in the USA." The California Supreme Court's ultimate opinion (*Kwikset Corp. v. Superior Court*, 51 Cal. 4th 310 (2011)), was highly favorable to consumers and became one of the leading opinions regarding standing under California's Unfair Competition Law.

LEADERSHIP ROLES

The firm currently acts as lead or co-lead counsel in high-profile securities, antitrust and consumer class actions and also represents investors in individual actions, ERISA cases and derivative cases.

The following is a representative list of active class action cases in which the firm serves as lead or co-lead counsel or as executive committee member.

- > *In re Inotiv, Inc. Securities Litigation*, No. 4:22-CV-045-PPS-JEM (N.D. Ind.). Lead counsel for court-appointed lead plaintiff Oklahoma Police Pension and Retirement System.
- > *Hayden, et al. v. Portola Pharmaceuticals, Inc., et al.*, No. 2:19-cv-01227-ER (E.D. Pa.). Lead counsel for court-appointed lead plaintiff Alameda County Employees' Retirement Association.
- > *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.). Lead counsel for court-appointed lead plaintiff Utah Retirement Systems.
- > *In re Apple Processor Litigation*, No. 18-cv-00147-EJD (N.D. Cal.). Co-lead counsel for a proposed nationwide class of purchasers of Apple devices, such as iPhones, iPads and Apple TVs.
- > *Teamsters Local 443 Health Services & Ins. Plan, et al. v. Chou (AmerisourceBergen Corp.)*, No. 2019-0816 (Del. Ch.). Counsel for San Antonio Fire & Police Pension Fund in derivative action involving AmerisourceBergen Corporation, which commenced by the issuance of a books and records demand, *San Antonio Fire & Police Pension Fund v. AmerisourceBergen Corp.*, C.A. No. 2018-0551 (Del. Ch.).
- > *In re UnitedHealth Section 220 Litigation*, C.A. No. 0681-TMR (Del. Ch.). Co-lead counsel representing plaintiff Amalgamated Bank.

- > *Oliver, et al. v. American Express Co., et al.*, No. 1:19-cv-00566-NGG-SMG (S.D.N.Y.). Co-Chairs of Plaintiffs' Executive Committee of interim class counsel in antitrust class action.
- > *Norfolk County Retirement System v. Smith (Sinclair Broadcast Group Derivative Action)*, No. 18-cv-03952 (D. Md.). Plaintiffs' Counsel representing Norfolk County Retirement System in this shareholder derivative action.
- > *Sullivan v. Barclays PLC*, No. 13-cv-2811 (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System.
- > *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.). Counsel for plaintiffs and represents California State Teachers' Retirement System and Oklahoma Police Pension and Retirement System.
- > *In re European Government Bonds Antitrust Litigation*, No. 19-cv-2601 (S.D.N.Y.). Interim Co-Lead Counsel and Counsel for plaintiff San Bernardino County Employees' Retirement Association.
- > *In re California Gasoline Spot Market Antitrust*, No. 3:20-cv-03131-JSC (N.D. Cal.). Chair of Plaintiffs' Executive Committee and counsel for plaintiffs.

TRIAL EXPERIENCE

The firm has significant experience taking class actions to trial. Over the years, Berman Tabacco's attorneys have tried cases against pharmaceutical companies in courtrooms in New York and Boston, a railroad conglomerate in Delaware, one of the nation's largest trustee banks in Philadelphia, a major food retailer in St. Louis and the top officers of a failed New England bank.

The firm has been involved in more trials than most of the firms in the plaintiffs' class action bar. Our partners' trial experience includes:

- > *In re PHC, Inc. Shareholder Litigation*, No. 1:11-cv-11049-PBS (D. Mass.). After two-week trial in 2017 in this breach of fiduciary class action, jury verdict for plaintiffs but no damage award. Following post-trial briefing, court exercised its equitable power and ordered \$3 million award by defendant.
- > *Conway v. Licata*, No. 13-12193 (D. Mass.). 2015 jury verdict for defendants (firm's client) after two-week trial on the vast majority of counts, awarding the plaintiffs a mere fraction of the damages sought. Jury also returned a verdict for defendants on one of their counterclaims.
- > *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.). This case settled for \$50 million after the jury was empaneled.
- > *White v. Heartland High-Yield Municipal Bond Fund*, No. 00-C-1388 (E.D. Wis.). Firm attorneys conducted three weeks of a jury trial against final defendant, PwC, before a settlement was reached for \$8.25 million. The total settlement amount was \$23.25 million.
- > *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.). Settled for \$60 million with defendant Johnson & Johnson after five weeks of trial.

- > *Gutman v. Howard Savings Bank*, No. 2:90-cv-02397 (D.N.J.). Jury verdict for plaintiffs after three weeks of trial in individual action. The firm also obtained a landmark opinion allowing investors to pursue common law fraud claims arising out of their decision to retain securities as opposed to purchasing new shares. See *Gutman v. Howard Savings Bank*, 748 F. Supp. 254 (D.N.J. 1990).
- > *Hurley v. Federal Deposit Insurance Corp.*, No. 88-cv-940 (D. Mass.). Bench verdict for plaintiffs.
- > *Levine v. Fenster*, No. 2-cv-895131 (D.N.J.). Plaintiffs' verdict of \$3 million following four-week trial.
- > *In re Equitec Securities Litigation*, No. 90-cv-2064 (N.D. Cal.). Parties reached a \$35 million settlement at the close of evidence following five-month trial.
- > *In re ICN/Viratek Securities Litigation*, No. 87-cv-4296 (S.D.N.Y.). Hung jury with 8-1 vote in favor of plaintiffs; the case eventually settled for over \$14.5 million.
- > *In re Biogen Securities Litigation*, No. 94-cv-12177 (D. Mass.). Verdict for defendants.
- > *Upp v. Mellon*, No. 91-5219 (E.D. Pa.). In this bench trial, tried through verdict in 1992, the court found for a class of trust beneficiaries in a suit against the trustee bank and ordered disgorgement of fees. The Third Circuit later reversed based on lack of jurisdiction.

OUR ATTORNEYS

Partners

DANIEL E. BARENBAUM



A partner in the firm's San Francisco office and member of the firm's Executive Committee, Daniel Barenbaum focuses his practice on securities litigation. Mr. Barenbaum was one of the lead attorneys representing the California Public Employees' Retirement System in the landmark case brought against the major credit rating agencies (Standard & Poor's and Moody's) in connection with the marketing of one of the largest, most complex structured-finance securities ever devised. The case settled for a total of \$255 million. He also represented co-lead plaintiff for the common stock class

Massachusetts Pension Reserves Investment Management Board in a case that settled for \$170 million against Fannie Mae; the complaint centered on misrepresentations regarding the amount of subprime and Alt-A on the company's books and the lack of adequate risk controls used and disclosed to manage those types of loans. Further, Mr. Barenbaum regularly represents institutional investor clients in matters involving multi-party issues/disputes and complex discovery (for documents, individual depositions, and institutional "person most knowledgeable" depositions of key executives), including matters where they stand to collect millions of dollars as potential beneficiaries of certain government agencies' investigations or civil actions.

Mr. Barenbaum is one of the lead partners for the team representing the sole Lead Plaintiff Alameda County Employees' Retirement Association in *Hayden v. Portola Pharmaceuticals Inc., et al.*, No. 3:20-cv-00367-VC (N.D. Cal.)—securities litigation brought on behalf of investors in Portola Pharmaceuticals, Inc., a biopharmaceutical company that develops and commercializes treatments for thrombosis and other hematologic diseases. Portola's primary product is Andexxa, a reversal drug for apixaban- and rivaroxaban-treated patients with life-threatening or uncontrolled bleeding. The action alleges that, between January 8, 2019 and February 26, 2020, defendants issued materially false and misleading statements related to the sales of Andexxa. Lead Plaintiff's complaint alleges violations of Sections 10(a) and 20(a) of the Securities Exchange Act of 1934, and Sections 11, 12(a)(2), and 15 of the Securities Act of 1933. The company is alleged to have made material misrepresentations and related omissions about (1) its compliance with GAAP, specifically as to recognizing revenue under ASC-606 and under-reserving for returns given that Portola's product Andexxa had a short-shelf-life and the company therefore offered a generous return policy on all expired product; and (2) customer demand and utilization of Andexxa for those that purchased it (e.g., hospital and hospital-system pharmacies), both as to depth (regularity of usage) and breadth (types of bleeds prescribed for). On January 20, 2022, the Court denied Defendants' motion to dismiss Lead Plaintiff's Third Amended Consolidated Class Action Complaint. In June 2022, after fully briefing the motion for class certification, the parties reached a settlement in the amount of \$17.5 million, which was preliminarily approved at the hearing on October 27, 2022. The final approval hearing is set for and the final approval hearing is set for March 2, 2023.

Mr. Barenbaum also regularly represents institutional investor clients in matters involving multi-party issues/disputes and complex discovery (for documents, individual depositions, and institutional "person

most knowledgeable” depositions of key executives), including matters where they stand to collect millions of dollars as potential beneficiaries of certain government agencies’ investigations or civil actions.

Mr. Barenbaum has been an integral member of the firm’s litigation teams, such as for *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), where the firm acted as co-lead counsel representing the Massachusetts Laborers’ Pension Fund for an alleged accounting fraud that originated at the company’s foreign subsidiary. Mr. Barenbaum was also a key member of the team that developed the firm’s individual-case strategy necessitated by the Supreme Court’s decision in *Morrison v. National Australia Bank, Ltd.*, 561 U.S. 247, 130 S. Ct. 2869 (2010), in *In re BP, p.l.c. Securities Litigation*, No. 10-md-2185 (S.D. Tex.). Mr. Barenbaum previously worked to prepare for trial *In re MetLife Demutualization Litigation*, No. 00-Civ-2258 (E.D.N.Y.) – a case before the Hon. Jack Weinstein that settled after the jury was empaneled.

Mr. Barenbaum was formerly an associate and partner at Lief, Cabraser, Heimann & Bernstein, LLP where he was a member of the securities practice group and actively litigated, among other cases, two state-court individual securities actions involving large-scale accounting fraud. The first was against McKesson HBOC, where the firm represented two Merrill Lynch mutual funds and that alleged state law claims; the case settled days before trial was to commence. The second involved Peregrine, where the firm represented individual directors whose company had been acquired by Peregrine and whose options and shares had been converted to Peregrine shares. Mr. Barenbaum worked on all facets of litigation in those cases, from dispositive motions to discovery to appeals to oral argument.

At Lief Cabraser, Mr. Barenbaum was a supervising partner on the firm’s Vioxx injury cases, where the firm had a leadership role in the large multidistrict litigation. In that role, Mr. Barenbaum oversaw service pursuant to the Hague Convention of hundreds of Vioxx complaints against foreign (U.K) defendants and also acted as the primary point of contact for all foreign co-counsel. Prior to that, Mr. Barenbaum was the lead associate on the Sulzer Hip Implant injury cases, where he oversaw the service of hundreds of Sulzer complaints against foreign defendants in several countries (including Switzerland).

Mr. Barenbaum has been ranked by *Benchmark Litigation* as a *California State Litigation Star* (2020-2023), *San Francisco Local Litigation Star* (2020-2023), and *Noted Star* (2020-2021) in *Plaintiff Work and Securities*. In 2020, *The Legal 500* reported a client’s praise for Mr. Barenbaum stating that he “is top-notch with superb attention to detail when drafting papers, arguing motions and negotiating.” He has also been selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine (2020-2022).

Mr. Barenbaum is the author of *Delineating Covered Class Actions Under SLUSA, Securities Litigation Report* (December-January 2005); co-author of *The Currency of Capitalism With a Social Conscience*, *Financier Worldwide Magazine* (June 2018); *Snap Judgment—S&P Dow Jones and FTSE Russell Indices Ensure That Investors Retain Voting Rights*, *Financier Worldwide Magazine* (October 2017); and *Class Certification of Medical Monitoring Claims in Mass Tort Product Liability Litigation* (Leader Publications, 1999); and Contributing Author to *California Class Actions Practice and Procedures* (Elizabeth J. Cabraser, Editor-in-Chief, 2003). Having successfully obtained his Series 7 and 66 licenses, he was previously registered with the U.S. Securities and Exchange Commission as both a broker-dealer representative and an investment advisor.

Mr. Barenbaum earned his J.D. and M.B.A. degrees from Emory University in 2000, where he received the business school award for *Most Outstanding Academic Accomplishment*. He obtained his B.A. in English from Tufts University in 1994. Mr. Barenbaum was Notes and Comments Editor for 1999-2000 for the Emory Bankruptcy Developments Journal.

Mr. Barenbaum is a member in good standing of the state bar of California, as well as the Northern, Central, Southern and Eastern Districts of California. He is also admitted to the Ninth Circuit of the U.S. Court of Appeals and has been admitted *pro hac vice* in federal and state courts around the country.

NORMAN BERMAN



In 1982, Norman Berman co-founded Berman Tabacco & Pease LLP, a predecessor to Berman Tabacco. He focuses his practice principally on complex securities and antitrust litigation. He also oversees and coordinates the firm's mergers and acquisitions litigation practice.

During the course of his career, Mr. Berman has litigated numerous cases to successful resolution, recovering many millions of dollars on behalf of defrauded investors. He was among the lead attorneys in the *In re Philip Services Corp. Securities Litigation*; *In re Force Protection Inc. Securities Litigation* and the *ICG Communications, Inc.* class actions. In the case against Philip Services, Mr. Berman assisted in recovering a \$79.75 million settlement in this alleged fraud at a Canadian company, which gave rise to issues of foreign discovery. Until recently, that settlement includes the largest recovery ever obtained from a Canadian auditor. In the class action against Force Protection, he assisted in securing a \$24 million settlement. In *ICG Communications*, he helped to successfully secure an \$18 million settlement. Co-lead plaintiffs in the case alleged that ICG executives misled investors and misrepresented ICG's growth, revenues and network capabilities throughout the class period.

Mr. Berman was also part of the team that achieved a \$750 million recovery in *Carlson v. Xerox Corp.*, in which the firm represented the Louisiana State Employees' Retirement System as co-lead counsel. Mr. Berman coordinated and conducted discovery, including a massive document review, in that international fraud class action. At the time, the recovery was the 10th largest securities class action settlement in history.

Mr. Berman has acted as trial counsel in a number of successful cases, including *Hurley v. Federal Deposit Insurance Corp.*, where the court entered an \$18 million judgment against the failed First Service Bank for Savings, and *ICN Securities Litigation*, which settled after trial for more than \$14.5 million in 1996. The trial team's work in *ICN* prompted positive judicial comment. Mr. Berman also acted as a senior member of the trial team in the case of *In re Biogen Securities Litigation* and as a member of the trial team in *In re Zila Inc. Securities Litigation*, which settled during trial preparation, *Poughkeepsie Savings Bank v. Morash* and other matters.

Prior to co-founding Berman DeValerio & Pease, LLP in 1982, Mr. Berman was associated with the Boston-based general practice firms Barron & Stadfeld, P.C. and Harold Brown & Associates.

Mr. Berman is AV Preeminent® rated by Martindale-Hubbell®, has been designated a Local Litigation Star in Securities by Benchmark Litigation in 2013-2015 and 2017-2023 and has been named a Super Lawyer by Massachusetts Super Lawyers Magazine in 2004-2006 and every year since 2009. He was also selected by Lawdragon for its 500 Leading Plaintiff Financial Lawyers guide (2019-2022), as featured in Lawdragon's The Plaintiff Issue magazine (2020-2022).

Mr. Berman is co-author of a chapter on expert testimony in a handbook on Massachusetts Evidence published by Massachusetts Continuing Legal Education.

Mr. Berman graduated from Boston University in 1970 and from Suffolk University Law School in 1974. While in law school, he was a member of the Public Defenders Group and, following law school, was an intern with the Massachusetts Defenders Committee.

Mr. Berman is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the state of Connecticut and is also admitted to practice before the U.S. Supreme Court, as well as the U.S. District Courts for the District of Arizona, the Northern District of California, the District of Colorado and the Eastern District of Wisconsin.

STEVEN J. BUTTACAVOLI



A partner in the firm's Boston office, Steven J. Buttacavoli focuses his practice on securities and RICO class action litigation.

At Berman Tabacco, Mr. Buttacavoli was among the partners who represented lead plaintiff Utah Retirement Systems in securities class action litigation, *Koch v. Healthcare Services Group, Inc., et al.*, No. 2:19-cv-01227-ER (E.D. Pa.). The case settled for \$16.8 million, which was approved by the court on January 12, 2022. He is also among the partners representing the lead plaintiff Oklahoma Police Pension and Retirement System in *In re Inotiv, Inc. Securities Litigation*, No. 4:22-CV-045-PPS-JEM (N.D. Ind.), a securities fraud class action lawsuit against Inotiv, Inc. and certain of its executive officers on behalf of all persons who acquired publicly traded Inotiv securities between September 21, 2021 and June 13, 2022, inclusive. Plaintiffs allege that defendants materially false and misleading statements and/or material omissions concerning the Company's business, operations, and regulatory compliance policies, specifically related to its acquisition of Envigo RMS, LLC ("Envigo") and the existence of widespread and flagrant violations of federal animal welfare regulations at an Envigo dog breeding facility located in Cumberland, Virginia that led the U.S. Department of Justice to take action to rescue more than 4,000 animals and shutter the facility.

Mr. Buttacavoli was one of the lead attorneys who managed day-to-day litigation activities on behalf of the Ohio Public Employees Retirement System, co-lead plaintiff in *In re BP p.l.c. Securities Litigation*. Mr. Buttacavoli assisted in drafting the amended complaint, drafting the opposition to defendants' motion to dismiss, drafting plaintiffs' motion for class certification, drafting summary judgment and *Daubert* briefs, and led fact and expert discovery efforts in this matter. The court granted final approval to a \$175 million settlement in BP class action in February 2017. Mr. Buttacavoli represented four Ohio pension funds in connection with the litigation and settlement of *Ohio Public Employees Retirement System, et al. v. BP plc*, No. 12-cv-1837 (S.D. Tex.), a separate, individual action filed against BP in connection with the funds'

purchase of BP ordinary shares on the London Stock Exchange. He also helped coordinate lead plaintiff's investigation and analysis of securities fraud claims against the General Electric Co., drafted the consolidated amended complaint in a class action against the company, drafted lead plaintiff's opposition to defendants' motions to dismiss and subsequent briefing with the court and conducted discovery in that matter, which settled for \$40 million in 2013. Mr. Buttacavoli also helped coordinate lead plaintiff's investigation and analysis of securities fraud claims against the former top executives of BankUnited, drafted the consolidated amended complaint and opposition to defendants' motions to dismiss and drafted materials prepared in connection with the mediation and settlement of *In re BankUnited Securities Litigation*. Mr. Buttacavoli also advises whistleblowers in connection with the reporting of potential securities violations to the U.S. Securities and Exchange Commission and has advised numerous clients regarding potential claims involving custodian banks' foreign currency exchange pricing practices. He represented whistleblowers in connection with the drafting and submission of an application for an SEC whistleblower award that resulted in an award of over \$50 million, which was the second-largest SEC whistleblower award at the time.

In addition to his securities litigation practice, Mr. Buttacavoli is a lead member of the Berman Tabacco team that pioneered the prosecution of nationwide federal RICO class actions against the operators and financial backers of allegedly unlawful online lending schemes that attempt to circumvent federal and state law through sham relationships with Native American tribes. These efforts resulted in significant settlements for the benefit of the victims of those schemes, including *Solomon, et al. v. American Web Loan, Inc., et al.*, No. 17-cv-145 (E.D. Va.) (which settled for a total value of over \$186 million, including \$86 million in cash, cancelation of over \$100 million in outstanding debt, and other non-monetary and injunctive relief) and *Gingras, et al. v. Victory Park Capital Advisors, LLC, et al.*, No. 17-cv-00233 (D. Vt.), *Gingras, et al. v. Rosette, et al.*, No. 15-cv-101 (D. Vt.), and *Granger, et al. v. Great Plains Lending, LLC, et al.*, No. 1:18-cv-00112 (M.D.N.C.) (which led to over \$47 million in settlements).

Prior to joining Berman Tabacco in 2009, Mr. Buttacavoli worked as an associate at major corporate law firms in Boston, where he defended securities class actions and U.S. Securities and Exchange Commission enforcement actions, conducted internal investigations, responded to criminal investigations by the United States Attorney's Office, and advised clients in connection with litigation risk analysis and mitigation strategies.

Mr. Buttacavoli was ranked as a *Super Lawyer* by *Massachusetts Super Lawyers Magazine* in 2021-2022.

Mr. Buttacavoli earned an A.B. in International Relations from the College of William & Mary and a Master of Public Policy degree from Georgetown University. In 2001, he earned his J.D., *magna cum laude*, from the Georgetown University Law Center, where he was a member of the Order of the Coif. Mr. Buttacavoli was also a Senior Articles and Notes Editor for the *American Criminal Law Review*.

Mr. Buttacavoli is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the United States Courts of Appeals for the First, Second, Third, Fourth, and Eleventh Circuits.

KATHLEEN M. DONOVAN-MAHER



Kathleen M. Donovan-Maher is a member of the firm's Executive Committee and manages the Boston office. She became a partner at Berman Tabacco in 1999 and, in addition to managing the firm, she focuses her work in the firm's securities and whistleblower practices.

During her career, Ms. Donovan-Maher has successfully helped to prosecute numerous class actions. She led the day-to-day prosecution of the litigation against General Electric Co., which settled for \$40 million in 2013.

Ms. Donovan-Maher also served as discovery captain in the *NASDAQ Market Makers Antitrust Litigation*, which settled for \$1.027 billion and was a member of the trial team in the *ICN/Viratek Securities Litigation*, which settled for \$14.5 million after the jury deadlocked at the conclusion of the 1996 trial. Other cases in which Ms. Donovan-Maher has played a chief role include, but are not limited to, *In re BankUnited Securities Litigation*, *In re American Home Mortgage*, *Wyatt v. El Paso Corp.*, *In re Enterasys Networks, Inc. Securities Litigation* and *In re SmartForce/SkillSoft Securities Litigation*. In all cases, Ms. Donovan-Maher's efforts helped achieve significant financial recoveries for such public retirement systems as the State Universities Retirement System of Illinois, Oklahoma Police Pension & Retirement System, the Los Angeles County Employees Retirement Association and the Teachers' Retirement System of Louisiana.

In addition to a monetary award, the *Enterasys Networks* settlement also included corporate governance improvements, requiring the company to back a proposal to eliminate its staggered board of directors, allow certain large shareholders to propose candidates to the board and expand the company's annual proxy disclosures.

In *In re Centennial Technologies Litigation*, Ms. Donovan-Maher secured a \$207 million judgment against defendant Emanuel Pinez, Centennial's founder and former CEO and Chairman of the Board of Directors who was the primary architect of one of the largest financial frauds in Massachusetts history at the time.

Martindale-Hubbell[®] has rated her AV Preeminent[®] and selected her for the *Martindale-Hubbell*[®] 2013 *Bar Register of Preeminent Women Lawyers*[™]. She was also selected as one of *New England's Top-Rated Lawyers* by *Martindale-Hubbell*[®] (2013, 2018-2020), as featured in *The National Law Journal*. *Martindale-Hubbell*[®] also selected her as a *Top-Rated Litigator* (2019) and as one of its *Women Leaders In Law* (2021). She has also been designated by *Benchmark Litigation* as a *Local Litigation Star* (2013-2015, 2021-2023) and was recognized as a *Benchmark Plaintiff Top 150 Women in Litigation*. She has also been designated as a *Super Lawyer* by *Massachusetts Super Lawyers* magazine (2004-2005, 2020-2022). She was also selected as one of the *Top Lawyers of 2021* by *Boston Magazine* and was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022).

Ms. Donovan-Maher is a frequent author on continuing legal education issues for such groups as ALI-ABA and PLI. She is also a member of Phi Delta Phi, Delta Mu Delta National Honor Society in Business Administration, Omicron Delta Epsilon International Honor Society of Economics, the American Bar Association and the Boston Bar Association.

Ms. Donovan-Maher graduated from Suffolk University *magna cum laude* in 1988, receiving a B.S. degree in Business Administration, concentrating in Finance with a minor in Economics. Ms. Donovan-Maher earned an award for maintaining the highest grade point average among students with concentrations in Finance. She graduated from Suffolk University Law School three years later after serving two years on the *Transnational Law Review*.

Ms. Donovan-Maher is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts, and she is admitted to practice law in the U.S. District Court for the District of Massachusetts, the U.S. Supreme Court and the U.S. Courts of Appeals in the First, Second, Third, Fourth and Eleventh Circuits.

PATRICK T. EGAN



A partner in Boston, Patrick T. Egan focuses his practice on securities litigation. Mr. Egan has litigated numerous cases to successful resolution, recovering hundreds of millions of dollars on behalf of defrauded investors.

Mr. Egan was one of the firm's lead attorneys representing the Wyoming State Treasurer and Wyoming Retirement System in the *In re IndyMac Mortgage-Backed Securities Litigation* in which the firm achieved settlements totaling \$346 million. He was also a lead attorney representing the Michigan State Retirement Systems in the *In re Bear Stearns Companies* litigation stemming from the 2008 collapse of the company. Plaintiffs successfully recovered \$294.9 million for former Bear Stearns shareholders.

Mr. Egan has worked on a number of important cases, including *Lernout & Hauspie* and the related case, *Quaak v. Dexia, S.A. (In re Lernout & Hauspie Sec. Litig., No. 00c-11589 (D. Mass.))*, and *Quaak v. Dexia, S.A., No. 03-11566 (D. Mass.)*. Those cases stem from a massive accounting fraud scheme at Lernout & Hauspie Speech Products, N.V., a bankrupt Belgian software company. As co-lead counsel, the firm recovered more than \$180 million on behalf of former Lernout & Hauspie shareholders. In addition, Mr. Egan was one of the attorneys at Berman Tabacco representing CalPERS against credit ratings agency Moody's, based on Moody's misrepresentations regarding the creditworthiness of three structured investment vehicles, which settled for \$255 million. *California Public Employees' Ret. Sys. v. Moody's Corp., No. CGC-09-490241 (Cal. Super. Ct. San Francisco County)*. Recently, Mr. Egan served as a lead partner (i) representing the sole Lead Plaintiff Utah Retirement Systems ("URS") in *Koch v. Healthcare Services Group, Inc., et al., No. 2:19-cv-01227-ER (E.D. Pa.)*, a class action that alleged that defendants issued materially false and misleading statements and failed to disclose "earnings management" practices that allowed HCSG to consistently meet or beat earnings per share estimates that, in turn, caused the price of the company's stock to be artificially inflated (case settled for \$16.8 million, which was approved by the court on January 12, 2022); and (ii) representing the sole Lead Plaintiff Oklahoma Police Pension and Retirement System in *Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc., et al., No. 2:20-cv-10490 (E.D. Mich.)*, a class action which alleged that defendants issued materially untrue and misleading statements concerning, *inter alia*, the Sterling's loan underwriting, risk management, compliance and internal controls, including regarding the Company's Advantage Loan Program, the Company's largest lending program (case settled for \$12.5 million, which was approved by the court on September 23, 2021).

Mr. Egan currently serves as one of the partners representing sole Lead Plaintiff Alameda County Employees' Retirement Association in *Hayden v. Portola Pharmaceuticals, Inc., et al.*, No. 3:20-cv-00367-VC (N.D. Cal.), a class action brought on behalf of investors in Portola Pharmaceuticals, Inc. ("Portola"), a biopharmaceutical company that develops and commercializes treatments for thrombosis and other hematologic diseases. The complaint alleges that defendants issued materially false and misleading statements related to the sales of Andexxa, Portola's primary product, a reversal drug for apixaban- and rivaroxaban-treated patients with life-threatening or uncontrolled bleeding. In June 2022, after fully briefing the motion for class certification, the parties reached a settlement in the amount of \$17.5 million, which was preliminarily approved at the hearing on October 27, 2022. The final approval hearing is set for and the final approval hearing is set for March 2, 2023. He also serves as one of the key partners representing the lead plaintiff Oklahoma Police Pension and Retirement System in *In re Inotiv, Inc. Securities Litigation*, No. 4:22-CV-045-PPS-JEM (N.D. Ind.), a securities fraud class action lawsuit against Inotiv, Inc. and certain of its executive officers on behalf of all persons who acquired publicly traded Inotiv securities between September 21, 2021 and June 13, 2022, inclusive. Plaintiffs allege that defendants materially false and misleading statements and/or material omissions concerning the Company's business, operations, and regulatory compliance policies, specifically related to its acquisition of Envigo RMS, LLC ("Envigo") and the existence of widespread and flagrant violations of federal animal welfare regulations at an Envigo dog breeding facility located in Cumberland, Virginia that led the U.S. Department of Justice to take action to rescue more than 4,000 animals and shutter the facility.

In addition, currently, Mr. Egan is one of the lead attorneys for the firm representing: (i) plaintiffs and the \$240 billion pension fund California State Teachers' Retirement System in the ongoing *Euribor (Sullivan v. Barclays PLC, et al.*, No. 13-cv-2811 (S.D.N.Y.)) and *Yen Libor (Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.)), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y.) antitrust cases involving U.S., European, and Japanese banks' manipulation of interest rate benchmarks and agreements to fix bid-ask spread prices on interest rate derivatives (*Euribor* has yielded \$546.5 million in settlements to date, and *Yen Libor* \$329.5 million); and (ii) Orange County Employees' Retirement System in *Dennis v. JP Morgan Chase & Co.*, No. 16-cv-06496-LAK (S.D.N.Y.), an ongoing antitrust class action alleging that U.S., European, and Australian banks manipulated the interest rate benchmark used to price derivatives that were denominated in Australian dollars and sold to U.S. investors.

Mr. Egan also represents whistleblowers who provide information and assistance to the U.S. Securities and Exchange Commission, U.S. Commodities Futures Trading Commission, U.S. Internal Revenue Service and state regulators in connection with their enforcement of the federal and state laws. Mr. Egan also represents whistleblowers in actions filed under the Federal False Claims Act.

Prior to joining the firm in 1999 and being named partner in 2006, Mr. Egan worked at the U.S. Department of Labor, where he served as an attorney advisor for the Office of Administrative Law Judges. Mr. Egan also serves as an Adjunct Faculty member of the Business Studies department at Assumption University, with a focus on Business Law, Corporate Governance and White-Collar Crime.

Mr. Egan has been ranked by *Benchmark Litigation* as a *Local Litigation Star* (2013-2015, 2021-2023) and as a *Massachusetts State Litigation Star* (2018-2020) in *Competition* and *Securities*. He has also been selected as a *Super Lawyer* by *Massachusetts Super Lawyers* magazine (2022).

Mr. Egan received a B.A. in Political Science *cum laude* from Providence College in 1993. In 1997, he graduated *cum laude* from Suffolk University Law School. While at Suffolk, Mr. Egan served on the editorial board of the *Suffolk University Law Review* and authored a note entitled, *Virtual Community Standards: Should Obscenity Law Recognize the Contemporary Community Standard of Cyberspace*, 30 Suffolk University L. Rev. 117 (1996).

Mr. Egan is a member in good standing in the Commonwealth of Massachusetts, the states of Connecticut and New York, as well as the U.S. District Courts for the District of Massachusetts, the Southern District of New York, Eastern District of New York and the Eastern District of Michigan. He is also admitted to practice before the U.S. Supreme Court and U.S. Courts of Appeals in the First, Second and Fourth Circuits.

STEVEN L. GROOPMAN



Steven L. Groopman is a partner in the firm's Boston office who focuses his practice on securities, RICO, and ERISA litigation. Currently, Mr. Groopman is a key member of the litigation team currently prosecuting federal RICO class actions against the operators and financial backers of allegedly unlawful online lending schemes that attempt to circumvent federal and state law through sham relationships with Native American tribes. *Solomon, et al. v. American Web Loan, Inc., et al.*, No. 17-cv-145 (E.D. Va.), *Gingras, et al. v. Victory Park Capital Advisors, LLC, et al.*, No. 17-cv-00233 (D. Vt.) and *Gingras, et al. v. Rosette, et al.*, No. 15-cv-101 (D. Vt.). He is also a key member of the litigation team in *In re EpiPen ERISA Litigation*, No. 17-CV-1884 (PAM/SER) (D. Minn.), representing a class of EpiPen purchasers that have sued major pharmacy benefit managers ("PBMs") over the massive price increases of the EpiPen and alleging the PBMs breached their fiduciary duties under ERISA.

Mr. Groopman joined Berman Tabacco in June 2015 after serving as a law clerk to the Honorable Dickinson R. Debevoise, on the U.S. District Court for the District of New Jersey, and working as an associate at a New York law firm.

Mr. Groopman was recognized by *Benchmark Litigation* in its *40 & Under List* in *Plaintiff Class Action* (2022) and has been named had been named *Rising Star* by *New England Super Lawyers* magazine (2017-2022).

Mr. Groopman received an A.B. in Political Science *magna cum laude* from Brown University in 2005. In 2009 he graduated from George Washington University Law School.

Mr. Groopman is a member in good standing in the Commonwealth of Massachusetts, the state of New York, as well as the U.S. District Courts for the Southern District of New York, the Eastern District of New York and the District of Massachusetts.

CARL HAMMARSKJOLD



A partner in the firm's San Francisco office, Carl Hammarskjold focuses his practice on antitrust and securities cases. Mr. Hammarskjold represents the firm's clients and class plaintiffs in several financial market manipulation and antitrust class actions on behalf of investors alleging that major banks colluded to fix the prices of bonds and derivatives. These cases include *In re Mexican Government Bonds Antitrust Litigation*, No. 18-cv-02830 (S.D.N.Y.), Euribor (*Sullivan v. Barclays PLC, et al.*, No. 13-cv-2811 (S.D.N.Y.)), Yen Libor (*Sonterra Capital Master Fund, LTD. v. UBS AG, et al.*, No. 15-cv-5844 (S.D.N.Y.)), Australian Dollar (*Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (S.D.N.Y.)), and *In re GSE Bonds Antitrust Litigation*, No. 19-cv-01704 (S.D.N.Y.).

Plaintiffs in *GSE Bonds* reached settlements with all defendants totaling \$386.5 million. He also represents the firm's client and class plaintiffs in a nationwide antitrust class action on behalf of direct purchasers of lithium ion rechargeable batteries that resulted in settlements totaling \$139.3 million. *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-02420-YGR (N.D. Cal.).

Mr. Hammarskjold also represents Lead Plaintiff and class plaintiffs in Sterling Bancorp, Inc. Securities Litigation (*Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc, et al.*, No. 5:20-Cv-10490-JEL-EAS (E.D. Mich.)), which recently settled for \$12.5 million, which was approved by the court on September 23, 2021.

During his prior work in the plaintiffs' bar, Mr. Hammarskjold represented class plaintiffs in *Kleen Products, LLC, et al. v. Packaging Corp. of America, et al.*, No. 10-cv-05711 (N.D. Ill.) (containerboard antitrust litigation) and was part of the appellate team whose work resulted in a published Ninth Circuit opinion in *Bozzio v. EMI Group Ltd, et al.*, No. 13-15685 (9th Cir.).

Prior to joining Berman Tabacco in 2018, Mr. Hammarskjold worked for a San Francisco-based plaintiffs' law firm specializing in antitrust class actions and other complex, multidistrict litigation in federal court. He was also a business litigator at a large, national law firm.

Mr. Hammarskjold serves on the Executive Committee of the Antitrust & Business Regulation Section of the San Francisco Bar Association.

Mr. Hammarskjold is rated AV Preeminent® by *Martindale-Hubbell*® and was selected by *Northern California Super Lawyers* magazine as a *Rising Star* in 2016-2021. He was also recognized in *The Best Lawyers in America*® and *Northern California Best Lawyers for Mass Tort Litigation / Class Actions – Plaintiffs* (2021-2023).

Mr. Hammarskjold earned his J.D., *summa cum laude*, from the University of San Francisco School of Law, where he graduated first in his class and received the Academic Excellence Award for Extraordinary Contribution to the Intellectual Life of the School. During law school, he served as an extern for the Honorable William H. Alsup at the U.S. District Court for the Northern District of California.

Mr. Hammarskjold has a B.A. from Pomona College.

Mr. Hammarskjold is a member in good standing of the state bar of California, the U.S. District Court for the Northern and Central Districts of California, and the Ninth Circuit of the U.S. Court of Appeals.

CHRISTOPHER T. HEFFELFINGER



Christopher T. Heffelfinger, a partner in Berman Tabacco's San Francisco office, has devoted most of his professional career to pursuing justice on behalf of those who have been harmed by financial fraud and anticompetitive-unfair trade practices. For over thirty (30) years, Mr. Heffelfinger has worked collaboratively as co-lead and participatory counsel in a variety of cases many industries in both securities and antitrust matters.

Mr. Heffelfinger has run a number of PSLRA cases including *In re Warnaco Group Inc. Securities Litigation*, No. 00-CIV-06266 (S.D.N.Y.), where he represented Fresno County Employees' Retirement Association, which settled for \$12.85 million following reversal of dismissal by the Second Circuit. Mr. Heffelfinger also has extensive experience in securities class actions generally, having prosecuted, for example, *In re Avant! Securities Litigation*, No. 96-cv-20132 (N.D. Cal.) (recovering \$35 million for the class, almost 50% of losses, net of attorneys' fees and expenses). Mr. Heffelfinger participated as counsel in *In re LDK Solar Securities Litigation*, No. C-07-05182-WHA (N.D. Cal.), a case alleging an inventory accounting fraud by this Chinese company regarding its treatment of different grades poly-silicon used in the production of solar panels. He participated in all phases of discovery including deposition practice in Hong Kong, expert work, summary judgment and trial preparation. *LDK Solar* settled for \$13 million. Similarly, Mr. Heffelfinger was requested by lead counsel in *In re Broadcom Corp., Securities Litigation*, No. 01-cv-00275 (C.D. Cal.), to conduct a series of depositions (fact and expert) in a securities case alleging the improper accounting treatment of warrants used by Broadcom to make acquisitions of other companies. *Broadcom* settled for \$150 million.

Mr. Heffelfinger has also served as co-lead or participatory counsel in the following cases: In *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation (Indirect Case)*, No. M:02-cv-01486 (N.D. Cal.), Mr. Heffelfinger was appointed by the Special Master, Ret. U.S. District Court Judge Charles B. Renfrew, to serve as settlement allocation counsel for indirect reseller purchasers in DRAM. The case obtained final approval, with the Special Master acknowledging in his Report and Recommendations to the Court that the efforts by the parties to resolve the allocation issues were an essential link in the sequence of negotiations that culminated in the proposed plan of distribution. Mr. Heffelfinger was also the lead partner for the firm in the prosecution of *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation*, MDL No. 05-1671 (C.D. Cal.) which alleged that defendants manipulated the California gas market for summertime reformulated gasoline and artificially increased prices for consumers. As co-lead counsel, the firm achieved a settlement valued at \$48 million. Chris was also an integral member of the team representing toy purchaser consumers as co-lead counsel in *In re Toys "R" Us Antitrust Litigation* (USDC-ED NY. 2000), a Federal Multi District Litigation alleging that Toys "R" Us had conspired with certain toy manufacturers to not sell certain popularly promoted toys to deep discount retailers such as Costco, in contravention of the antitrust laws and various state unfair competition/practices statutes. The team achieved a settlement with a combined value of \$56 million.

Mr. Heffelfinger was named a *Super Lawyer* by *Northern California Super Lawyers* magazine every year since 2009 and he has an *AV Preeminent*[®] rating by *Martindale-Hubbell*[®]. He has also been recognized in

The Best Lawyers in America® for *Litigation-Antitrust* (2018-2023) and *Litigation-Securities* (2023), and in *Northern California Best Lawyers* for *Litigation-Antitrust* (2021-2023) and *Litigation-Securities* (2023). He was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022). He has also been recognized by *Global Competition Review's Who's Who Legal: Competition* (2021-2022).

Mr. Heffelfinger served on active duty as an infantry officer in the U.S. Marine Corps, 1977-80, and again for nine months in 1990-1991 as a Captain with a rifle company in support of Operations Desert Shield/Storm. He has lectured periodically on discovery matters, including electronically stored information, deposition practice and evidentiary foundations in commercial litigation.

Mr. Heffelfinger received his B.A. in Economics from Claremont McKenna College in 1977 and his J.D. from the University of San Francisco School of Law in 1984.

Mr. Heffelfinger is a member in good standing of the state bar of California, the U.S. District Court for the Northern, Eastern, Central and Southern Districts of California, the U.S. District Court for the District of Arizona and the Ninth Circuit U.S. Court of Appeals.

NICOLE LAVALLEE



Nicole Lavallee, the managing partner of the firm's San Francisco office and member of the firm's Executive Committee, focuses her practice on prosecuting securities and derivative actions. She is also an integral member of the firm's New Case Investigations Team, which oversees the firm's portfolio monitoring program and investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

Since the enactment of the PSLRA, Ms. Lavallee has prosecuted numerous high-profile securities fraud cases for the firm. For example, she was one of the lead attorneys overseeing the *In re IndyMac Mortgage-Backed Securities Litigation*, No. 09-cv-4583 (S.D.N.Y.), which settled for \$346 million – one of the largest private MBS recoveries on record and the largest of any case where the issuer bank was in bankruptcy.

Over the years, Ms. Lavallee has been the lead partner managing the day-to-day prosecution of numerous other cases, where she handled or oversaw case investigation and factual development and briefing (including appeal briefing), conducted depositions, argued key motions (including motions to dismiss, motions for summary judgment and/or discovery motions), and participated in settlement negotiations. Examples that resulted in favorable judicial commentary include: (i) *In re KLA-Tencor Corp. Securities Litigation*, No. C06-04065 (N.D. Cal.), an options-backdating class action, representing co-lead plaintiff the Louisiana Municipal Police Employees' Retirement System, which settled for \$65 million; (ii) *In re International Rectifier Securities Litigation*, No. 07-cv-02544 (C.D. Cal.), on behalf of the co-lead plaintiff Massachusetts Laborers' Pension Fund, alleging manipulation of the company's financial results, which settled for \$90 million in 2009; and (iii) *Oracle Cases*, Coordination Proceeding, Special Title (Rule 1550(b)), No. JCCP 4180 (Cal. Super. Ct. San Mateo Cty.), a derivative case alleging that Lawrence Ellison engaged in illicit insider trading, and which settled weeks before trial when Defendant Larry Ellison agreed to make \$100 million in charitable donations in Oracle's name. Most recently, she oversaw (i) the securities class

action captioned *Koch v. Healthcare Services Group, Inc., et al.*, No. 2:19-cv-01227-ER (E.D. Pa.), on behalf of lead plaintiff the Utah Retirement Systems (“URS”), which settled for \$16.8 million; (ii) *In re Aqua Metals, Inc. Securities Litigation*, No. 4:17-CV-07142-HSG (N.D. Cal.), on behalf of lead plaintiff Plymouth County Retirement Association (“PCRA”), which recently settled for \$7 million; and (iii) *Hayden v. Portola Pharmaceuticals, Inc., et al.*, No. 3:20-cv-00367-VC (N.D. Cal.), on behalf of lead plaintiff ACERA, which has tentatively settled for \$17.5 million.

Ms. Lavalley also represented numerous institutional clients in opt-out actions, including *State of Oregon v. McKesson HBOC, Inc.*, Master File No. 307619 (Cal. Super. Ct. San Francisco Cty.), an individual opt-out action brought on behalf of the retirement systems for Colorado, Utah, and Minnesota, and opt-out actions on behalf of State of Michigan Retirement System and Fresno County Employees’ Retirement Association against Countrywide Financial Corp. (*State Treasurer of The State of Michigan v. Countrywide Financial Corp.*, No. CV-11-00809 (C.D. Cal.) and *Fresno County Employees Retirement Association v. Countrywide Financial Corp.*, No. CV-11-00811 (C.D. Cal.)). She has also worked on several securities-fraud trials over the past 25 years.

Currently, Ms. Lavalley is a lead partner at Berman Tabacco on several class action securities fraud cases. She is overseeing *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.), where the firm is lead counsel representing lead plaintiff the Utah Retirement Systems. Ms. Lavalley and the team successfully reached settlements with Aegean’s outside auditors located in Greece for \$29.8 million and have a tentative settlement with the former CFO, for an amount that is still confidential. Ms. Lavalley is also involved in the prosecution of several derivative actions including *Teamsters Local 443 Health Services & Ins. Plan, et al. v. Chou*, No. 2019-0816 (Del. Ch.), involving AmerisourceBergen Corp. asserting that the Company’s executives breached their fiduciary duties in connection with the Company’s subsidiary’s alleged illegal scheme to produce and market unapproved prefilled syringes (“PFS”) in violation of federal and state laws. In 2017, Amerisource entered a guilty plea related to the alleged illegal PFS scheme and has paid more than \$875 million in penalties and fines to settle related civil and criminal claims.

In 2021 and 2022, Ms. Lavalley was ranked by *Chambers USA* in California under *Litigation-Securities*, which quoted an opposing counsel as stating that “Nicole is a good adversary, she is smart and puts up a good fight for her clients.” She has been ranked by *Benchmark Litigation* as a *California State Litigation Star (2020-2023)*, *San Francisco Litigation Star (2020-2023)*, and *Noted Star (2019-2020)* in *Plaintiff Work and Securities*. She was also recognized in *The Best Lawyers in America®* for *Litigation-Securities (2021-2023)* and in the *Northern California Best Lawyers* for *Litigation-Securities (2021-2023)*. In 2021, Nicole was ranked as one of the *Top Women Lawyers* in California by the *Daily Journal*. *Northern California Super Lawyers* magazine named her to their lists of the *Top 100 attorneys* in California (2021) and the *Top 50 Women attorneys* in California (2021). She has also been named a *Super Lawyer* by *Northern California Super Lawyers* magazine (2017-2022) and was included in *San Francisco Magazine’s Top Women Attorneys in Northern California (2017-2021)*. Ms. Lavalley has an AV Preeminent® rating from *Martindale-Hubbell®* and was selected for the *Martindale-Hubbell® Bar Register of Preeminent Women Lawyers™*. *Martindale-Hubbell®* also selected her as a *Top-Rated Litigator (2019)* and as one of its *Women Leaders In Law (2021)*. Ms. Lavalley was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon’s The Plaintiff Issue* magazine (2020-2022).

Ms. Lavalley has authored numerous articles and lectured on securities litigation. She was co-chair for the 2016 Cross-Border Litigation Forum, a gathering of the most senior legal practitioners in U.S./Canada cross-border litigation (was also on the Steering Committee for the 2012 and 2014 forums), and she is currently on

the Steering Committee for the 2020 Cambridge Forum on Plaintiffs' Class Action Litigation (where she previously served on the Steering Committee for the 2019 forum). Further, Ms. Lavallee is active in the Bar Association of San Francisco ("BASF"), serving on the Steering Committee of the Women's Impact Network: No Glass Ceiling 2.0 and as a Member of BASF's Policy Impact Working Group of the Women's Impact Network.

A native of Canada, Ms. Lavallee is a 1989 graduate of the French Civil Law School at Université de Montréal and obtained her a Common Law degree from Osgoode Hall Law School in Toronto in 1991. She received her undergraduate degree in Health Sciences and in Pure and Applied Sciences from Vanier College in Montreal in 1986.

Ms. Lavallee is a member in good standing of the state bar of California, all federal courts in the Ninth Circuit and the Ninth Circuit of the U.S. Courts of Appeals.

KRISTIN J. MOODY



Kristin J. Moody is a partner in the firm's San Francisco office, where she focuses her practice on securities litigation. She has successfully litigated numerous class actions that have resulted in substantial settlements for defrauded investors.

Currently, Ms. Moody serves as one of the lead partners for the team prosecuting *In re Aqua Metals, Inc. Securities Litigation*, No. 4:17-cv-07142-HSG (N.D. Cal.), a securities class action against Aqua Metals, Inc. and certain of its former executives. The case alleges that the defendants engaged in a widespread fraud to mislead investors about, among other things, the implementation and operations of the Company's purportedly proven AquaRefining technology that would supposedly revolutionize the \$22 billion lead acid battery recycling business. The case settled for \$7 million, which was approved by the court on March 2, 2022. She is also one of the partners prosecuting *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*, No. 18-cv-04993-NRB (S.D.N.Y.), a case in which the firm is Lead Counsel representing sole Lead Plaintiff, Utah Retirement Systems in a securities fraud class action lawsuit against Aegean Marine Petroleum Network, Inc. ("Aegean"), a marine fuel logistics company based in Greece that supplies and markets refined marine fuel and lubricants to ships in port and at sea, and several former officers. To date and the team successfully reached settlements with Aegean's outside auditors located in Greece for \$29.8 million and have a tentative settlement with the former CFO, for an amount that is still confidential. The case is ongoing as to the remaining, non-settling defendant.

Ms. Moody was lead partner for the team prosecuting *Oklahoma Police Pension & Retirement System v. Sterling Bancorp, Inc, et al.*, No. 5:20-cv-10490-JEL-EAS (E.D. Mich.), a securities fraud class action lawsuit against Sterling Bancorp, Inc., certain of its current and former officers and directors, and the underwriters for the Company's initial public offering (the "IPO"). The case was brought on behalf of investors who purchased or otherwise acquired Sterling common stock from November 17, 2017 through and including March 17, 2020 (the "Class Period"), including shares sold in the IPO. Sterling, headquartered in Southfield, Michigan, is the unitary thrift holding company of Sterling Bank and Trust which specializes in residential mortgages. The case alleges that defendants issued materially untrue and misleading statements concerning, *inter alia*, the Company's loan underwriting, risk management, compliance and internal controls,

including regarding the Company's Advantage Loan Program, the Company's largest lending program which the Company completely shut down by the end of the Class Period. The case reached a settlement of \$12.5 million, which was approved by the court on September 23, 2021. Ms. Moody also represented lead plaintiff in *In re Zynga, Inc. Securities Litigation*, where she investigated and drafted the complaint and successful opposition to the motion to dismiss, conducted discovery, and participated in mediation. The case reached a settlement of \$23 million. Ms. Moody also investigated and drafted the consolidated amended complaint in a class action against General Electric Co., certain of its officers and directors, and underwriters of its public offering; drafted lead plaintiff's opposition to defendants' motions to dismiss and subsequent briefing with the court; and conducted discovery in the matter. The case settled for \$40 million. Further, Ms. Moody assisted in the litigation of *In re BP p.l.c. Securities Litigation*, where she helped draft the amended complaint and the successful opposition to defendants' motion to dismiss. BP and Lead Plaintiffs for the "post-explosion" class reached a settlement in the amount of \$175 million.

Ms. Moody also served as lead partner for the firm in *McLaughlin v. Wells Fargo Bank, N.A.*, No. 3:15-cv-02904-WHA (N.D. Cal.), which achieved a precedent-setting opinion holding that Wells Fargo Bank, NA is required under the Truth in Lending Act ("TILA") to indicate the amount of property insurance proceeds held by the bank on plaintiff customer's payoff statement. The litigation ultimately attained a settlement which provided \$880,000 to the damages class (more than \$2,900 for each damages class member), which is 88% of the total maximum statutory damages that could have been recovered if fully litigated. The settlement also requires Wells Fargo to disclose insurance claim funds on all of its payoff statements going forward, which is a benefit beyond what could have been achieved at trial. Ms. Moody also managed litigation, coordinated and conducted discovery, counseled clients, and participated in mediation in *In re Force Protection Securities Litigation*, which settled for \$24 million. Ms. Moody further coordinated and conducted discovery, counseled the client, and participated in mediation in litigation against International Rectifier Corp. and several of its former officers and directors for an alleged fraud at a foreign subsidiary, which settled for \$90 million. In addition, Ms. Moody participated in the motion to dismiss briefing and mediation in *In re American Home Mortgage Securities Litigation*, which settled for \$37.25 million, despite the difficulties American Home's bankruptcy posed to asset recovery.

Prior to joining Berman Tabacco, Ms. Moody practiced at Holland & Knight, LLP in Boston and Morrison & Foerster, LLP in San Francisco. While at Morrison & Foerster, Ms. Moody represented clients in complex commercial litigation matters with a focus on securities litigation. At Holland & Knight, she represented clients in a range of white-collar criminal matters, government and regulatory investigations, and complex civil litigation, including securities litigation. Ms. Moody has also represented clients in a number of *pro bono* matters, including discrimination and political asylum cases.

Ms. Moody was selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine (2020-2022) and was included in *San Francisco Magazine's Top Women Attorneys in Northern California* (2020-2021). She was also selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022).

Ms. Moody has published several articles in the areas of accounting fraud, securities class actions, and derivative suits. She has also taught business law courses at Fisher College and previously sat on the Fisher College Advisory Board. Ms. Moody has also served as an Advisory Board member for the non-profit Generation Citizen.

Ms. Moody earned an LL.M. from New York University School of Law in 2003, a J.D., *cum laude*, from Boston College Law School in 1999, and a B.A., *cum laude*, in English and Legal Studies from Bucknell University in 1995. While in law school, she was Notes and Comments Editor of the Boston College International and Comparative Law Review and was active in the Women's Law Center.

Ms. Moody is a member in good standing in the Commonwealth of Massachusetts, the state of California, and is also admitted to practice in the U.S District Court for the Northern, Central, Eastern and Southern Districts of California, the U.S. District Court for the District of Massachusetts, the Eastern District of Michigan, and the U.S. Courts of Appeals for the First, Third, Ninth, and Federal Circuits.

NATHANIEL L. ORENSTEIN



A partner in the firm's Boston office, Nathaniel L. Orenstein focuses his practice on securities and antitrust litigation. He is currently engaged in a number of matters to ensure that corporate directors' meet their fiduciary obligations to their shareholders. Most recently, Mr. Orenstein successfully prosecuted in *Norfolk County Retirement System v. David D. Smith*, Civ. No. 1:18-cv-03952 (D. Md.) a case concerning a merger between Sinclair Broadcast Group and Tribune Media Company that was blocked by the U.S. Department of Justice ("DOJ") and the U.S. Federal Communications Commission ("FCC") because Sinclair proposed "sham" divestiture

transactions to the FCC and "engaged in misrepresentation and/or lack of candor" with respect to those related party transactions. The settlement provided far-reaching benefits to Sinclair and its shareholders, including substantial corporate governance reforms, comprised of, among other things, the creation of two new board committees, along with nearly \$25 million in financial recovery – including a rare \$5 million personal contribution from Sinclair's controlling shareholder. In approving the settlement, the Court noted that "[i]n this case, plaintiffs' counsel secured an excellent settlement that includes significant corporate governance reforms that would not have resulted from a trial on the merits."

Mr. Orenstein's representative cases also include: *In re Bluegreen Corporation Shareholder Litigation*, No. 502011CA018111 (15th Judicial Cir., Florida) (\$36.5 million settlement and \$80 million in benefit to class secured to date as member of Executive Committee); *In re TPC Group, Inc. Shareholders' Litigation*, No. 7865-VCN (Delaware Chancery) (\$79 million benefit to class while co-lead counsel); *Louisiana Municipal Police Employees' Retirement System v. EnergySolutions, Inc.*, C.A. No. 8350-VCG (Delaware Chancery) (\$36 million benefit to class as co-lead counsel); *In re El Paso Corporation Shareholder Litigation*, No. 6949-CS (Delaware Chancery) (\$110 million benefit to class as member of Executive Committee); *In re American Home Mortgage Securities Litigation*, No. 07-MD-1898 (E.D.N.Y.) (\$37.25 million benefit to class as member of litigation team); *In re Force Protection Inc. Securities Litigation*, No. 2:08-cv-845 CWH (D.S.C.) (\$24 million benefit to class as member of litigation team); and *In Re: Nexium (Esomeprazole) Antitrust Litigation*, No. 12-md-02409-WGY (D. Mass.) (\$24 million benefit to class secured to date as local counsel).

Prior to joining Berman Tabacco, Mr. Orenstein was a staff attorney for the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts. While there, he performed company examinations as well as investigated and pursued enforcement actions to detect and prevent fraud at hedge

funds and related companies. Mr. Orenstein was the lead attorney on many investigations and actions against broker-dealers, investment advisors and others.

Prior to obtaining his J.D. from the New York University School of Law in 2005, Mr. Orenstein served as a member of the mutual fund and insurance brokerage investigation teams for the Office of the New York State Attorney General's Investment Protection Bureau. As a legal intern, he assisted with the Bureau's investigation work including, case planning, discovery and settlement negotiation.

In addition to his work for the Commonwealth and for New York State, Mr. Orenstein was the Associate Director for the Center for Insurance Research, a consumer advocacy organization. In this role, he supported Center attorneys in litigating complex insurance reorganization transactions. He also testified in regulatory and legislative proceedings on behalf of policyholders concerning market conduct and insurance rate setting.

Benchmark Litigation has ranked Mr. Orenstein as a *Massachusetts Future Star* (2021-2023) and *Massachusetts Super Lawyers Magazine* named him a *Super Lawyer* (2020-2022) and a *Rising Star* (2014-2015).

Mr. Orenstein earned a J.D. from New York University School of Law in 2005, and a B.A. in Economics from Bates College in 1997.

Mr. Orenstein is a member in good standing in the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

MATTHEW D. PEARSON



A partner in the firm's San Francisco office, Matthew D. Pearson focuses his practice on securities, antitrust and consumer protection litigation. Mr. Pearson is an integral member of the firm's New Case Investigations Team and devotes a substantial amount of his time to evaluating and investigating potential new cases. Mr. Pearson also monitors foreign securities litigation, tracks developments in foreign class action and securities law, and assists clients interested in litigating abroad.

Since joining the firm in 2005, Mr. Pearson has served in key roles on a number of the firm's leading securities and antitrust cases. On the securities side, Mr. Pearson was part of the litigation team in *In re The Bear Stearns Cos. Inc. Securities, Derivative and ERISA Litigation*, Master File No. 08-MDL No. 1963 (S.D.N.Y.), which resulted in settlements totaling \$294.9 million for aggrieved investors.

In his antitrust practice, Mr. Pearson was a prominent member of the firm's team leading the *In re New Motor Vehicles Canadian Export Antitrust Litigation*, No. 03-md-1532 (D. Me.), involving allegations that major automakers unlawfully conspired to stop the export of cheaper new Canadian vehicles into the United States. Mr. Pearson was involved in all aspects of this nationwide, multi-jurisdictional litigation, including discovery, class certification, extensive expert reports, summary judgment, appeals in multiple courts, and settlement. The federal case ended in 2009. Mr. Pearson currently represents car buyers in a related

litigation in California state court, captioned *In re Automobile Antitrust Cases I and II*, JCCP Nos. 4298 and 4303 (San Francisco Superior Court), which continues against one remaining automaker defendant. To date, the firm has achieved settlements totaling over \$55 million for class members in the federal and California actions.

Mr. Pearson also assisted in the firm's efforts to achieve a historic \$295 million settlement with De Beers, where the firm represented a class of diamond resellers alleging De Beers unlawfully monopolized the worldwide supply of diamonds. The settlement was significant because, in addition to the \$295 million cash payment, the settlement included an agreement by De Beers to submit to the jurisdiction of the U.S. court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future. The firm's work in this case – believed to be the first successful prosecution of De Beers under U.S. antitrust laws – serves as a template for corralling foreign monopolists.

Mr. Pearson co-authored an amicus brief submitted to the California Supreme Court on behalf of three unions in the *Kwikset* case, involving products falsely labeled as "Made in the USA." The California Supreme Court's ultimate opinion (*Kwikset Corp. v. Superior Court*, 51 Cal. 4th 310 (2011)), was highly favorable to our clients' interests and became one of the leading opinions regarding standing under California's Unfair Competition Law.

In 2021 and 2022, Mr. Pearson was selected as a *Super Lawyer* by *Northern California Super Lawyers* magazine.

Mr. Pearson received his law degree in 2004 from the University of California, Davis, School of Law, where he completed the King Hall Public Service Law Program. He completed his undergraduate studies at the University of California, Los Angeles, earning a Bachelor of Arts in Political Science, with an International Relations concentration.

Mr. Pearson is a member in good standing in the state bar of California, and the United States District Courts for the Northern, Central and Southern Districts of California.

TODD A. SEAVER



A partner in the San Francisco office, Todd A. Seaver litigates both antitrust and investment-related matters, with a primary focus on developing and litigating antitrust cases. He has led the day-to-day management of one of the largest antitrust class actions in history, and has litigated antitrust cases involving varied industries of high-tech, pharmaceuticals, autos, chemicals, consumer electronics, biotech, diamonds and online retailing. He is a leader of the firm's antitrust practice group, marshalling the firm's extensive investigative resources and then litigating the cases.

Currently, Mr. Seaver is co-lead counsel for consumer plaintiffs in an antitrust class action against American Express, *Oliver v. American Express Co.*, No. 1:19-cv-00566-NGG (E.D.N.Y.). The action is at the forefront of the payments industry and is now shaped by the landmark ruling in *Ohio v. American Express Co.*, 138 S. Ct. 2274 (2018), in which the U.S. Supreme Court articulated a new analytical framework for so-called "two-sided" markets.

Mr. Seaver is also presently counsel for plaintiffs and represents California State Teachers' Retirement System (CalSTRS) in the Euribor (*Sullivan v. Barclays PLC, et al.*, No. 13-cv-2811 (S.D.N.Y.)) and Yen Libor (*Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.)), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y)) antitrust cases involving Wall Street banks' manipulation of interest rate benchmarks and bid-ask spread price fixing on interest rate derivatives. He also currently represents Orange County Employees' Retirement System (OCERS) in an ongoing antitrust class action (*Dennis v. JP Morgan Chase & Co.*, No. 16-cv-06496-LAK (S.D.N.Y)) alleging that U.S., European, and Australian banks manipulated the interest rate benchmark used to price derivatives that were denominated in Australian dollars and sold to U.S. investors. He also currently represents Fresno County Employees' Retirement Association (FCERA) in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-07789 (S.D.N.Y.), an antitrust class action against Wall Street banks for manipulating a foreign currency exchange rate benchmark and fixing bid-ask spreads on trillions of dollars of foreign currency exchange transactions.

He also leads plaintiffs' efforts in *In re New Motor Vehicles Canadian Export Antitrust Litigation*, in which Berman Tabacco is lead counsel. The case alleges that major auto manufacturers unlawfully conspired to stop the export of cheaper new Canadian vehicles into the United States for use or resale. The case has partially settled with Toyota Motor Sales U.S.A. for \$35 million and with General Motors of Canada for \$20.15 million. The litigation is ongoing in California state court, with the California Court of Appeal having recently reversed the trial court's grant of summary judgment in favor of defendant Ford Canada.

Mr. Seaver recently had a leading role in several cases, including, *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.), where the firm was co-lead counsel for direct purchaser plaintiffs. Settlements were reached totaling \$139.3 million for the direct purchaser class (final approval on the last three settlements was granted on May 16, 2018). The lawsuit alleged that defendants, including LG, Panasonic, Sony, Hitachi and Samsung, participated in a conspiracy to fix the prices of lithium ion rechargeable batteries, which affected the prices paid for the batteries and certain products in which the batteries were used and which the defendants sold. Mr. Seaver argued and defeated motions to dismiss and deposed fact witnesses and defendants' expert economist and made the oral argument in opposition to defendants' *Daubert* motions to exclude plaintiffs' expert economist's opinions at class certification.

Mr. Seaver led efforts for the firm in an action against Netflix and Wal-Mart, *In re Online DVD Rental Antitrust Litigation*, in which Berman Tabacco was among lead counsel. He was responsible for managing many aspects of discovery, class certification and summary judgment, as well as for achieving partial settlement with defendant Wal-Mart. He successfully argued in Ninth Circuit Court of Appeals for that case on an issue of first impression regarding the Class Action Fairness Act and settlements involving a mix of cash consideration and electronic store gift cards. He was also one of the lead counsel in *In re Optical Disk Drive Antitrust Litigation* and also worked on a number of the firm's high-profile cases including *Cardizem CD*, still the leading generic drug competition case, which settled in 2003 for \$80 million. In the *Cardizem CD* case, Berman Tabacco was co-lead counsel representing health insurer Aetna in an antitrust class action and obtained a pioneering ruling in the federal court of appeals regarding the "reverse payment" by a generic drug manufacturer to the brand name drug manufacturer. In a first of its kind ruling, the appellate court held that the brand name drug manufacturer's payment of \$40 million per year to the generic company for the generic to delay bringing its competing drug to market was a per se unlawful market allocation agreement. Today that victory still shapes the ongoing antitrust battle over competition in the pharmaceutical market.

Mr. Seaver spearheaded the landmark case against the major credit rating agencies (Standard & Poor's and Moody's), *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.). The case, filed on behalf of the nation's largest state pension fund, the California Public Employees' Retirement System (CalPERS), was groundbreaking litigation that held the rating agencies financially responsible for negligent misrepresentations in rating structured investment vehicles. Moody's and Standard & Poor's agreed to pay a total of \$255 million (\$130 million and \$125 million, respectively) to settle CalPERS' claim that "Aaa" ratings on three SIVs were negligent misrepresentations under California law. This case was groundbreaking in that (i) the settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages; and (ii) it resulted in a published appellate court opinion finding that rating agencies can, contrary to decades of jurisprudence, be liable for negligent misrepresentations under California law for their ratings of privately-placed securities.

Mr. Seaver was previously associated with the law firm Devine, Millimet & Branch, P.A., where he practiced commercial litigation. He was an adjunct Professor of Law with the New England School of Law in 2003, teaching Appellate Advocacy.

Mr. Seaver is a member of the American Bar Association's Antitrust Section and served a two-year term as a Director for the San Francisco Bar Association's Antitrust Committee in 2012-2013.

Mr. Seaver was ranked by *Benchmark Litigation* as a *California Litigation Star* (2022-2023), *Local Litigation Star* (2019-2020, 2022-2023), *California Future Star* (2020-2021), and *Noted Star* (2019-2021) in *Plaintiff Work and Securities*. He was also named a *Super Lawyer* by *Northern California Super Lawyers Magazine* (2017-2022), and has been recognized by *Global Competition Review's Who's Who Legal: Competition* (2017-2022). *Who's Who Legal* has also named Mr. Seaver a *Thought Leader* in Competition (2019-2020, 2022). He was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022). In 2020, *The Legal 500* reported a client's praise for Mr. Seaver stating that he "displays deep knowledge of specialized finance."

Mr. Seaver graduated *magna cum laude* from Boston University in 1994 with a B.A. in International Relations. He earned a M.Sc. from the London School of Economics in 1995 and graduated *cum laude* from the American University Washington College of Law in 1999. While in law school, Mr. Seaver served as a law clerk at the Federal Trade Commission's Bureau of Competition and as a judicial extern for the Honorable Ricardo M. Urbina, U.S. District Court for the District of Columbia.

Mr. Seaver is a member in good standing in the Commonwealth of Massachusetts, the states of California and New Hampshire, as well as the U.S. District Courts for the District of Massachusetts, the District of New Hampshire, and the Northern, Eastern, Central and Southern Districts of California.

LESLIE R. STERN



A partner in Boston, Leslie R. Stern heads the New Case Investigations Team for institutional clients. The team investigates possible securities law violations, gauging clients' damages and evaluating the merits of cases to determine the best course of legal action.

In her role with the New Case Investigations Team, Ms. Stern oversees a portfolio monitoring program that combines the power of an online loss calculation system with the hands-on work of a dedicated group of attorneys, investigators and financial analysts. Her case development duties include preparing detailed case analyses and recommendations, and advising clients on their legal options.

Ms. Stern is a seasoned litigator with more than a decade of experience on cases such as *Carlson v. Xerox Corp.*, in which Berman Tabacco represented the Louisiana State Employees' Retirement System as co-lead counsel. Upon approval in January 2009, the \$750 million Xerox settlement ranked as the 10th largest securities class action recovery of all time. Ms. Stern also worked extensively on *In re Bristol Myers-Squibb Securities Litigation*, which settled for \$300 million. As part of the litigation team in *Giarraputo v. UNUMProvident Corp.*, No. 2:99cv00301 (D. Me.), Ms. Stern helped secure a \$45 million settlement in a lawsuit stemming from the merger that created UNUMProvident. She also has experience prosecuting derivative actions. She was a member of the litigation team in a derivative suit brought against the directors of Oxford Health Plans Inc. As co-lead counsel in the case, Ms. Stern and the Firm represented individual investors seeking to recover damages sustained by the company because of its directors' breaches of their fiduciary duties, gross mismanagement, corporate waste of assets and breach of duty of loyalty with respect to self-dealing stock transactions. Ms. Stern has also served on several trial teams, including *In re Biogen Sec. Litig.*, No. 94-cv-12177 (D. Mass.), and *In re Zila Inc. Sec. Litig.*, No. 99-cv-00115 (D. Ariz.), which settled during trial preparation. Ms. Stern was also one of the attorneys representing a Firm client in a class action against numerous financial institutions alleging that ten of the world's largest banks conspired to fix the prices of unsecured bonds issued by the government-sponsored agencies familiarly known as Federal National Mortgage Association ("Fannie Mae") and Federal Home Loan Mortgage Corporation ("Freddie Mac"). *City of Birmingham Retirement & Relief System, et al. v. Bank of America, N.A., et al.*, No. 1:19-cv-01704-JSR (S.D.N.Y.). The case settled for \$386.5 million. Currently Ms. Stern is also overseeing several breach of fiduciary duty actions.

Prior to joining Berman Tabacco in 1998 and being named partner in 2003, Ms. Stern practiced general civil litigation.

Ms. Stern is a member of both the National Association of Public Pension Attorneys and the National Association of Women Lawyers.

Ms. Stern was designated a *Local Litigation Star* by *Benchmark Litigation* in 2013-2015 and 2021-2023 and was recognized among the *Benchmark Plaintiff Top 150 Women in Litigation*. She was selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022).

She earned a B.S. degree in Finance from American University in 1991 and graduated *cum laude* from Suffolk University Law School in 1995. While at Suffolk, Ms. Stern served on the Suffolk University Law Review's editorial board and authored three publications.

Ms. Stern is a member in good standing in the Commonwealth of Massachusetts and the U.S. District Court for the District of Massachusetts. She has also been admitted to practice in the First and Fourth Circuits of the U.S. Courts of Appeals.

JOSEPH J. TABACCO, JR.



Joseph J. Tabacco, Jr., the founding member of Berman Tabacco's San Francisco office and member of the firm's Executive Committee, actively litigates antitrust, securities fraud, commercial high tech and intellectual property matters.

Prior to 1981, Mr. Tabacco served as senior trial attorney for the U.S. Department of Justice, Antitrust Division in both the Central District of California and the Southern District of New York. In that capacity, he had major responsibility for several criminal and civil matters, including the antitrust trial of *United States v. IBM*. Since entering private practice in the early 1980s, Mr. Tabacco has served as trial or lead counsel in numerous antitrust and securities cases and has been involved in all aspects of state and federal litigation. In private practice, Mr. Tabacco has also tried a number of securities cases, each of which resolved successfully at various points during or after trial, including *In re MetLife Demutualization Litigation* (settled after jury empaneled), *Gutman v. Howard Savings Bank* (plaintiffs' verdict after six-week trial), *In re Equitec Securities Litigation* (settled after six months of trial) and *In re Ramtek Securities Litigation*.

Mr. Tabacco currently oversees the firm's class action litigation teams in the firm's price-fixing/market manipulation cases alleging that major banks colluded to fix the prices of derivatives and other financial instruments by manipulating numerous financial benchmark rates. This includes representing California State Teachers' Retirement System, one of the country's largest public pension funds, in (i) *Sullivan v. Barclays PLC et al.*, No. 13-cv-2811 (S.D.N.Y.), a class action against numerous Wall Street banks for price-fixing financial instruments tied to the Euro Interbank Offered Rate (the "Euribor"), which has total approved settlements in the amount of \$546/5 million; and (ii) *Laydon v. Mizuho Bank, Ltd.*, No. 1:12-cv-03419 (GBD) (S.D.N.Y.), and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, No. 1:15-cv-05844 (GBD) (S.D.N.Y), two related class actions against numerous financial institutions for price-fixing financial instruments tied to the London Interbank Offered Rate ("LIBOR") for the Japanese Yen and the Euroyen Tokyo Interbank Offered Rate ("TIBOR"), which have total approved settlements in the amount of \$329.5 million.

Mr. Tabacco was one of the firm's lead attorneys representing the Wyoming State Treasurer and Wyoming Retirement System in the *In re IndyMac Mortgage-Backed Securities Litigation* in which the firm achieved settlements totaling \$346 million. He also oversaw *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco Cty.), the pioneering case that held credit rating agencies (Standard & Poor's and Moody's) financially responsible for their negligence in rating structured investment vehicles. After settling with both McGraw Hill Companies and Moody's, California

Public Employees' Retirement System' total recovery for the case was \$255 million. Over the decades, Mr. Tabacco has prosecuted numerous securities fraud and antitrust cases against both domestic and international companies.

Mr. Tabacco recently oversaw *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420-YGR (N.D. Cal.), which achieved settlements in the total amount of \$139.3 million for a class of direct purchasers of lithium-ion rechargeable batteries (final approval on the last three settlements was granted on May 16, 2018). The lawsuit alleged that defendants, including LG, Panasonic, Sony, Hitachi and Samsung, participated in a conspiracy to fix the prices of lithium ion rechargeable batteries, which affected the prices paid for the batteries and certain products in which the batteries are used and which the defendants sell.

Since 2008, Mr. Tabacco has served as an independent member of the Board of Directors of Overstock.com, a publicly traded company internet retailer. He is Chair of the Board's Nominating & Corporate Governance Committee and also serves as a member of the Board's Audit and Compensation Committees. He has also served as a member of the American Antitrust Institute Advisory Board since 2008. He also frequently lectures and authors articles on securities and antitrust law issues and is a member of the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law and the Advisory Board of the Center for Law, Economics & Finance at the George Washington School of Law. Mr. Tabacco is also a former teaching fellow of the Attorney General's Advocacy Institute in Washington, D.C., and has served on the faculty of ALI-ABA on programs about U.S.-Canadian business litigation and trial of complex securities cases.

For 16 consecutive years, he has been among the top U.S. securities litigators ranked by *Chambers USA* (2007-2021) and is also AV Preeminent® rated by *Martindale-Hubbell*®. Mr. Tabacco was featured by the *Daily Journal* as one of the *Top Antitrust Lawyers in California* in 2020 and 2022, as one of the *Top Plaintiffs Lawyers in California* in 2017, and as one of California's top 30 securities litigators, a group chosen from both the plaintiff and defense bars. He was also recognized by *Global Competition Review's Who's Who Legal: Competition*, most recently in 2022 – a designation he has received for the past 9 years since the creation of the publication's Plaintiffs section. Additionally, for 19 consecutive years, Mr. Tabacco has been named a *Super Lawyer* by *Northern California Super Lawyers Magazine*, which features the top 5% of attorneys in the region (2004-2022). Additionally, Mr. Tabacco was ranked in the *Top 100 list* of attorneys in California in the *Northern California Super Lawyers Magazine* (2019-2022). He was ranked by *Benchmark Litigation* as a *California State Litigation Star* (2019-2023), *San Francisco Local Litigation Star* (2017-2023), *Noted Star in Plaintiff Work* (2020-2021), and *Noted Star in Antitrust, Intellectual Property, and Securities* (2019-2020). *The Best Lawyers in America*® recognized Joe as *Lawyer of the Year in Litigation-Securities* for 2022. He has further been recognized by *The Best Lawyers in America*® for *Litigation-Antitrust* (2018-2023) and for *Litigation-Securities* (2019-2023) and in the *Northern California Best Lawyers* for *Litigation-Antitrust* (2021-2023) and *Litigation-Securities* (2021-2023). He was also selected by *Lawdragon* for its *500 Leading Plaintiff Financial Lawyers* guide (2019-2022), as featured in *Lawdragon's The Plaintiff Issue* magazine (2020-2022). Mr. Tabacco has also been singled out by a top defense attorney for exemplifying "the finest tradition of the trial bar." In 2019, *Chambers USA* hailed Mr. Tabacco as "a formidable plaintiff-side litigator, with a wealth of experience handling securities class actions. A market source describes him as 'a master of orchestrating lawsuits and striking settlements,' adding: 'He strikes fear in the heart of defendants.'" *Chambers* has previously noted a client's praise for Mr. Tabacco: "His legal knowledge and skills are at the highest level. His combined intelligence and experience results in well-reasoned and thoughtful arguments to further our case."

Mr. Tabacco earned a J.D., *with honors*, from George Washington School of Law in 1974, and a B.A. in Government from University of Massachusetts-Amherst in 1971.

Mr. Tabacco is a member in good standing in the states of California and New York, and the Commonwealth of Massachusetts, as well as the U.S. District Courts for all districts in California, the District of Massachusetts, the District of Colorado (currently inactive), Eastern District of Michigan, the Southern and Eastern Districts of New York, the District of Columbia (currently inactive), the First, Second, Third, Sixth and Ninth Circuits of the U.S. Courts of Appeal and the U.S. Supreme Court.

Associates

ISLAM ALY

Islam Aly is an associate at the Boston office of Berman Tabacco who focuses his practice on securities litigation. Mr. Aly joined the firm in 2022 after completing a fellowship at a nationally recognized class action litigation firm.

Mr. Aly earned his *Juris Doctor* degree from the UCLA School of Law. During law school, Mr. Aly served as the co-chair for the Muslim Law Students Association. Mr. Aly was also the Chief Managing Editor of the *Journal of Islamic and Near Eastern Law*.

Mr. Aly is passionate about social justice and equality. While in law school, Mr. Aly worked with a civil rights organization headquartered in Southern California where he helped advocate for persons affected by discrimination on the basis of race, nationality, and religious beliefs.

Mr. Aly earned a B.A. in History from the University of Wisconsin in 2018.

Mr. Aly is a member in good standing of District of Columbia bar.

COLLEEN CLEARY



Colleen Cleary is an associate at the San Francisco office of Berman Tabacco, who focuses her practice on antitrust litigation. Ms. Cleary joined the firm in 2018 after working as a class action litigator in the Bay Area primarily representing consumers harmed by anticompetitive conduct.

Ms. Cleary earned her *Juris Doctor* degree from the University of San Francisco's School of Law in 2015, and concurrently earned a Master's in Business Administration from the University of San Francisco's School of Management. During law school, she was awarded the Best Oral Advocate

Award in the school's annual moot court competition, served as a member of the National Moot Court Competition team, and earned a Business Honors Certificate upon graduation. In addition, Ms. Cleary was recognized with the CALI Excellence for the Future Award in European Union Economic Law and was a member of the *University of San Francisco Law Review*.

While in law school, Ms. Cleary gained experience prosecuting antitrust cases. She worked at the Federal Trade Commission, investigating anticompetitive civil mergers in the health care industry, and the Department of Justice's Antitrust Division, assisting in the prosecution of criminal price-fixing conspiracies.

Ms. Cleary was recognized in *The Best Lawyers in America*[®] and *Northern California Best Lawyers for Mass Tort Litigation / Class Actions – Plaintiffs* (2021-2023). *Northern California Super Lawyers* magazine named Ms. Cleary a Rising Star in 2021 and 2022. She was also included in *San Francisco Magazine's Top Women Attorneys in Northern California* in 2021.

Ms. Cleary earned a B.A. in English Literature from the University of San Francisco in 2010.

Ms. Cleary is a member in good standing of the state bar of California and the U.S. District Court for the Northern District of California.

CHRISTINA GREGG



Christina Gregg is an associate at the Boston office of Berman Tabacco where she litigates complex civil actions seeking financial justice for consumers and investors. Ms. Gregg focuses her practice on securities and complex civil litigation.

Ms. Gregg is a 2021 graduate of Suffolk University Law School. While in law school, Ms. Gregg interned with the Massachusetts Attorney General's Office in the Environmental Protection Division, where she assisted in both regulatory enforcement and consumer protection actions against entities including ExxonMobil and Bayer AG. She also served as a legal intern for the Honorable David A. Lowy of the Massachusetts Supreme Judicial Court.

In law school, Ms. Gregg served as managing editor of the Suffolk Law Journal of Trial & Appellate Advocacy and president of the Environmental Law Society. She also participated in a number of moot court competitions, including the Irving R. Kaufman Securities Law Moot Court Competition and Hon. Walter H. McLaughlin Appellate Advocacy Competition.

During law school, she served as a student attorney with the Suffolk Law Prosecutor's Program, working in the Juvenile Unit of the Suffolk County District Attorney's Office. She also served as a teaching fellow with the Marshall-Brennan Constitutional Literacy Project in a Boston public school.

Ms. Gregg earned a B.A. in Journalism and Political Science from the University of Massachusetts Amherst in 2014.

Ms. Gregg is a member in good standing of the state bar of Massachusetts and the U.S. District Court for the District of Massachusetts.

JEFF ROCHA



Jeff Rocha is an associate in Berman Tabacco's San Francisco office, handling matters in the area of securities litigation. Prior to joining the firm in 2019, Mr. Rocha focused his practice on commercial litigation in the areas of corporate and healthcare fraud, unfair business practices, professional liability, consumer protection, and employment and labor law. He enjoys trial experience and has successfully mediated several cases to resolution.

Mr. Rocha also has substantial experience in the prosecution of complex insurance fraud *qui tam* actions. In that capacity, he assisted a legal team responsible for obtaining millions of dollars in civil judgments against individuals and entities involved in widespread criminal conspiracies.

Northern California Super Lawyers magazine named Mr. Rocha a *Rising Star* in 2018-2022.

Mr. Rocha attended law school at the University of San Francisco, where he graduated *cum laude* and received a business law certificate with honors. During his studies, he earned a CALI Award of Excellence for the Future in Contracts and served as a judicial extern for three San Francisco judges, including a federal magistrate at the United States District Court for the Northern District of California.

Before studying law, Mr. Rocha earned a B.S. in Business Administration with a concentration in Corporate Finance from California State University, Fresno. After completing his undergraduate studies, Mr. Rocha worked for a national brokerage firm as a series 7 and 63 licensed senior stockbroker.

He is a member in good standing of the state bar of California and the U.S. District Courts for the Northern, Central, and Eastern Districts of California.

CHRISTINA M. SARRAF



An associate in the firm's San Francisco office, Christina Sarraf focuses her practice on securities litigation. Prior to joining the firm in 2022, she worked as an associate in the San Francisco office of the nation's largest injury firm where she represented consumers in class action litigation in both state and federal court. Ms. Sarraf played an important role in a variety of high-profile privacy, automotive, and other consumer product cases against major tech companies and automobile manufacturers.

Prior to her complex litigation experience, Ms. Sarraf has also advised Silicon Valley startups on corporate compliance and intellectual property protection. Christina earned her J.D. at the University of New Mexico School of Law. While in law school, Ms. Sarraf externed at the Sixth District Court of Appeal for the State of California and clerked at Bay Area Legal Aid in San Francisco and various private firms in New Mexico. Before law school, Ms. Sarraf was a legal assistant and later paralegal at a law firm in her hometown in New Mexico.

Ms. Sarraf was appointed to the Advisory Council to the Women in Leadership, Professional Development Program offered by Regional & Continuing Education at CSU, Chico. She is admitted to practice in the State of California and is pending admission to practice in the U.S. District Court for the Northern, Central, Eastern, and Southern Districts of California.

DANIELLE SMITH



An associate in the firm's San Francisco office, Danielle focuses her practice on securities litigation. Ms. Smith joined Berman Tabacco in 2022 after working as an associate at another law firm, where she similarly focused primarily on securities litigation. She played a critical role in a variety of high-profile cases on behalf of clients in various industries, including the finance, pharmaceutical, and biotech spheres, in both state and federal courts.

Ms. Smith has been a member of the Council of Institutional Investor (CII), National Association of Public Pension Attorneys (NAPPA) and the Association of Certified Fraud Examiners, and formerly served as the Legal Redress Chair of the Oakland NAACP.

In 2022, Ms. Smith was recognized as one of the *Top 40 Under 40* by *The National Black Lawyers*.

Ms. Smith earned a J.D. from Harvard Law School in 2012, and a B.A. from Columbia University in 2009. While in law school, Ms. Smith participated in Harvard's Consumer Protection Clinic, where she assisted local community members in combating predatory lending and other unfair practices.

Ms. Smith is a member in good standing of the state bar of California, and the U.S. District Courts for the Northern District of California, the Central District of California, and the Southern District of California.

ALEX VAHDAT



Alex Vahdat focuses his practice on antitrust and securities litigation. Prior to joining the firm in 2022, Mr. Vahdat worked as an associate in a law firm focusing on commercial and employment litigation. Before that, he worked as an associate at a San Francisco law firm where he represented plaintiffs in consumer class action matters and whistleblowers in qui tam actions.

Mr. Vahdat is a graduate of the University of California, Davis, where he earned his J.D. from the School of Law in 2012 and a B.A. in Political Science in 2007. While in law school, Mr. Vahdat interned at the San Francisco District Attorney's Office and the U.C. Davis School of Law Civil Rights Clinic, where he represented indigent clients alleging civil rights abuses. Mr. Vahdat was an editor for the UC Davis Business Law Journal and participated in moot court competitions. Before law school, Mr. Vahdat worked as a paralegal in a law firm representing plaintiffs in consumer class litigation and claims involving the Truth in Lending Act.

Mr. Vahdat is admitted to practice law in the State of California and the U.S. District Courts for the Northern, Central, Southern, and Eastern Districts of California.

Of Counsel

MICHAEL STOCKER DARK



Of counsel in the firm's San Francisco office, Michael Stocker Dark has litigated securities and antitrust class action cases nationwide for nearly twenty-five years. Mr. Dark joined Berman Tabacco in 2023 after working as a Deputy Inspector General for the County of Los Angeles, where he oversaw operations of the Los Angeles County Sheriff's Department. Prior to that, he was a principal litigator and General Counsel at one of the largest plaintiffs class action firms in the U.S. His work has been repeatedly recognized in Benchmark Litigation and in the National Law Journal's Plaintiffs Hot List.

He has served on the Markets Advisory Council for the Council of Institutional Investors and on the Board of the John L. Weinberg Center of Corporate Governance of the University of Delaware, and now sits as a member of the American Law Institute.

Mr. Dark earned a B.A. in East Asian Languages from the University of California at Berkeley, a Juris Doctor from University of California, Hastings College of the Law, and a Master of Criminology from the University of Sydney in Australia.

JAY ENG



Jay Eng is Of Counsel to the firm. Mr. Eng has over 14 years of experience in securities litigation, including actions brought under the PSLRA, individual and opt-out cases and mergers and acquisition litigation filed on behalf of public pension funds and retail investors. Mr. Eng has been involved in all aspects of the prosecution of such cases, including case evaluation, strategic planning, trial preparation, court appearances, settlement negotiations and jury trials.

Mr. Eng played a key role in several of the firm's most prominent cases. In *In re IndyMac Mortgage-Backed Securities Litigation*, No. 09-Civ. 04583 (S.D.N.Y.), the firm represented the Wyoming State Treasurer and the Wyoming Retirement System and negotiated settlements totaling \$346 million in connection with claims concerning the misrepresentation of IndyMac mortgage loan underwriting practices. In *In re El Paso Securities Litigation*, H-02-2717 (S.D. Tex.), the firm represented the Oklahoma Firefighters Pension & Retirement System against El Paso stemming from misrepresentations of its natural gas and oil reserves. This case resulted in a settlement totaling \$285 million, including \$12 million from auditors PricewaterhouseCoopers. In *In re Reliant Securities Litigation*, No. 02-cv-1810 (S.D. Tex.), the firm represented the Louisiana Municipal Police Employees' Retirement System against Reliant Energy, and later its subsidiary, Reliant Resources, in connection with accounting improprieties in the energy trading business. The firm negotiated a \$75 million cash settlement from Reliant and its accountant Deloitte & Touche LLP.

Mr. Eng was also on the trial team in *White v. Heartland High-Yield Municipal Bond Fund*, No. 00-C-1388 (E.D. Wis.), which was one of the few cases to go to trial after the passage of the PSLRA. Following three

weeks of trial, the firm obtained an \$8.25 million settlement against Heartland's auditor PricewaterhouseCoopers. Mr. Eng also worked on a number of matters on behalf of the firm's public pension fund clients including: *In re WorldCom, Inc. Securities Litigation*, No. 02-cv-3288 (S.D.N.Y.) (\$6.13 billion settlement) (Fresno County Employees' Retirement Association); *In re Enterasys Networks, Inc. Securities Litigation*, No. C-02-071-M (D.N.H.) (\$50 million settlement) (Los Angeles County Employees Retirement Association); *In re Sunrise Senior Living, Inc. Securities Litigation*, No. 07-cv-00102 (D.D.C.) (\$13.5 million) (Oklahoma Firefighters Pension & Retirement System); and *In re Buca, Inc. Securities Litigation*, No. 05-cv-1762 (D. Minn.) (\$1.6 million settlement) (West Palm Beach Police Pension Fund). Mr. Eng was a member of the litigation team prosecuting *California Public Employees' Retirement System v. Moody's Corp.*, No. CGC-09-490241 (Cal. Super. Ct. San Francisco County), against credit ratings agencies based on allegedly negligent misrepresentations regarding the creditworthiness of three structured investment vehicles. The firm achieved settlements totaling \$255 million from Moody's (defendants Moody's Corp. and Moody's Investors' Services, Inc.) and McGraw Hill Companies, Inc. (S&P). The settlements rank as the largest known recoveries from Moody's and S&P in a private lawsuit for civil damages relating to ratings. Mr. Eng also served as counsel for lead plaintiffs in *In re Digital Domain Media Group, Inc. Securities Litigation*, No. 12-14333-CIV (S.D. Fla.), a securities class action stemming from the rapid collapse of the digital production company Digital Domain Media Group, Inc., which filed for bankruptcy less than one year after going public, which settled for \$5.5 million.

Mr. Eng has served as a trial court law clerk in Florida state and federal courts. He is also a member of the Public Investors Arbitration Bar Association and currently serves on the Board of Editors of the PIABA Bar Journal.

Mr. Eng was recognized as a *Super Lawyer* in the 2022 edition of the *Massachusetts Super Lawyers* magazine and as a *Rising Star* in the 2010 and 2011 editions of *Florida Super Lawyers* magazine and has been awarded a rating of AV Preeminent® by *Martindale-Hubbell*®.

Mr. Eng earned a J.D. from Tulane Law School in 1998, and a B.A. in Economics from Florida State University in 1994.

Mr. Eng is a member in good standing in the Commonwealth of Massachusetts and the state of Florida, as well as the U.S. District Court for the District of Massachusetts, the U.S. District Court for the Southern, Middle and Northern Districts of Florida, the U.S. District Court for the Eastern District of Wisconsin, the U.S. Court of Appeals for the Eighth and Eleventh Circuits, and the United States Supreme Court.

MARC J. GREENSPON



Marc J. Greenspon became Of Counsel to the firm in 2009 and concentrates his practice in the area of antitrust litigation.

Mr. Greenspon, formerly an associate with the firm from 2003 to 2007, worked on significant antitrust, consumer and securities class actions before starting an independent law practice counseling corporate clients. He maintains his independent law practice, which is not affiliated with the firm.

Mr. Greenspon earned an LL.M. in Securities and Financial Regulation from the Georgetown University Law Center in 2003, a J.D. from Nova Southeastern University in 2002 and a B.A. from the State University of New York at Buffalo in 1999. He co-authored *Securities Arbitration: Bankrupt, Bothered & Bewildered*, 7 Stan. J.L. Bus. & Fin. 131 (2002).

Mr. Greenspon is a member in good standing in the Commonwealth of Massachusetts and the state of Florida, as well as in the U.S. District Courts for the Southern, Middle and Northern Districts of Florida. Mr. Greenspon is a member of the American Bar Association Section of Antitrust Law and the American Bar Association Committee on Derivatives and Futures Law. In 2012, he was recognized as a *Rising Star* by *Florida Super Lawyers* magazine.

KRISTIE A. LASALLE

Of Counsel in the firm's Boston Office, Kristie A. LaSalle focuses her practice on antitrust litigation. Ms. LaSalle has spent her career litigating challenging fraud and antitrust class actions—often turning on thorny issues of first impression in regulated industries. Ms. LaSalle joined Berman Tabacco in 2023 after nearly a decade at another plaintiffs' class action firm. There, she recovered hundreds of millions of dollars that class members overpaid for prescription pharmaceuticals as a result of fraudulent and anticompetitive conduct by drug companies. Prior to that, she clerked in the staff attorney's office for the United States Court of Appeals for the Second Circuit.

Ms. LaSalle earned her B.A. in biology at Swarthmore College in 2006 and her J.D. from Brooklyn Law School in 2012.

While in law school, Ms. LaSalle served as a judicial intern to the Honorable Laura Taylor Swain, United States District Judge for the Southern District of New York, and spent a summer in the civil division of the United States Attorney's Office for the Southern District of New York.

SARAH KHORASANEE MCGRATH



Of counsel in the firm's San Francisco office, Sarah Khorasanee McGrath focuses her practice on antitrust litigation. Ms. McGrath joined Berman Tabacco in 2010 after working as a contract attorney for the Department of Justice, Antitrust Division. Prior to that, she was an attorney volunteer with the City and County of San Francisco Office of the Public Defender and the Eviction Defense Center.

Northern California *Super Lawyers Magazine* named Ms. McGrath a *Rising Star* in 2013-2015 and 2017-2019. She was also included in *San Francisco Magazine's Top Women Attorneys in Northern California* in 2013-2015 and 2017-2019.

Ms. McGrath was the 2020 President of the Federal Bar Association, Northern District of California Chapter (FBA) and was previously the FBA's President-Elect in 2019, Treasurer in 2018, Vice President in 2016-2017 and Co-Chair of their Young Lawyers Division for the Northern District of California from 2013-2015.

Ms. McGrath earned a B.A. in Communications from the University of California at San Diego in 2002 and a J.D. from the New England School of Law in 2008. While in law school, Ms. McGrath worked as a judicial extern to the Honorable Eric Taylor, Superior Court of California, County of Los Angeles.

Ms. McGrath is a member in good standing of the state bar of California, the U.S. District Court for the Northern and Central Districts of California and the U.S. Court of Appeals for the Ninth Circuit.

JUSTIN N. SAIF



An *of counsel* attorney in the firm's Boston office, Justin Saif focuses his practice on complex class action litigation. Mr. Saif has litigated securities, RICO, consumer, and ERISA class actions in federal court, successfully recovering hundreds of millions of dollars for aggrieved consumers, shareholders, and institutional investors.

Mr. Saif has been an integral part of the firm's largest cases for more than a decade, and his commitment to the firm's clients has driven significant firm successes. Mr. Saif represented the Massachusetts Pension Reserves Investment Management Board in *In re Fannie Mae 2008 Securities Litigation*, which alleged that Fannie Mae and two individual defendants made material misrepresentations regarding and failed to disclose (a) that an enormous volume of mortgages on its books were "subprime" and "Alt-A" as defined internally by the company and throughout the industry, and (b) that defendants had inadequate internal controls to manage the significant risks created by the company's purchases of those types of loans. Mr. Saif made crucial contributions to the case, including the drafting of the Second Amended Joint Consolidated Class Action Complaint and the opposition to defendants' motions to dismiss and preparing for and participating in mediation. That case settled for \$170 million.

Mr. Saif played a key role in drafting the consolidated class action complaint and opposition to motion to dismiss in the litigation against The Bear Stearns Companies, Inc. and its auditor, Deloitte & Touche LLP, representing the State of Michigan Retirement Systems. He also oversaw the initial document review team. That case settled for \$294.9 million. Mr. Saif was a key member of the litigation team in *In re Force Protection Securities Litigation*, representing the Laborers' Annuity and Benefit Fund of Chicago. He drafted discovery requests and responses, coordinated electronic document review and analysis, and prepared for mediation. The Force Protection matter settled for \$24 million. Mr. Saif also played a vital part in *In re Par Pharmaceutical Securities Litigation*, representing the Louisiana Municipal Employees Retirement System, including preparing for and participating in a mediation that led to an \$8.1 million settlement.

Mr. Saif is currently litigating the ongoing EpiPen ERISA action on behalf of health plan participants alleging breaches of fiduciary duties by their pharmacy benefit managers.

Prior to joining Berman Tabacco in 2008, Mr. Saif worked as an associate at Foley Hoag LLP in Boston, where he focused on complex civil litigation including securities litigation, U.S. Securities and Exchange Commission enforcement matters, and professional liability matters involving lawyers and accountants.

Mr. Saif earned an A.B. in Psychology from Harvard University in 1999, graduating *cum laude*. In 2004 he earned a J.D. from the University of Chicago. While in law school, he worked at the MacArthur Justice Center, an impact litigation firm and legal clinic focused on reforming the criminal justice system.

Mr. Saif is a member in good standing in the state and federal courts of the Commonwealth of Massachusetts and the U.S. Court of Appeals for the First Circuit. He is a member of the Boston Bar Association.

Staff Attorneys

MACKLINE BASTIEN



Mackline Bastien joined the firm in 2015 as a staff attorney. Prior to joining Berman Tabacco, Ms. Bastien managed a solo practice in the Boston area where she represented clients in family law, business formation and housing matters. In addition, she represented an individual in a civil dispute as well as a buyer purchasing a business.

Ms. Bastien received her J.D. from Thomas M. Cooley Law School in 2005 and her L.L.M. from Boston University School of Law in 2008. While in law school, Ms. Bastien completed an externship at Hubbard Law Offices, P.C., in Lansing, Michigan where she assisted the general counsel for the Michigan Association of County Drain Commissioner regarding land-use issues and property rights matters. She received her B.S. in Business Administration from Columbia Union College in 2001.

She is a member in good standing in the Commonwealth of Massachusetts.

BRIAN J. DRAKE



A staff attorney at the firm's Boston office, Brian Drake focuses his practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Mr. Drake also represents whistleblowers who provide information and assistance to the U.S. Securities and Exchange Commission in connection with their enforcement of the federal securities laws.

Prior to Berman Tabacco, Mr. Drake was a staff attorney at a number of prominent law firms in Washington, D.C. and Boston, where he developed a broad range of expertise, primarily in the areas of anti-trust and tax litigation.

Mr. Drake received his J.D. from the George Washington University Law School and his B.S. in Mechanical Engineering from the University of California, San Diego in 1994.

Mr. Drake is a member in good standing of the state bars Virginia and the District of Columbia.

BERNA M. LEE



A staff attorney in the firm's Boston office, Berna Lee joined the firm in 2015, prior to which, Ms. Lee worked as an associate at a number of New York law firms.

Ms. Lee earned a B.A. in English Literature from Dartmouth College in 1993. She received her J.D., *cum laude*, from the Georgetown University Law Center in 1999, where she served on the *Georgetown Journal of Legal Ethics*, was a member of the Appellate Litigation Clinic and interned for the Honorable Gladys Kessler of the U.S. District Court for the District of Columbia.

Ms. Lee is a member in good standing of the state bars of Rhode Island and New York, as well as the U.S. District Courts of the Southern and Eastern Districts of New York.

ELLE K. MCKIM



A staff attorney in the firm's Boston office, Ellee K. McKim focuses her practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Prior to joining the firm, Ms. McKim served as an associate attorney at a commercial litigation firm in Boston.

Ms. McKim earned a J.D. from Northeastern University School of Law in 2009. At Northeastern University School of Law, Ms. McKim interned for Judge Joyce London Alexander of the United States District Court for the District of Massachusetts. She also served as lawyering fellow for the law school's social justice program. She earned an M.A. in Political Science from the University of Chicago in 2005 and a B.A. in Political Science from the University of Missouri in 2001.

Ms. McKim is a member in good standing in the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

JOHN REARDEN



John Rearden joined the Boston office of Berman Tabacco as a Staff Attorney in 2019. Prior to joining the firm, Mr. Rearden worked as a discovery attorney for several major law firms in the Boston area. Earlier in his career, Mr. Rearden worked as an associate attorney in Southern Florida where he specialized in commercial litigation and consumer securities fraud.

Mr. Rearden earned a B.A. in History from St. Anselm College in 1994 and his J.D. from Florida Coastal School of Law in 2002. While in law school, Mr. Rearden was named as a Dean's Scholar for academically ranking in the top 10% of all students and also received an Award for Academic Excellence in International Law. Mr. Rearden was also a member of the Florida Coastal Law Review.

Mr. Rearden is a member in good standing in the Commonwealth of Massachusetts and the State of Florida.

Project Attorneys

KAREN DIDRICKSON

Karen Didrickson joined the San Francisco office of Berman Tabacco as a project attorney in 2019. She has over a decade of experience in complex litigation and discovery matters. Ms. Didrickson has worked on a wide range of cases, including antitrust and securities litigation. Ms. Didrickson also has experience as an ERISA attorney at the global human resources consulting firms Mercer and Willis Towers Watson, and the multinational accounting firm Deloitte. In addition, she was an instructor at Golden Gate University School of Law where she taught a course on employee benefits law, with an emphasis on qualified plans.

Ms. Didrickson earned her B.A. in Political Science from Willamette University in 1982 and her J.D. (1994) and LL.M. (1995 in Taxation) from the Golden Gate University School of Law.

Ms. Didrickson is a member in good standing of the state bar of California.

LAURA M. FALARDEAU



A project attorney in the firm's Boston office, Laura M. Falardeau focuses her practice on representing investors and consumers in cases involving unfair competition, consumer protection, securities, and complex litigation. Recently, Ms. Falardeau's cases have involved complex market manipulation brought under the antitrust laws and predatory lending claims under RICO.

Ms. Falardeau joined the firm in 2011 after working at several major law firms in Boston, primarily in securities litigation. Earlier in her career, Ms. Falardeau served as an associate attorney at a law firm in the Boston area focusing on

probate and bankruptcy.

Ms. Falardeau earned her B.A. in Economics and History from the University of Massachusetts, Amherst in 2000 and her J.D. from Northeastern University School of Law in 2006. At Northeastern University School of Law, Ms. Falardeau interned for Judge Peter W. Agnes, Jr. of the Massachusetts Superior Court. During law school Ms. Falardeau also represented victims of domestic violence at Greater Boston Legal Services and served as a Hearings Officer at the Boston Public Health Commission.

Ms. Falardeau is a member in good standing in the Commonwealth of Massachusetts.

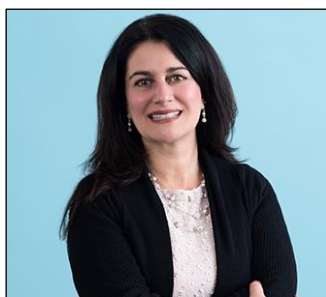
*Other Key Personnel***JAMES HOUGHTON, SENIOR INVESTIGATOR**

James A. Houghton is a Senior Investigator based in our firm's Boston office. A member of the Association of Certified Fraud Examiners, Mr. Houghton works closely with our litigation and investigative teams to conduct complex financial investigations into potential fraud schemes. Mr. Houghton's knowledge and insight has brought a unique handling to the process of uncovering evidence of fraud. Such processes often include obtaining nonpublic information through interviews with former employees at suspect companies and conducting research.

Prior to joining Berman Tabacco, Mr. Houghton was a Special Agent for the Defense Criminal Investigative Service, the Law Enforcement and Investigative arm of the Department of Defense Inspector General's Office. While there, he gained 18 years' experience directing all aspects of defense and financial fraud investigations. His cases frequently involved investigations of companies with receivable-based loans with banks. Mr. Houghton handled complex and sensitive investigations that led to both fraud and Qui Tam lawsuits, often working jointly with the U.S. Attorney General's Office and other federal agencies, including the Federal Bureau of Investigations. As a result of his investigations, Mr. Houghton has testified regularly in federal courts. Mr. Houghton's skill and expertise have led to him receiving the Department of Justice Award for Public Service on two separate occasions. Mr. Houghton further received the 2018 Investigations award from the Intelligence Community Inspectors General.

Mr. Houghton has also been a Special Agent for Naval Criminal Investigative Service and a Financial Analyst for the Federal Bureau of Investigations. He has received Top Secret and Sensitive Compartmented Information Clearance.

Mr. Houghton earned a B.S. in Business Administration and Accounting from Stonehill College. He also attended the Federal Law Enforcement Training Center for White Collar Crime and Financial Fraud Training, as well as their Criminal Investigator Training Program.

JEANNINE M. SCARSCIOTTI, SENIOR PORTFOLIO ANALYST

Jeannine M. Scarsciotti, the firm's senior portfolio analyst has more than 15 years' experience in providing portfolio monitoring, loss calculation and settlement services to the firm's institutional clients. Ms. Scarsciotti works collaboratively with a team of portfolio analysts to provide clients with comprehensive monitoring services. Her team works closely with the firm's attorneys in refining loss calculations to reflect estimated recoverable damages as opposed to market losses. The portfolio analysts, along with the New Case Investigations Team attorneys, routinely work with damage experts to develop regression analyses and analyze confounding information that will

impact an investor's ultimate recoverable damages. Ms. Scarsciotti also devotes a substantial portion of her

time offering guidance to the firm's institutional clients in understanding their eligibility in securities class action settlements and helping clients with any custodian bank matters or data reconciliation issues that may arise.

OFFICES

MASSACHUSETTS

One Liberty Square
Boston, MA 02109
Phone: (617) 542-8300
Fax: (617) 542-1194

CALIFORNIA

425 California Street, Suite 2300
San Francisco, CA 94104
Phone: (415) 433-3200
Fax: (415) 433-6382

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Exhibit 5

Nicole Lavallee (SBN 165755)
Daniel E. Barenbaum (SBN 209261)
Jeffrey V. Rocha (SBN 304852)
BERMAN TABACCO
425 California Street, Suite 2300
San Francisco, CA 94104
Telephone: (415) 433-3200
Facsimile: (415) 433-6382
Email: nvallee@bermantabacco.com
dbarenbaum@bermantabacco.com
jrocha@bermantabacco.com

*Counsel for the Lead Plaintiff Alameda County Employees’
Retirement Association and Lead Counsel for the Class*

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

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

CLASS ACTION

**DECLARATION OF SUSAN WEISS ON
BEHALF OF LEAD PLAINTIFF
ALAMEDA COUNTY EMPLOYEES’
RETIREMENT ASSOCIATION IN
SUPPORT OF LEAD PLAINTIFF’S
MOTION FOR FINAL APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT AND LEAD COUNSEL’S
MOTION FOR ATTORNEYS’ FEES,
REIMBURSEMENT OF EXPENSES,
AND AWARD OF COSTS AND
EXPENSES TO PLAINTIFFS**

Date: March 2, 2023

Time: 10:00 a.m.

Dept.: 4 – 17th Floor

Judge: Hon. Vince Chhabria

I, Susan Weiss, on behalf of Court-appointed Lead Plaintiff Alameda County Employees' Retirement Association ("ACERA" or "Lead Plaintiff"), hereby certify that the following is true and correct to the best of my knowledge, information, and belief:

1. I am in-house Investment Counsel to ACERA. ACERA manages approximately \$10.5 billion in assets under management (as of November 30, 2022) for over 25,000 beneficiaries. I respectfully submit this declaration on behalf of ACERA in support of:

- > Lead Plaintiff's Motion for: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of the Settlement Class, and (III) Final Approval of Proposed Plan of Allocation ("Final Approval Motion"); and
- > Lead Counsel's Motion for (I) Attorneys' Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs ("Fee and Expense Motion").

Unless otherwise specifically noted, I have personal knowledge of the information in this declaration as I have been directly involved in the prosecution and settlement of this action, and, if called as a witness, I could and would testify competently thereto.

2. As set forth in the Certification of Movant Alameda County Employees' Retirement Association Pursuant to Federal Securities Law (appended to Lead Plaintiff's Third Amended Complaint for Violations of the Securities Laws (ECF No. 149-1)), ACERA purchased Portola Securities¹ during the Class Period. As a result, I believe that ACERA has suffered damages.

Work Performed by ACERA on Behalf of the Settlement Class

3. On April 22, 2020, pursuant to the lead plaintiff provisions of the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), the Court appointed ACERA as Lead Plaintiff in this action and appointed its counsel, Berman Tabacco, as Lead Counsel. ECF No. 49. As the Court-appointed Lead Plaintiff, ACERA understands its obligations under Rule 23 of the Federal Rules of Civil Procedure ("Rule 23") and the PSLRA to monitor and oversee

¹ All capitalized terms not otherwise defined herein have the same meaning as set forth in the Stipulation and Agreement of Settlement, dated September 19, 2022 (ECF No. 231-2) (the "Stipulation").

the conduct in this action and to act for the benefit of Class members. ACERA is a large, sophisticated institutional investor that committed itself to vigorously prosecuting this litigation, through trial and appeal if necessary. Before seeking appointment as Lead Plaintiff in the case, ACERA carefully evaluated whether to serve as Lead Plaintiff and understood its fiduciary obligations to serve the interests of the Class by participating in the management and prosecution of this matter.

4. Since its appointment as Lead Plaintiff, ACERA has diligently pursued the effective prosecution of this action and has kept itself informed of all pertinent case developments. Among other things, ACERA authorized the filing of the motion seeking to be appointed Lead Plaintiff; reviewed the four complaints and various other pleadings, motion papers (including those in opposition to four motions to dismiss and in support of Lead Plaintiff's motion for class certification), and discovery requests and responses; virtually attended hearings on the motions to dismiss and case management conferences; and reviewed the Court's related orders and opinions. Further, I prepared a declaration in support of Lead Plaintiff's motion for class certification. Lead Plaintiff also participated in numerous strategic discussions with Lead Counsel and communicated routinely with Lead Counsel by phone and email concerning case status, strategy, Court orders, pre-trial discovery, the collection of potentially relevant hard copy and electronic documents and communications from ACERA's files, and ACERA's deposition. ACERA searched for and produced more than 3,400 pages of documents to date. I also worked with Lead Counsel to prepare for and defend the deposition of ACERA's designated deposition witness under Fed. R. Civ. P. 30(b)(6), and I attended that deposition. In addition, I communicated regularly with Lead Counsel regarding all settlement discussions and negotiations leading up to and following the Settlement, and I participated in the all-day mediation session in this case with mediator Robert A. Meyer, Esq. of JAMS. All of the foregoing efforts were undertaken with the intention of maximizing the outcome for the Settlement Class.

ACERA Endorses Approval of the Settlement, the Requested Attorneys' Fees, and Payment of Litigation Expenses.

5. Based on its involvement as Lead Plaintiff throughout the prosecution of the action, ACERA believes that the proposed Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class. ACERA believes that the proposed Settlement represents a very favorable recovery, particularly in light of the substantial risks of continuing to litigate the action against Defendants. Accordingly, ACERA authorized Lead Counsel to execute the Settlement agreement with Defendants, and it endorses approval of the Settlement by the Court.

6. ACERA understands that Lead Counsel seeks an attorneys' fee award of 25% of the Settlement Fund (or, \$4,375,000), plus interest, for its own time and that of Saxena White, P.A., counsel for additional named plaintiff Oklahoma Firefighters Pension and Retirement System ("OFPRS"). ACERA believes that Lead Counsel's request for an award of attorneys' fees in the amount of 25% is fair and reasonable. In reaching that conclusion, we have considered the amount of work Lead Counsel and ORPRS' counsel have performed on behalf of the Settlement Class over the course of the litigation, the complexity of the litigation, and the recovery obtained relative to the overall recoverable damages when considering the risks of further litigation. Significantly, it is my understanding that this requested amount of fees represents a significant "negative" multiplier of less than 0.5 on Plaintiffs' Counsel's lodestar even before considering the additional time Lead Counsel will have to spend administering the Settlement in the future. Additionally, this request is consistent with the fee agreement between Lead Counsel and ACERA, which was entered into at the outset of the litigation.

7. ACERA further understands that Lead Counsel also seeks reimbursement of litigation expenses of \$750,612.54. ACERA believes that the expenses incurred by Plaintiffs' Counsel are fair and reasonable and were necessary to the successful prosecution and resolution of this action, particularly considering the work performed by Lead Counsel, the substantial recovery obtained, the complexity of the issues in the action, and the significant risks of continued litigation.

8. Accordingly, based on the foregoing, and consistent with ACERA's obligations to the Settlement Class, ACERA supports final approval of the proposed Settlement and Lead Counsel's request for attorneys' fees and reimbursement of litigation expenses.

ACERA Seeks Partial Reimbursement of Its Costs and Expenses, Pursuant to the PSLRA.

9. ACERA understands that reimbursement of a plaintiff's reasonable costs and expenses, including lost wages, directly relating to the representation of the class is authorized under Section 21D(a)(4) of the PSLRA, 15 U.S.C. § 78u(a)(4). Accordingly, ACERA is requesting the reimbursement of \$10,000 of costs and expenses in connection with its efforts in this action, which are described in ¶4, supra. This request is based upon the conservative calculation below of hours devoted to this action, and it represents only a partial reimbursement of ACERA's total costs and expenses. This conservative calculation is based upon time spent by the following individuals at ACERA: (i) me; (ii) Jeff Rieger, Chief Counsel; (iii) Kathy Mount, former Chief Counsel; (iv) Vijay Jagar, Chief Technology Officer; and (v) Thomas Taylor, Investment Officer. I and other staff members devoted in excess of 100 hours to the litigation activities described supra, ¶4, while representing the Settlement Class. At a blended hourly rate of \$109.73 per hour, the total of ACERA's partial lost wages reported is \$11,439.42, which breaks down as follows:

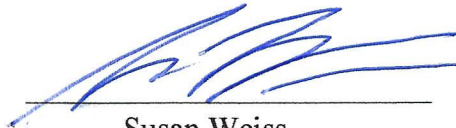
PERSONNEL	HOURS	RATE	TOTAL
S. Weiss	66.75	\$112.19	\$7,488.68
J. Rieger	15.00	\$136.15	\$2,042.25
K. Mount	2.50	\$136.15	\$340.38
V. Jagar	9.00	\$87.42	\$786.78
T. Taylor	11.00	\$71.03	\$781.33
TOTAL	104.25	\$109.73	\$11,439.42

10. As the primary counsel at ACERA working on this matter, I have expended the most hours at ACERA on this action, and I have not included all my time in this calculation of number of hours spent. The hours spent on this case constitute time that we would have otherwise devoted to other professional activities.

* * *

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

Executed at Oakland, California, on January 26, 2023.



Susan Weiss

Exhibit 6



SAXENA WHITE

“A highly experienced
group of lawyers
with national reputations in large securities class actions...”

- Hon. Alan Gold, U.S. District Court, Southern District of Florida

FIRM RESUME

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SAXENA WHITE

Saxena White P.A. was founded in 2006 by Maya Saxena and Joseph White. After spending many years at one of the country's largest class action law firms, we wanted to do business a different way. Our goal in forming the Firm was to become big enough to handle prominent and complex litigation while remaining small enough to offer each client responsive, ethical, and personalized service.

Today our Firm's capabilities exceed those of our largest competitors. We obtain victories against major corporations represented by the nation's top defense firms. We represent some of the largest pension funds in major securities fraud cases and have recovered billions of dollars on behalf of injured investors. We have succeeded in improving how corporations do business by requiring the implementation of significant corporate governance reforms. We have formed long-lasting relationships with our clients who know we are only a phone call away. However, the most important attribute of the Firm, and the key to its continued success, is the people. Saxena White was built upon the quality, integrity, and camaraderie, of its people — attributes that continue to be its greatest legacy.

What Makes us Different?

- *We are proud to be a nationally certified woman- and minority-owned securities litigation firm specializing in representing institutional investors.*
- *We take a selective approach to litigation, recommending only a few fraud cases per year and litigating them aggressively.*
- *The securities fraud cases in which we have served as lead counsel are rarely dismissed due to our careful selection criteria.*
- *We offer tailored portfolio monitoring services to our clients that reflect their individual philosophies toward litigation.*
- *We emphasize community outreach and welcome opportunities to support our clients in their communities.*



NOTABLE RECOVERIES

■ *In re Wells Fargo & Company Shareholder Derivative Litigation*

Saxena White served as Co-Lead Counsel in this landmark case alleging that the Board and executive management of Wells Fargo knew or consciously disregarded that Wells Fargo employees were illicitly creating millions of deposit and credit card accounts for their customers, without those customers' consent, in an attempt to drive up "cross selling," i.e., selling complementary Wells Fargo banking products to prospective or existing customers.

Over significant competition from the top law firms in our industry, the court selected Saxena White as one of the two firms most qualified in the nation to lead this high-profile case, noting the superior quality of the work performed. Through this shareholder derivative action, Saxena White held Defendants accountable for a scandal that has significantly damaged one of America's largest financial institutions.

On April 7, 2020, the court approved a \$320 million settlement on behalf of nominal Defendant Wells Fargo & Company with the Company's officers, directors, and senior management. The Settlement includes a \$240 million cash payment from Defendants' insurers—representing the largest insurance-funded monetary component of any shareholder derivative settlement by over \$100 million.

Saxena White zealously advocated for the interests of the Company and obtained excellent results. After a thorough investigation of the relevant claims; the filing of a detailed complaint; successfully defeating two motions to dismiss; active intervention in, stays of, and dismissals of multiple state court actions; consolidation and coordination with related federal actions; extensive review of over 3.5 million pages of documents from Defendants, Wells Fargo, and numerous third parties; consultation with experts, the \$320 million settlement was reached in this derivative action.

In approving this historic settlement, the court remarked that "this represents an excellent result for the shareholders" of Wells Fargo. The court noted "the risk" that Saxena White "took in litigation on a contingency basis - a risk they have borne for more than three years."

■ *Peace Officers' Annuity and Benefit Fund of Georgia, et al. v. DaVita Inc., et al.*

After four years of hard-fought litigation, Saxena White secured an outstanding recovery of \$135 million on behalf of the settlement class. The settlement with DaVita and its senior executives resulted in the second largest all-cash securities class action recovery ever obtained in the District of Colorado, ranking among the Tenth Circuit's top five securities fraud class action recoveries in history. Moreover, the settlement amount is not only comprised of the proceeds from Defendants' insurance tower, but also includes a substantial monetary contribution from DaVita—a rare occurrence in securities class actions that underscores the exceptional nature of the recovery and the tenacity of Saxena White in achieving it.

Before agreeing to settle the case against DaVita, Saxena White undertook extensive efforts to advance the class' claims and to ensure that Plaintiffs were in a position to maximize their recovery. Saxena White's extensive litigation efforts included, an exhaustive investigation that uncovered critical internal documents and confidential witnesses, and culminated in the filing of a highly detailed, 111-page amended complaint; successfully opposing a motion to dismiss that challenged every major element of Plaintiffs' claims; and intensive fact, expert and class-certification discovery. Lead Counsel also engaged in extensive settlement negotiations, including six mediation sessions before one of the most respected mediators in the country.



Significantly, Saxena White not only initiated this action by filing the initial complaint, but the firm also filed the only leadership application at the lead plaintiff stage—a rare occurrence in these types of cases, where the PSLRA specifically requires that notice of the lead plaintiff deadline be disseminated to shareholders, and multiple applications are routinely filed. Thus, absent the efforts of Saxena White, it is almost certain that settlement class members would have recovered nothing for their claims.

■ *In re Wilmington Trust Securities Litigation*

Saxena White served as Co-Lead Counsel in a class action against Wilmington Trust, its senior executives, board of directors, outside auditor, and the underwriters of one of its secondary offerings. Co-Lead Plaintiffs conducted a comprehensive and wide-ranging investigation, culminating in an amended complaint that detailed how Defendants violated the Securities Exchange Act of 1934 by concealing the drastic deterioration of Wilmington Trust’s loan portfolio and improperly accounting for the value of its loans under Generally Accepted Accounting Principles. In particular, Defendants understated Wilmington Trust’s provision for loan losses as its loan portfolio declined in quality, improperly delayed recognition of losses on the portfolio, and inflated its financial results by misstating the fair value of its loan portfolio. Defendants’ misconduct artificially inflated the price of Wilmington Trust securities during the Class Period. Lead Plaintiffs further alleged that Defendants violated the Securities Act of 1933 by issuing untrue statements in connection with the Company’s February 23, 2010 public equity offering, by understating Wilmington Trust’s provision for loan losses.

After prevailing over thousands of pages of briefing on Defendants’ multiple motions to dismiss, Lead Plaintiffs sought to be appointed as class representatives and certify a class of damaged investors. Following extensive briefing and discovery, the court certified a class on September 3, 2015. In certifying the class, Saxena White also secured important new precedent for aggrieved shareholders nationwide who have fallen victim to securities fraud. The court’s opinion rejected Defendants’ argument that the Supreme Court’s opinion in *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013) requires plaintiffs to submit a damages methodology and model at the class certification stage. Having defeated an argument that securities fraud defendants are increasingly relying upon to avoid responsibility for their illegal actions, Saxena White’s efforts have again provided investors with a powerful weapon with which to combat corporate wrongdoing at the class certification stage. Indeed, in addition to certifying the class, the court applauded Saxena White’s “excellent lawyers” and noted that Ms. Saxena’s “argument was very well argued.”

Having certified a class, Saxena White and Lead Plaintiffs embarked on a monumental discovery effort to marshal the highly complex and technical evidence required to establish Defendants’ fraud. As part of this massive undertaking, we closely reviewed and analyzed nearly 13 million pages of documents. Our efforts required us to not only take on a veritable who’s who of highly skilled defense counsel, but also multiple branches of the U.S. Government. After two years of hard-fought motion practice, we successfully compelled the Federal Reserve and the Office of the Comptroller of the Currency to waive the bank examination privilege for over 35,000 documents that those regulators had withheld. Compelling the production of such documents is a rare feat and was the culmination of a multi-year effort to relentlessly fight for the information and facts that were relevant to the prosecution of the case. We also prevailed over the U.S. Attorney’s Office, successfully moving to lift the discovery stay imposed at its request. As a result, we were able to depose key fact witnesses. In all, we deposed 39 witnesses in seven states, which generated nearly 11,000 pages of testimony and almost 900 exhibits.

After nearly eight years of hard-fought litigation, we negotiated an outstanding \$210 million recovery on behalf of the Class. This remarkable settlement represents a recovery of nearly 40% of the Class’s maximum



likely recoverable damages, which is eight times greater than the 5% median recovery in the Third Circuit. The recovery also ranks among the top ten securities fraud settlements in the Third Circuit, and is in the top 5% of all securities fraud settlements since the PSLRA was enacted in 1995. On November 19, 2018, the court approved the settlement in its entirety. Notably, the court twice observed that Saxena White achieved the recovery independently of the Government’s criminal investigation. The court was also complimentary of the “legal prowess” exhibited by Saxena White’s “highly experienced attorneys.”

■ *In re HD Supply Securities Litigation*

Saxena White served as Lead Counsel in a class action against HD Supply Holdings, Inc., a commercial distributor of home improvement supplies. In 2016, the Company disclosed it had experienced significant failures that imperiled its supply chain and financially harmed the business. The complaint alleged that the Company and its senior executives misled investors about the extent to which its supply chain had recovered. At the start of the class period, Defendants assured investors that the recovery was “on track” and the Company was “perfectly poised” to deliver strong results in 2017. HD Supply’s stock price skyrocketed in response. What Defendants then knew but failed to disclose, however, was that the supply chain was not in “as good condition as it’s ever been,” but in reality suffered from systemic problems and required a multi-million-dollar overhaul. The complaint further alleged that, while in possession of that material non-public information, HD Supply’s then-CEO whom had not sold a single share over the last year, liquidated an astonishing 80% of his holdings in HD Supply, for proceeds of \$54 million, shortly after making those representations. When the truth about the catastrophic state of the Company’s supply chain and the need for heavy spending to remedy its deficiencies was subsequently revealed to the market, the Company’s stock price declined significantly, causing investors substantial losses.

Saxena White engaged in extensive litigation efforts against HD Supply, including defeating Defendants’ motion to dismiss, engaging in extensive fact discovery and deposition preparations, and moving for class certification. Moreover, as a result of the filing of the complaint, the SEC subsequently commenced an investigation into HD Supply’s then-CEO’s alleged insider trading. Ultimately, the parties participated in settlement negotiations through which Plaintiffs obtained a \$50 million cash settlement on behalf of the Class - one of the largest securities class action settlements ever achieved in the U.S. District Court for the Northern District of Georgia.

■ *Milbeck v. TrueCar, et al.*

Saxena White served as Lead Counsel in a class action against TrueCar, Inc. that alleged that the Company and its senior executives misled investors about TrueCar’s relationship with its most significant business partner, United States Automobile Association (USAA). TrueCar’s SEC filings disclosed that USAA’s marketing of TrueCar’s services on USAA’s website alone generated approximately one third of TrueCar’s annual revenue and warned that if USAA made even a minor change to its marketing of TrueCar on USAA’s website, TrueCar’s business could be harmed. The complaint alleged that, prior to the start of the Class Period, USAA informed TrueCar that it intended to substantially modify its website, including by reducing the prominence of its marketing of TrueCar’s services. Thus, Defendants knew that the risk TrueCar had warned investors about had, in fact, materialized, but failed to disclose this material information. The complaint also alleged that TrueCar’s CFO and other insiders engaged in insider trading while in possession of material non-public information regarding the impending USAA website changes. When the truth that TrueCar’s earnings were severely negatively impacted as a result of USAA’s website redesign was finally revealed, the Company’s stock price declined significantly, causing investors substantial losses.



Saxena White engaged in extensive litigation efforts on an exceptionally expedited case schedule, including defeating Defendants' motion to dismiss, reviewing over 200,000 documents produced by Defendants and obtaining class certification. Thereafter, the parties participated in negotiations through which Plaintiff ultimately obtained a \$28.25 million cash settlement on behalf of the Class.

■ ***John Cumming v. Wesley R. Edens, et al. (New Senior Investment Group)***

Described as a “landmark” settlement by *Law360*, in 2019 the Delaware Court of Chancery approved a \$53 million settlement in a shareholder derivative action against real estate investment trust New Senior Investment Group. The suit targeted New Senior's \$640 million acquisition of a portfolio of senior living properties owned by an affiliate of its investment manager, which, according to Plaintiff's experts, damaged New Senior by over \$100 million. The settlement is the largest derivative action settlement as a percentage of market capitalization to date in Delaware and is one of the top ten derivative action settlements in the history of the Court of Chancery.

The Plaintiff's extensive discovery efforts in the case included the review of more than 800,000 pages of documents, 16 depositions, and the filing of six motions to compel. Following fact discovery, the parties exchanged ten expert reports related to the damages from the real estate portfolio purchase and from a related secondary stock offering. After a mediation and extensive follow-up negotiations, the parties agreed to settle the litigation in exchange for the payment of \$53 million in cash to New Senior. The settlement also included valuable corporate governance reforms, including the board's agreement to approve and submit to New Senior's stockholders for adoption at the annual meeting amendments to New Senior's bylaws and certificate of incorporation which would (a) provide that directors be elected by a majority of the votes cast in any uncontested election of directors, and (b) eliminate New Senior's staggered board, so that all directors are elected on an annual basis.

In his remarks at the final settlement hearing, Vice-Chancellor Joseph R. Sights called the settlement “impressive” and further described counsel's efforts as “hard fought, but fought in the right way to reach a productive result.”

■ ***In re Rayonier Inc. Securities Litigation***

Saxena White served as Co-Lead Counsel in a class action against Rayonier that accused the Company and its senior executives of misleading investors about its timber inventory and harvesting rates in the Pacific Northwest. When the Company's new management ultimately disclosed that Rayonier had overharvested its premium Pacific Northwest timberlands by over 40% each year for over a decade and overstated its merchantable timber by 20% in this critical region, the Company's stock price declined significantly, causing investors substantial losses.

After litigating this case for nearly three years and defeating Defendants' motion to dismiss, Plaintiffs ultimately negotiated a \$73 million cash settlement on behalf of the Class, the second largest recovery from a securities class action achieved in the Middle District of Florida. The \$73 million settlement is nearly nine times the national median settlement and nearly ten times greater than the median recovery in the Eleventh Circuit. As noted by Judge Timothy J. Corrigan, this was an “exceptional result[] achieved for the benefit of the Settlement Class.”



■ ***Westchester Putnam Counties Heavy & Highway Laborers Local 60 Benefit Funds v. Brixmor Property Group, Inc. et al.***

Saxena White filed a case in the United States District Court for the Southern District of New York against Brixmor and certain of its senior executives for securities fraud. Following the appointment of Lead Plaintiffs and Saxena White as Lead Counsel, Lead Plaintiffs filed a comprehensive amended complaint alleging that throughout the Class Period, Defendants purposefully falsified Brixmor's income items for over two years in order to portray consistent quarterly same property NOI growth; the Company lacked adequate internal and financial controls; and as a result, Defendants' Class Period statements about Brixmor's business, operations, and prospects were false and misleading.

After extensive litigation efforts and negotiation, Lead Plaintiffs obtained a \$28 million settlement. The settlement is an exceptional recovery for the Class, representing a significant percentage of the Class's maximum estimated aggregate damages that was multiples ahead of the typical recovery in securities class actions. After a fairness hearing to evaluate the merits of the settlement, the Honorable Analisa Torres issued an order granting the final approval of the settlement as fair, adequate, and reasonable.

■ ***In re Jefferies Group, Inc. Shareholders Litigation***

Saxena White served as Co-Lead Counsel in a class action involving breach of fiduciary duty claims against the board of directors of Jefferies Group, Inc., in connection with that company's merger with Leucadia National Corporation. In 2012, Jefferies entered into a merger agreement with Leucadia, a holding company which owned 28% of Jefferies and whose founders served on Jefferies' board. Leucadia's founders had a longstanding personal and professional relationship with Jefferies CEO, Richard Handler, which included lucrative joint ventures, personal investment advice and support, numerous financing transactions, and off-market stock purchases. As Leucadia's founders neared retirement, Handler recognized an opportunity to merge his company with Leucadia and serve as CEO of the much larger, combined company. Negotiating in secret for months before informing the independent board members, Handler and Leucadia's founders structured a deal that greatly benefitted Leucadia, to the detriment of Jefferies shareholders.

After aggressively litigating this case for almost two years and defeating Defendants' motion to dismiss and motion for summary judgment, Plaintiffs ultimately negotiated a settlement which required Leucadia to pay \$70 million to class members, an outstanding result for former Jefferies shareholders.

■ ***City Pension Fund for Firefighters and Police Officers in the City of Miami Beach v. Aracruz Celulose S.A., et al.***

One of our Firm's areas of expertise is litigating cases against foreign corporations. We obtained a significant victory against a Brazilian corporation, Aracruz Celulose. Accomplishing what no other law firm has ever done, Saxena White successfully served process on all three individual executives under the Inter-American Convention on Letters Rogatory. Our efforts included working closely with a Brazilian law firm to defeat Defendants' challenges to service in both the Brazilian trial and appellate courts.

After defeating three motions to dismiss filed by the foreign Defendants, Saxena White began the massive and highly technical discovery process. Because the vast majority of the documents were in Portuguese, we hired native Brazilian attorneys to analyze and translate the tens of thousands of documents that were produced. These documents were also incredibly complex, dealing with five dozen separate financial derivative instruments. Simply valuing one instrument required approximately 50,000 calculations. We consulted



closely with highly-respected industry and academic experts to gain an unprecedented understanding of the workings of these instruments and how they were valued.

In the end, our hard work paid off. Saxena White successfully negotiated a \$37.5 million settlement against Aracruz and its executives. This represents up to 50% of maximum provable damages – an outstanding result compared to the average national recovery in cases of this magnitude.

■ *In re Bank of America Securities, Derivative and ERISA Litigation*

This derivative case arose out of Bank of America’s acquisition of Merrill Lynch during the height of the financial crisis in late 2008. After successfully defending the complaint’s core allegations against multiple motions to dismiss, Saxena White embarked on an extensive discovery process that included 31 depositions of senior BofA and Merrill executives and their attorneys, the review and analysis of 3 million pages of documents from BofA, Merrill, and multiple third parties, and close consultation with nationally recognized financial and economic experts.

On January 11, 2013, the court approved the settlement, which includes a \$62.5 million cash component and fundamental corporate governance reforms. The cash component alone ranks this settlement among the top ten derivative settlements approved by federal courts. The extensive corporate governance reforms include the creation of a Board-level committee tasked with special oversight of mergers and acquisitions, which is aimed at preventing the alleged deficiencies surrounding the Merrill Lynch acquisition. The corporate governance reforms also include other components, including revisions to committee charters and director education requirements, which caused one noted scholar to observe that BofA is now at the forefront of corporate governance practices.

■ *In re Lehman Brothers Equity/Debt Securities Litigation*

After conducting an extensive investigation into Lehman and its executives, Saxena White was the first firm to file a complaint alleging violations of the federal securities laws. Subsequent events, including the largest bankruptcy filing in U.S. history, interjected unique challenges to prosecuting this case – not the least of which was that because Lehman itself was in bankruptcy, damaged shareholders could not recover damages from it.

Despite these formidable obstacles, we continued to prosecute the case. Our efforts paid off. In the spring of 2012, the court approved a \$90 million partial settlement with Lehman’s senior executives and directors, and a \$426 million settlement with several dozen underwriters of its securities. After nearly two more years of hard-fought litigation, we reached a \$99 million settlement with E&Y, Lehman’s outside auditor, which was approved in the spring of 2014. The \$99 million settlement ranks among the largest ever obtained from an outside auditor and is an outstanding recovery for damaged shareholders.

■ *FindWhat Investor Group v. FindWhat.com*

Saxena White also has significant appellate experience. In this Eleventh Circuit appeal, we won a precedent-setting opinion with the court holding that corporations and their executives who make fraudulent statements that prevent artificial inflation in a company’s stock price from dissipating are just as liable under the securities laws as those whose fraudulent statements introduce artificial inflation into the stock price in the first place. The Eleventh Circuit rejected Defendants’ position that the mere repetition of lies already transmitted to the market cannot damage investors. “We decline to erect a per se rule,” wrote the court, that “once a market is



already misinformed about a particular truth, corporations are free to knowingly and intentionally reinforce material misconceptions by repeating falsehoods with impunity.”

The Eleventh Circuit’s opinion is a significant win for aggrieved investors. It is the first such ruling from any of the Courts of Appeals in the nation, and will help defrauded investors seeking to recover damages due to fraud.

■ ***Central Laborers’ Pension Fund v. Sirva***

Saxena White served as Lead Counsel in this case, which was litigated in the Northern District of Illinois. After two and a half years of hard-fought litigation, an extensive investigation which involved conducting nearly 120 witness interviews, and the review of approximately 2.7 million documents produced by Defendants, a two day mediation was conducted at which we were able to reach a global \$53.3 million settlement on behalf of the proposed shareholder class. In addition, Saxena White conducted a comprehensive review of SIRVA’s corporate governance procedures in an effort to ensure that securities fraud and accounting violations were less likely to occur at the Company in the future. This careful and comprehensive review, which was spearheaded in conjunction with retained corporate governance experts, confirmed that SIRVA had made great strides in improving its governance standards over the course of our lawsuit. This was especially true in the area of its internal controls, which was a primary concern. The Company formally recognized, in writing, that the lawsuit was one of the main reasons it reformed its governance standards, which confirmed that Saxena White was the key catalyst compelling SIRVA to recognize the need to change the way it does business.

In addition, Saxena White was able to obtain even more governance improvements by convincing the Board to discard their plurality (also known as “cumulative”) standard for the election of their directors in favor of a modified majority standard (also known as the “Pfizer model”). This important change gives every SIRVA shareholder a greater voice, as well as improving director accountability, by forcing directors who do not receive a majority of the votes to tender their resignation for the Board’s consideration. Furthermore, SIRVA also agreed to strengthen its requirements regarding director attendance at shareholder meetings, which created more director accountability and increased shareholder input. Importantly, judges are unable to order these types of governance changes – it was only the negotiation and litigation pressure that we imposed upon the Company that allowed these changes to be implemented.

■ ***In re Sadia S.A. Securities Litigation***

Sadia was a Brazilian company specializing in poultry and frozen goods that exported a majority of its products. The Company engaged in wildly speculative currency hedging while telling investors that its hedges were conservative and used to protect against sudden changes in currency fluctuation. Plaintiffs filed a securities fraud complaint against Sadia and its senior executives and board members alleging violations of the federal securities laws. Because the individual Defendants in this case were also citizens of Brazil, they had to be served pursuant to the Inter-American Convention on Letters Rogatory. We were successful in serving the individuals, once again accomplishing what few other law firms have been able to do.

We prevailed on the motion to dismiss and on the motion for class certification. Discovery was greatly complicated by the fact that the vast majority of the documents were in Portuguese, and the court had no subpoena power to force witnesses to appear for deposition. In spite of this, we hired attorneys fluent in Portuguese to help us with the review, and we were able to depose one of the Company’s executives. After three mediations over the course of eight months, we reached a \$27 million cash settlement with Defendants.



■ *In re Cox Radio, Inc. Shareholders Litigation*

Saxena White represented a Florida Police Pension Plan in an action against Cox Radio. The Pension Plan alleged that the initial price offered to public shareholders in the tender offer was unfair and did not properly value the assets of Cox Radio. After considerable discovery and expedited motion practice, we were instrumental in raising the price of the deal by nearly 30%, creating nearly \$18 million in additional value for all public shareholders. We also obtained the issuance of additional meaningful disclosures regarding the valuation process used in the deal.

■ *In re Clear Channel Outdoor Holdings, Inc. Derivative Litigation*

Saxena White filed a derivative action on behalf of nominal Defendant Clear Channel Outdoor Holdings against certain of the Company's current and former directors, its majority stockholder, Clear Channel Communications, Inc., and other entities with respect to a 2009 agreement between the Company and Clear Channel. The derivative action brought forth claims that Outdoor's directors breached their fiduciary duties by approving a \$1 billion unsecured loan on highly unfavorable terms to Clear Channel. In response to the claims brought forth in the derivative action, the Company's board of directors established a Special Litigation Committee (the "SLC") and empowered it to investigate the matters and claims raised in the action.

After an extensive evaluation and investigation of the derivative claims, the SLC initiated discussions with certain of the Defendants to explore the prospects of settlement. The SLC also initiated discussions with Plaintiffs in order to explore the prospects of settling the derivative action. After several months of working with the SLC, the parties to the derivative action reached an agreement in principle to resolve the action on terms that will provide substantial and meaningful benefits to the Company and its shareholders, including an agreement that would provide a dividend to shareholders in the amount of \$200 million, as well as additional corporate governance reforms. The settlement agreement acknowledges that Plaintiffs' involvement in the settlement negotiations was a factor in achieving the benefits received by Outdoor and its shareholders as a result of the settlement.

SHAREHOLDERS & DIRECTORS

**MAYA SAXENA**

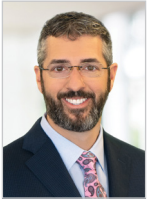
Maya Saxena, co-founder of Saxena White P.A., has been practicing exclusively in the securities litigation field for over 20 years, representing institutional investors in shareholder actions involving breaches of fiduciary duty and violations of the federal securities laws. Prior to forming Saxena White, Ms. Saxena served as the Managing Partner of the Florida office of one of the nation's largest securities litigation firms, successfully directing numerous high profile securities cases. Ms. Saxena gained valuable trial experience before entering private practice while employed as an Assistant Attorney General in Ft. Lauderdale, Florida. During her time as an Assistant Attorney General, Ms. Saxena represented the State of Florida in civil cases at the appellate and trial level and prepared amicus curiae briefs in support of state policies at issue in state and federal courts. In addition, Ms. Saxena represented the Florida Highway Patrol and other law enforcement agencies in civil forfeiture trials.

Ms. Saxena has been instrumental in recovering nearly a billion dollars on behalf of investors. Recently, Ms. Saxena played a key role in obtaining a \$320 million settlement against Wells Fargo & Company. The settlement includes a \$240 million cash payment from Defendants' insurers-representing the largest insurance-funded monetary component of any shareholder derivative settlement by over \$100 million. Ms. Saxena also led the litigation team that settled against Wilmington Trust for \$210 million, one of the largest settlements in 2018. Other prominent settlements include: Rayonier, Inc. (\$73 million settlement), SIRVA, Inc. (\$53.3 million settlement), Aracruz Celulose (\$37.5 million settlement), Brixmor Property Group (\$28 million settlement), and Sunbeam (settled with Arthur Andersen LLP for \$110 million-one of the largest settlements ever with an accounting firm-and a \$15 million personal contribution from former CEO Al Dunlap).

Ms. Saxena is a frequent speaker at educational forums involving public pension funds and advises public and multi-employer pension funds on how to address fraud-related investment losses. She is an active member of the National Association of Public Pension Attorneys ("NAPPA") and co-chairs its Securities Litigation Committee. As part of her professional endeavors, Ms. Saxena writes numerous articles on protecting shareholder rights, and works closely with other NAPPA members to author, update, and publish a white paper on post-*Morrison* International Securities Litigation.

Maya Saxena was named a *Law360* 2021 Securities MVP, one of only five attorneys chosen in the area. Ms. Saxena was also named a "500 Leading Plaintiff Financial Lawyer" by *Lawdragon* in 2020 and 2021. She was recognized in the *South Florida Business Journal's* "Best of the Bar" as one of the top lawyers in South Florida, and has been selected to the Florida *Super Lawyers* list for the last twelve consecutive years. Ms. Saxena was also selected by her peers for inclusion in *The Best Lawyers in America*® four years in a row, as well as one of Florida's "Legal Elite" by *Florida Trend* magazine.

Ms. Saxena graduated from Syracuse University *summa cum laude* in 1993 with a dual degree in policy studies and economics, and graduated from Pepperdine University School of Law in 1996. Ms. Saxena is a member of the Florida Bar, and is admitted to practice before the United States District Courts for the Southern and Middle Districts of Florida, as well as the Eleventh Circuit Court of Appeals, and the Supreme Court of the United States.

**JOSEPH E. WHITE, III**

Joseph E. White, III, co-founder of Saxena White P.A., has represented shareholders as lead counsel in major securities fraud class actions and derivative actions for nearly 20 years. He has represented lead and representative plaintiffs in front-page cases, including actions against Bank of America, Lehman Brothers and Washington Mutual. He has successfully settled cases yielding over one billion dollars against numerous publicly traded companies, including cases against Rayonier, Inc. (\$73 million), Brixmor Property Group (\$28 million), SIRVA, Inc. (\$53.3 million), and one of the largest settlements in 2018, Wilmington Trust (\$210 million). Mr. White has also developed an expertise in litigating precedent-setting cases against foreign publicly traded companies, and settled two cases involving Brazilian corporations: Sadia, Inc. (\$27 million) and Aracruz Celulose (\$37.5 million).

Mr. White has also helped achieve meaningful corporate governance and monetary recoveries for shareholders in merger related and derivative lawsuits. Recently, Mr. White played an instrumental role in obtaining a \$320 million settlement in *In re Wells Fargo & Company Shareholder Litigation*. The settlement includes a \$240 million cash payment from Defendants' insurers-representing the largest insurance-funded monetary component of any shareholder derivative settlement by over \$100 million. In *In re Clear Channel Outdoor Holdings Derivative Litigation*, Mr. White's efforts obtained repayment of a \$200 million loan from Outdoor's parent which was then paid as a special dividend to Outdoor shareholders. Mr. White regularly lectures on topics of interest to pension trustees, and advises municipal, state, and international institutional investors on instituting effective systems to monitor and prosecute securities and related litigation.

Mr. White was named a "500 Leading Plaintiff Financial Lawyer" by *Lawdragon* in 2020 and 2021. He was named a Florida's "Legal Elite" by *Florida Trend* magazine, and has been recognized as a "Top Lawyer" by Palm Beach Illustrated. He is also a *Lawyers of Distinction* Certified Member.

Mr. White earned an undergraduate degree in Political Science from Tufts University before obtaining his Juris Doctor from Suffolk University School of Law.

Mr. White is a member of the Massachusetts, Florida, New York and Pennsylvania Bars. He is also admitted to the United States District Courts for the Southern, Northern, and Middle Districts of Florida, the Southern District of New York, the District of Massachusetts, the District of Colorado, the Western District of Michigan, and the Northern District of Illinois. Mr. White is also admitted to the United States Circuit Courts of Appeals for the First and Eleventh Circuits, and the Supreme Court of the United States.

**STEVEN B. SINGER**

Steven B. Singer is a Director at Saxena White P.A., and oversees the Firm's securities litigation practice. Prior to joining the Firm, Mr. Singer was employed for more than 20 years at Bernstein Litowitz Berger & Grossmann LLP, a well-known plaintiffs' firm, where he served as a senior partner and member of the firm's management committee.

During his career Mr. Singer has been the lead partner responsible for prosecuting many of the most significant and high-profile securities cases in the country, which collectively have recovered billions of dollars for investors. He led the litigation against Bank of America relating to its acquisition of Merrill Lynch, which resulted in a landmark settlement shortly before trial (\$2.43 billion), one of the largest recoveries in history. Mr. Singer's work on that case was the subject of extensive media coverage, including numerous articles published in *The New York Times*. He also has substantial trial experience and was one of the lead trial lawyers on the WorldCom Securities Litigation (\$6 billion settlement) after a four-week jury trial.



Recently, Mr. Singer led the litigation team that successfully recovered \$320 million against Wells Fargo & Company. The settlement includes a \$240 million cash payment from Defendants’ insurers-representing the largest insurance-funded monetary component of any shareholder derivative settlement by over \$100 million. In addition, Mr. Singer has been lead counsel in numerous other actions that have resulted in substantial settlements, including cases involving Citigroup Inc. (\$730 million, representing the second largest recovery in a case brought on behalf of bond purchasers), Lucent Technologies (\$675 million), Mills Corp. (\$203 million), WellCare Health Plans (\$200 million), Satyam Computer Services (\$150 million), Biovail Corp. (\$138 million), Bank of New York Mellon (\$180 million), JP Morgan Chase (\$150 million), and one of the largest settlements in 2018, Wilmington Trust (\$210 million).

Mr. Singer has been consistently recognized by industry observers for his legal excellence and achievements. He has been selected as one of the “500 Leading Lawyers in America” by *Lawdragon*, a “Litigation Star” by *Benchmark Litigation*, and as one of the “Leading Lawyers” in securities litigation by the *Legal 500 US Guide* – one of only seven plaintiffs’ attorneys so recognized.

Mr. Singer graduated *cum laude* from Duke University in 1988, and from Northwestern University School of Law in 1991. He is a member of the New York State Bar, as well as the United States District Courts for the Southern and Eastern Districts of New York, the Northern District of Illinois, and the District of Colorado.



DAVID KAPLAN

David Kaplan is a Director at Saxena White and manages the Firm’s California office. Mr. Kaplan has nearly twenty years of experience in the field of securities and shareholder litigation. He has helped investors achieve hundreds of millions of dollars in recoveries in federal and state courts nationwide, including in class actions, direct “opt out” actions, and shareholder derivative litigation.

Prior to joining Saxena White, Mr. Kaplan was a partner at Bernstein Litowitz Berger & Grossman LLP, where he co-chaired its direct-action practice, represented lead plaintiffs in securities class actions, and counseled institutional investor clients on potential legal claims as a member of the firm’s new matters department. Before that, Mr. Kaplan was a senior associate at Irell & Manella LLP, where he handled a variety of high-stakes business disputes and complex litigation matters.

A large part of Mr. Kaplan’s day-to-day practice involves advising mutual funds, hedge funds, pension funds, sovereign wealth funds, insurance companies, and other institutional asset managers on whether to remain passive participants in securities class actions or opt out to protect and maximize their securities fraud recoveries. Mr. Kaplan has represented prominent institutional investor opt out groups in federal courts nationwide.

Mr. Kaplan also has extensive experience advising institutional clients on pursuing securities fraud recoveries in international jurisdictions. His work in this area includes virtually all countries in which shareholder collective actions are authorized by law, including Canada, Australia, England, the Netherlands, Germany, Italy, France, Japan, Israel, and Brazil.

Mr. Kaplan has authored multiple articles relating to class actions and the federal securities laws, which have been published in *The National Law Journal*, *The Daily Journal*, *Law360*, *Pensions & Investments*, *The D&O Diary*, and *The NAPPA Report*, among other publications. He is an editor of the *American Bar Association’s Class Actions and Derivative Suits Committee’s Newsletter*.



Mr. Kaplan was named a “500 Leading Plaintiff Financial Lawyer” by *Lawdragon* in 2020 and 2021, and has repeatedly been selected as a “Rising Star” by *Super Lawyers*.

Mr. Kaplan graduated with a Bachelor of Arts, *cum laude*, from Washington and Lee University, and earned his Juris Doctor, High Honors, from Duke University School of Law, where he was an editor of *Duke Law Review*. He is admitted to practice in California, United States District Courts for the Central, Northern, and Southern Districts of California, and the Eastern District of Wisconsin. He is also admitted to the United States Court of Appeals for the Ninth Circuit, and the United States Bankruptcy Court for the Central District of California.



LESTER R. HOOKER

Lester R. Hooker, Director, is involved in all of Saxena White’s practice areas, including securities class action litigation and shareholder derivative actions. During his tenure at Saxena White, Mr. Hooker has obtained substantial monetary recoveries and secured valuable corporate governance reforms on behalf of investors nationwide.

Mr. Hooker played a key role on the litigation teams that have successfully prosecuted securities fraud class and derivative actions, including *In re Wells Fargo & Company Shareholder Litigation* (\$320 million settlement, which includes a \$240 million cash payment from Defendants’ insurers - representing the largest insurance - funded monetary component of any shareholder derivative settlement by over \$100 million), *In re HD Supply Holdings, Inc. Securities Litigation* (\$50 million settlement-one of the largest securities class action settlements ever achieved in the U.S. District Court for the Northern District of Georgia), *In re Rayonier Inc. Securities Litigation* (\$73 million settlement), *Westchester Putnam Counties Heavy and Highway Laborers Local 60 Benefit Funds v. Brixmor Property Group, Inc. et al.*, (\$28 million settlement), *Central Laborers’ Pension Fund v. Sirva, Inc.*, (\$53.3 million settlement along with the adoption of important corporate governance reforms), *City Pension Fund for Firefighters and Police Officers in the City of Miami Beach v. Aracruz Celulose S.A., et al.*, (\$37.5 million settlement), *In re Sadia, Inc. Securities Litigation* (\$27 million settlement), and *In re Tower Group International, Ltd. Securities Litigation* (\$20.5 million settlement).

Mr. Hooker received a Bachelor of Arts degree with a major in English from the University of California at Berkeley. He earned his Juris Doctor from the University of San Diego School of Law, where he was awarded the Dean’s Outstanding Scholar Scholarship. Mr. Hooker received his master’s degree in Business Administration with an emphasis in International Business from the University of San Diego School of Business, where he was awarded the Ahlers Center International Graduate Studies Scholarship. Mr. Hooker was named a “500 Leading Plaintiff Financial Lawyer” by *Lawdragon* in 2020 and 2021. He was also named a “Rising Star” by *Super Lawyers*, an “Up and Comer” by *South Florida Legal Guide’s*, and a “Top Lawyer” by *Palm Beach Illustrated*.

Mr. Hooker is a member of the State Bars of California, Florida, New York, and the District of Columbia, and is admitted to practice law in the United States District Courts for the Northern, Central, Southern and Eastern Districts of California, the Southern, Middle and Northern Districts of Florida, the Western District of Michigan, the District of Colorado, and the Northern District of Illinois. Mr. Hooker is also admitted to practice law in the United States Court of Appeals for the Ninth Circuit.

**THOMAS CURRY**

Thomas Curry is a Director at Saxena White and manages the Firm's Delaware office and corporate governance litigation team. He represents institutional and individual investors in asserting their rights through litigation, with a particular focus on matters before the Delaware Court of Chancery.

Mr. Curry has served as lead or co-lead investors' counsel in several of the most significant and highest profile corporate governance and shareholder rights matters to arise in recent years, including *Employees Retirement System of the City of St. Louis v. Jones, et al.*, where he achieved a settlement of shareholder derivative claims brought on behalf of FirstEnergy Corp. that included a landmark \$180 million monetary recovery as well as the departures of six defendants from the company's board of directors and other wide-ranging governance reforms.

In another recent shareholder derivative action, *International Union of Operating Engineers and Orlando Police Pension Fund v. Ressler, et al.*, Mr. Curry achieved a settlement of claims brought on behalf of J2 Global, Inc. that relieved the company of obligations to pay more than \$71 million in future management fees and capital contributions in connection with an allegedly-conflicted related-party investment agreement, while also instituting a new board-level related-party transactions policy.

Most recently, Mr. Curry has been at the forefront in pushing back against a trend of newly-public companies, particularly in Silicon Valley, adopting complex capital structures and voting procedures designed to entrench the voting control of their founders and other insiders. He served as co-lead counsel in *In re Palantir Technologies Inc. Class F Stock Litigation*, which brought a novel challenge to the validity of founder-entrenching voting provisions in Palantir's certificate of incorporation and resulted in a settlement fundamentally reforming Palantir's voting procedures and implementing significant new governance protections designed to prevent future controller overreach at the company. Mr. Curry is now involved in multiple similar pending cases bringing statutory challenges to insider-entrenching voting provisions at other companies.

Mr. Curry has been widely recognized for his work on behalf of investors, including by *The Legal 500*, which has twice named him a "Rising Star" nationally.

Before joining Saxena White, Mr. Curry worked at a nationally recognized securities litigation firm. He earned a J.D. from Cornell Law School and a B.A. from Temple University.

Mr. Curry is admitted to practice in Delaware, the United States District Court for the District of Delaware and the United States Court of Appeals for the Sixth Circuit.

**KYLA GRANT**

Kyla Grant, Director, has extensive experience in federal securities class action suits, securities enforcement, and complex commercial litigation in both federal and state courts. Before joining Saxena White, Ms. Grant practiced securities litigation at two top-ranked global law firms, Shearman & Sterling LLP and WilmerHale. Ms. Grant has been a member of the litigation teams that have successfully recovered hundreds of millions of dollars on behalf of injured shareholders, including the recent \$320 million derivative settlement against Wells Fargo & Company. She was also a member of the litigation team that obtained a \$28 million settlement against Brixmor Property Group, Inc.

Ms. Grant graduated from the University of Hawai'i at Mānoa with distinction in 2004, where she received a Bachelor of Arts degree, majoring in both English and Political Science. She received her Juris Doctor



degree from the University of Virginia School of Law in 2008. While attending law school, she was a recipient of the Dean's Scholarship, was appointed as a Dillard Fellow (a role in which she worked with first year students to improve their persuasive writing skills) and was an Articles Editor for the *Virginia Journal of International Law*.

Ms. Grant is a member of the New York State Bar and the United States District Court for the Southern District of New York.



LISA RIVERA

Lisa Rivera, Director, serves as the Firm's Chief Financial and Operating Officer and brings over thirty years of experience in both the public and private sectors, having served in key positions with direct responsibility for fiscal management, policy and strategic planning, operations and compliance. Ms. Rivera has represented commercial litigation clients in the area of forensic accounting, as well as having served public accounting clients with their tax and business advisory needs.

Ms. Rivera graduated from New York University's Stern School of Business in 1994, where she received a Bachelor of Science degree, majoring in Accounting. She received her Juris Doctor degree from Rutgers University School of Law in 2003. Ms. Rivera is admitted to practice law in the State of New Jersey. Additionally, she is a Certified Public Accountant and Chartered Global Management Accountant.



MARISA N. DEMATO

Marisa DeMato, Director and Chief Diversity Officer, has more than 18 years of experience advising leading pension funds and other institutional investors on issues related to corporate fraud in U.S. securities markets, and provides representation in complex civil actions. Her work focuses on monitoring the well-being of institutional investments and counseling clients on best practices in corporate governance of publicly traded companies.

Prior to joining Saxena White, Ms. DeMato was a partner with a nationally recognized securities litigation firm where she represented institutional investors in shareholder litigation and achieved significant settlements on behalf of clients. She represented Seattle City Employees' Retirement System in a \$90 million derivative settlement that achieved historic corporate governance reforms from Twenty-First Century Fox, Inc., following allegations of workplace harassment incidents at Fox News. Ms. DeMato also successfully represented investors in high-profile cases against LifeLock, Camping World, Rent-A-Center, and Castlight Health. In addition, Ms. DeMato was an integral member of legal teams that secured multimillion dollar securities and consumer fraud settlements, including *In re Managed Care Litigation* (\$135 million recovery); *Cornwell v. Credit Suisse Group* (\$70 million recovery); *Michael v. SFBC International, Inc.* (\$28.5 million recovery); *Ross v. Career Education Corporation* (\$27.5 million recovery); and *Village of Dolton v. Taser International Inc.* (\$20 million recovery).

An accomplished speaker, Ms. DeMato has lectured on topics pertaining to securities fraud litigation, fiduciary responsibility, and corporate governance issues throughout the U.S. and Europe. Notably, Ms. DeMato has testified before the Texas House of Representatives Pensions Committee on the changing legal landscape for public pensions following the Supreme Court's *Morrison* decision and best practices for non-U.S. investment recovery.



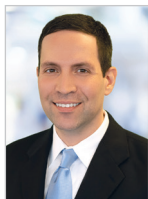
Ms. DeMato is Saxena White’s Chief Diversity Officer, and one of the industry’s leading advocates for institutional investing in women- and minority-owned firms. She also chairs Saxena White’s Women’s Alliance, which is designed to foster women-centered development and leadership in the pension, investment and legal communities. Ms. DeMato previously served as co-chair of an annual Women’s Initiative Forum, which has been recognized by *Euromoney and Chambers USA* as one of the best gender diversity initiatives.

Recently, Ms. DeMato was recognized by *The National Law Journal* as a “Plaintiffs’ Trailblazer” and was named a “Northeast Trailblazer” by *The American Lawyer*. Ms. DeMato was also named one of the “500 Leading Plaintiff Financial Lawyers in America” by Lawdragon in 2020 and 2021.

Ms. DeMato is an active member of the National Association of Securities Professionals (NASP), the American Association for Justice (AAJ), and the National Association of Public Pension Attorneys (NAPPA), where she serves on the NAPPA Securities Litigation Committee. As a member of the SACRS Education Committee, she is responsible for developing and planning educational programming for the State Association of County Retirement Systems (SACRS) in California.

Ms. DeMato earned her Juris Doctor from the University of Baltimore School of Law. She received her Bachelor of Arts from Florida Atlantic University.

Ms. DeMato is a member of the State Bars of Florida and the District of Columbia and is admitted to practice in the United States District Court for the Southern and Northern Districts of Florida.

ATTORNEYS**MARIO ALVITE**

Mario Alvite has been with the Firm since 2018. Mr. Alvite plays a key role in new case development including by analyzing opportunities for recovery for injured investors and shareholders, including the viability of claims that may be advanced in securities fraud, derivative, and corporate governance-related actions. Mr. Alvite assembles and assesses information that helps support the theories behind Saxena White's litigation efforts, and he assists with formulating complaints and lead plaintiff motions. He also is an important member of the Firm's client services team, for which he protects the financial interests of our clients by advising them on settlement matters.

In his work, Mr. Alvite draws on over ten years of experience in e-discovery and project management in the corporate litigation, transactional, and regulatory areas. During his time at Saxena White, Mr. Alvite served on the litigation teams that successfully prosecuted securities fraud class actions and shareholder derivative actions involving Wells Fargo (\$320 million settlement, among the largest derivative recoveries ever achieved in the United States), Wilmington Trust (\$210 million settlement and one of the largest securities class action settlements of 2018), FirstEnergy Corp. (\$180 million settlement), and Rayonier Inc. (\$73 million settlement).

Mr. Alvite has been recognized as a "Top Lawyer" by *Palm Beach Illustrated* for the past three years. He has also served on Saxena White's Diversity and Social Responsibility Committee since 2019. In 2021, Mr. Alvite authored the article *ESG, Diversity, Enforcement - Turning the Page on Securities Regulation* published in Saxena White's newsletter.

Mr. Alvite received his Bachelor of Business Administration from Florida International University in 2001. He later earned his Juris Doctor from Nova Southeastern University in 2004.

Mr. Alvite is a member of the Florida Bar and is admitted to practice in the United States District Court for the Southern and Middle Districts of Florida.

**RACHEL A. AVAN**

Rachel Avan, Senior Attorney, has more than a decade of experience in securities litigation. She focuses on investigating and developing U.S. and non-U.S. securities fraud class, group, and individual actions, as well as advising institutional investors regarding alternatives for recovery for fraud-related investment losses.

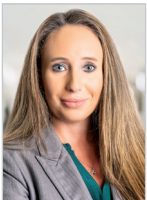
Ms. Avan's analysis of new and potential matters is informed by her extensive experience as a securities litigator. Prior to joining Saxena White, Ms. Avan was of counsel at a nationally recognized securities litigation firm, where she assisted in prosecuting numerous high-profile securities class actions and corporate governance matters. She also served as a key member of the firm's case evaluation team and managed the firm's non-U.S. securities litigation practice for several years.

Ms. Avan has significant expertise analyzing the merits, risks, and benefits of potential claims outside the United States—in virtually all countries in which it is possible for injured shareholders to seek a recovery. She has played an essential role in ensuring that institutional investors receive substantial recoveries through non-U.S. securities litigation.

Ms. Avan brings valuable insight into corporate matters, having served as an associate at a corporate law firm, where she counseled domestic and international public companies regarding compliance with federal and state securities laws. Her analysis of corporate securities filings is also informed by her previous work assisting with the preparation of responses to inquiries by the U.S. Securities and Exchange Commission and the Financial Industry Regulatory Authority.

Ms. Avan has authored multiple articles relating to U.S. and non-U.S. securities litigation, which have been published in *The New York Law Journal*, *Financial Executive*, *Law360*, and *The NAPP Report*, among other publications. For her achievements, Ms. Avan consistently has been selected as a “Rising Star” by *Super Lawyers*, a Thomson Reuters publication.

Ms. Avan earned her Juris Doctor from Benjamin N. Cardozo School of Law in 2006. She received her master’s degree in English and American Literature from Boston University in 2002 and her bachelor’s degree, *cum laude*, in Philosophy and English from Brandeis University in 2000. Ms. Avan is a member of the New York Bar and Connecticut Bar. She is admitted to the United States District Court for the Southern District of New York.



EMILY BISHOP

Emily R. Bishop is an Attorney at Saxena White’s California office, where she focuses her practice on prosecuting securities fraud class and direct actions, as well as shareholder derivative and corporate governance matters. Prior to joining Saxena White, Ms. Bishop was an associate at a law firm in San Diego where she represented individual and institutional shareholders in a variety of complex shareholder litigation.

Ms. Bishop graduated from the University of San Diego in 2014, where she received a Bachelor of Business Administration degree, double majoring in Business Economics and Real Estate, and a Bachelor of Arts degree in Political Science. She received her Juris Doctor degree from the University of San Diego School of Law in 2017, graduating *cum laude*, and a Masters of Laws in Taxation in 2018. While attending law school Ms. Bishop served as an editor of the *San Diego International Law Journal*, and was president of Phi Delta Phi, the international legal honor society and oldest legal organization in continuous existence in the United States.

Ms. Bishop is a member of The State Bar of California and is admitted to practice in the United States District Court for the Northern District of California.



TAYLER BOLTON

Tayler Bolton has extensive litigation experience with a particular focus on litigation in the courts of Delaware. Ms. Bolton’s practice focuses on corporate governance and fiduciary duty litigation. She also has significant experience in corporate bankruptcy and commercial litigation.

Ms. Bolton earned a Bachelor of Music (Voice) and a Bachelor of Arts (Communication) from the University of Oklahoma. She received her Juris Doctor from Emory University School of Law where she served as an editor of the Emory Corporate Governance and Accountability Review, served as the elected Conduct Court Justice of the Student Bar Association, received the Emory Woman of Excellence Award, and was inducted into the Order of Barristers.



Following graduation from law school, Ms. Bolton served as a foreign law clerk to the Honorable Hanan Melcer in the Supreme Court of the State of Israel and served as a law clerk to the Honorable Diane Clarke-Streett in the Superior Court of Delaware.

Ms. Bolton is currently active in the Delaware Barristers Association, the Richard S. Rodney Inn of Court, and the Multicultural Judges and Lawyers Section where she received the Haile L. Alford Excellence Award.

Ms. Bolton is a member of the Delaware, New York, and Texas State Bars, and is admitted to practice law in the United States District Court for the District of Delaware.



RHONDA CAVAGNARO

Rhonda Cavagnaro is Special Counsel to Saxena White and a member of the Firm's Institutional Outreach group. She brings extensive expertise in many areas of employee benefits and pension administration with nearly two decades of public fund experience. Ms. Cavagnaro frequently speaks at industry conferences to further trustee education on fiduciary issues facing institutional investors.

Ms. Cavagnaro began her legal career as an Assistant District Attorney in New York City, where she was instrumental in creating the office's General Crimes Unit, covering major crimes. As an ADA, Ms. Cavagnaro gained valuable trial experience and prosecuted hundreds of misdemeanor and felony cases.

Ms. Cavagnaro started her career serving public pensions as Assistant General Counsel at the New York City Employees' Retirement System. She then went on to become the first General Counsel to the New York City Police Pension Fund in February 2002, where she worked for over 11 years, providing advice to the Board of Trustees and 140-member staff with respect to benefits administration, fiduciary issues, employment issues, legislation, and transactional matters. Ms. Cavagnaro last served as the Assistant CEO for the Santa Barbara County Employee's Retirement System, where under the general direction of the CEO and Board of Trustees, she oversaw the day to day operations of the System.

Ms. Cavagnaro graduated with a Bachelor of Arts in Political Science and History from the University of Rochester, in Rochester, New York, and earned her Juris Doctor from the California Western School of Law in San Diego, California. She is a member of the New York and New Jersey State Bars, and is admitted to the United States District Court for the Southern and Eastern Districts of New York, and is a current member of the National Association of Public Pension Attorneys.



ALEC T. COQUIN

Alec T. Coquin is a Senior Attorney at Saxena White P.A. Mr. Coquin focuses on prosecuting complex securities fraud cases on behalf of institutional investors.

Prior to joining Saxena White, Mr. Coquin was an Associate with a nationally recognized securities litigation firm. Mr. Coquin supported the Firm team that helped recover a \$140 million settlement against Barrick Gold Corporation, one of the world's largest gold mining companies, in *In re Barrick Gold Securities Litigation*. Alec was also an integral part of the Firm teams that helped recover \$15.75 million in a securities class action against Prothena Corporation, \$39 million in a securities class action against World Wrestling Entertainment, \$39.5 million in a securities class action against Intuitive Surgical, and \$29.5 million in a securities class action against Advanced Micro Devices.

Mr. Coquin earned his Juris Doctor from St. John's University School of Law, where he was the Associate Managing Editor of the *St. John's Law Review*, and his Bachelor of Arts from Wesleyan University.

Mr. Coquin is a member of the New York Bar. He is admitted to the United States District Court for the District of Maryland, the Northern District of California, the Eastern District of Michigan and the Eastern and Southern Districts of New York. He is also admitted to the United States Court of Appeals for the Second and Ninth Circuits.



OMAR D. DAVIS

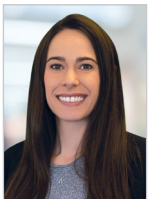
Omar D. Davis has an extensive background as a retirement plan legal advisor and manager that has provided him with a deep understanding of the issues and challenges facing institutional investors. Mr. Davis has served in various capacities for several large retirement plans. Most recently, Mr. Davis was the Director of Employer Services at the Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS), a \$50+ billion pension plan serving retired educators and school employees across the State of Missouri. His public retirement plan background extends to earlier roles at the Missouri Department of Transportation & Missouri State Highway Patrol Employees' Retirement System (MPERS), where he was General Counsel, and the Missouri State Employees' Retirement System (MOSERS), where he served as Investment Legal & Compliance Counsel.

Prior to his retirement system background, Mr. Davis worked for more than a decade in Missouri state government as an agency leader, including as the Director of the Department of Revenue and the Director of the Department of Labor & Industrial Relations. He has been recognized for his leadership and service numerous times throughout his career.

Prior to joining Saxena White, Mr. Davis offered client organizations a wealth of public sector experience as an executive search consultant, focusing on the public retirement, public agency, asset owner and manager sectors.

Mr. Davis received his Bachelor of Science from Kansas State University and his Juris Doctor from the University of Missouri Columbia School of Law.

Mr. Davis is a member of the Missouri Bar.



SARA DILEO

Sara DiLeo, Senior Attorney, has extensive experience in federal securities class action lawsuits, derivative litigation, and complex commercial litigation in both federal and state courts. Recently, Ms. DiLeo was a member of the litigation team that successfully recovered a \$320 million derivative settlement for shareholders of Wells Fargo & Company. She was also part of the litigation teams that obtained a \$28.25 million settlement for shareholders of TrueCar, Inc., and a \$50 million settlement for shareholders of HD Supply Holdings, Inc.-one of the largest securities class action settlements ever achieved in the U.S. District Court for the Northern District of Georgia. Before joining Saxena White, Ms. DiLeo practiced securities litigation for nine years at a top-ranked global law firm, Skadden, Arps, Slate, Meagher & Flom LLP.

Ms. DiLeo graduated from New York University's College of Arts & Sciences program in 2003, where she received a Bachelor of Arts degree with a double major in Political Science and Psychology. She received her



Juris Doctor degree from Fordham University School of Law in 2008. While attending law school, Ms. DiLeo was an Articles Editor for the *Fordham Urban Law Journal* and interned for the Hon. Barbara Jones in the United States District Court for the Southern District of New York.

Ms. DiLeo is a member of the New York Bar.



HANI FARAH

Hani Farah is an Attorney at Saxena White's California office. Prior to joining Saxena White, Mr. Farah practiced at a leading securities litigation law firm where he analyzed potential new cases, primarily U.S. securities class action and individual opt-outs suits, as well as international securities litigation.

Prior to joining traditional practice, Mr. Farah was the primary legal counsel for a U.S. presidential candidate. In this role, Mr. Farah researched and provided counsel on myriad issues relevant during the 2016 campaign.

Mr. Farah graduated *cum laude* from the University of California San Diego in 2011. He later graduated *cum laude* from the University of San Diego School of Law in 2015. He is a member of the California Bar, and is admitted to practice in the United States District Court for the Central District of California.



WILLIAM FORGIONE

Prior to joining Saxena White, William Forgione served as a senior legal executive with Teachers Insurance and Annuity Association ("TIAA") and its subsidiaries for over 25 years. While at TIAA, he held a variety of leadership positions, including as Executive Vice President and General Counsel with TIAA Global Asset Management and Nuveen, a leading financial services group of companies that provides investment advice and portfolio management through TIAA and numerous investment advisors. He oversaw the legal, compliance, and corporate governance aspects associated with the organization's \$900 billion investment portfolios and asset management businesses, including TIAA's general account, various separate accounts, registered and unregistered funds and institutional investment mandates.

Under Mr. Forgione's leadership, TIAA was actively involved in a number of significant investment litigation matters in order to recover the maximum amount for the benefit of its investment portfolios and the beneficial owners. These included acting as lead plaintiff in class action lawsuits, initiating proxy contests, pursuing direct actions where appropriate and asserting appraisal rights when it felt the consideration to be paid to shareholders in connection with various merger and acquisition activity involving portfolio companies was inadequate.

Mr. Forgione also served as Deputy General Counsel to TIAA, where among his many responsibilities, he acted as a strategic partner and advisor to the heads of TIAA's pension and insurance business lines. He also served as a member of TIAA's Senior Leadership Team, actively participating on a number of management committees. In addition, Mr. Forgione has valuable corporate governance experience, having advised and served on a number of Boards, including Nuveen, the Westchester Group, several foreign operating subsidiaries of TIAA, as well as various Risk Management, Investment, Asset-Liability and Audit Committees. He also has served as lead counsel on several large business acquisitions.

After graduating *summa cum laude* from Binghamton University with a B.S. in Accounting, Mr. Forgione received his J.D. degree from Boston University. Among many industry associations, he has served as President and a member of the Board of Trustees of the Association of Life Insurance Counsel, President and Trustee of the American College of Investment Counsel and Chairman of the Investment Committee of the Life Insurance Council of New York. Mr. Forgione has spoken at many industry conferences and seminars, taught undergraduate and graduate courses in Accounting and Law and has won such awards as *Charlotte Business Journal's* Corporate Counsel Award for his success in corporate law.

Prior to joining TIAA, Mr. Forgione was associated with Fried, Frank, Harris, Shriver & Jacobson LLP, and Csaplár & Bok, where he practiced in the areas of mergers and acquisitions and corporate finance. He is a member of the New York State Bar.



DONALD GRUNEWALD

Donald Grunewald focuses on performing research for securities and derivatives litigation. He has served on the litigation teams that successfully prosecuted securities fraud class actions and shareholder derivative actions, including *Peace Officers' Annuity and Benefit Fund of Georgia, et al. v. DaVita Inc., et al.* (\$135 million settlement, the second largest all-cash securities class action settlement in D. Colo. history), *Plymouth County Ret. Sys. v. GTT Communications, Inc.* (\$25 million settlement), and *Milbeck v. TrueCar, Inc., et al.* (\$28.25 million settlement). Before joining Saxena White, Mr. Grunewald taught Legal Research and other legal courses at a college in New York for six years. He has prepared economic and legal research for litigation, businesses, and academics.

Mr. Grunewald earned his Bachelor of Arts in Economics, *magna cum laude*, from Haverford College in 2004. He later earned a Bachelor of Arts in Jurisprudence from Oxford University and a Master of Laws from the University of Pennsylvania Law School.

Mr. Grunewald has been a member of the New York State Bar since 2008.



SCOTT GUARCELLO

Scott Guarcello's practice focuses on the discovery stage of litigation. With over ten years of significant complex e-discovery experience, he brings to Saxena White an expertise honed by the numerous e-discovery services and training programs that he created, led and supported while serving as a Senior Managing Attorney for a global e-discovery consulting and services provider.

Combining both discovery and technical expertise, Mr. Guarcello advises on best practices concerning information governance principles, ESI protocols, collections, processing, large-scale document reviews, production management, and related infrastructure applications. Recently, Mr. Guarcello was a member of the litigation team that successfully obtained a \$320 million derivative settlement against Wells Fargo & Company. He was also part of the litigation teams that recovered a \$28.25 million settlement against TrueCar, Inc., and secured a \$50 million settlement against HD Supply Holdings, Inc.-one of the largest securities class action settlements ever achieved in the U.S. District Court for the Northern District of Georgia.

Mr. Guarcello earned a Bachelor of Science from Stetson University and received a Juris Doctor from Florida International University where he graduated *cum laude* with a concentration in securities law. He was a regular recipient of the Dean's List Award and received the CALI Book Awards for the Complex Litigation

and Corporate Tax courses. Mr. Guarcello has also received the Legal Elite Award for 2017 and 2018 and holds extensive industry certifications that span review tools, feature-specific technical applications, project management and analytics. As an active member in the e-discovery community, Mr. Guarcello has been a guest speaker for both intimate and large audiences.

Mr. Guarcello is a member of the Florida Bar.



SCOTT KOREN

Scott Koren is an Attorney at Saxena White. Mr. Koren concentrates on new case development by performing research on potential securities class actions and new derivative and corporate governance actions. Mr. Koren's efforts are focused on beginning stages of litigation including case origination and pre-trial discovery. Additionally, Mr. Koren has served on teams representing investors against HD Supply Holdings Inc. and DaVita, Inc.

Mr. Koren received his undergraduate degree in Business Management and Entrepreneurship from the University of Arizona and received his Juris Doctor degree from Pace University School of Law.

Mr. Koren is a member of the New York Bar.



JUSTIN KRUMPER

Justin Krumper is a Law Clerk in Saxena White's New York office, where he works on complex securities fraud matters.

Mr. Krumper received his Juris Doctor degree from The George Washington University Law School in 2022, where he graduated with honors. During law school, he was an Associate Editor of the American Intellectual Property Law Association Quarterly Journal, where he had his note published. He received his Bachelor of Science in Finance and Political Science from Florida State University, *cum laude*, in 2019 and was a Presidential Scholar.

*Pending Admission



JONATHAN D. LAMET

Jonathan Lamet, Senior Attorney, has extensive experience in litigating direct securities actions and derivative actions involving publicly traded companies.

Before joining Saxena White, Mr. Lamet practiced commercial and civil litigation, including directors and officers liability, securities and fraud litigation, bankruptcy adversary proceedings, and class action defense for seven years at an Am-Law 100 firm, Akerman LLP.

Mr. Lamet graduated from Yeshiva University, Sy Syms School of Business in 2010, where he received his Bachelor of Science in Business Management. He received his Juris Doctor degree from University of Miami School of Law in 2013. Mr. Lamet was a member of the University of Miami Law Review. While attending law school, Mr. Lamet interned for the United States Attorney's Office, Economic Crimes Division, for the Southern District of Florida, and for the Hon. William Turnoff in the United States District Court for the Southern District of Florida.



Mr. Lamet is a member of the Florida Bar, the United States District Courts for the Southern and Middle Districts of Florida, and the United States Court of Appeals for the Eleventh Circuit.



CRAIG C. MAIDER

Craig C. Maider is an Attorney at Saxena White P.A. Mr. Maider focuses his practice on litigating large scale class actions in federal court on behalf of institutional investors.

Mr. Maider has represented investors in commodity futures manipulation cases, including as lead counsel in a certified class action against Kraft Foods Group and Mondelez Global for manipulation of the wheat futures market (*Ploss v. Kraft Foods Group, Inc. et al.*, Case No. 15-cv-2937 (N.D. Ill.) (Kness, J.)) and against Lansing Trade Group, LLC in a separate manipulation of the wheat futures market. *Budicak Inc. et al. v. Lansing Trade Group, LLC et al.*, Case No. 19-cv-2449 (D. Kan.) (Robinson, J.). Mr. Maider has also represented a putative end-user class of indirect purchasers alleging that the nation's largest chemical manufacturers conspired to inflate the price of caustic soda, a chemical commodity used in myriad industrial processes (*In re Caustic Soda Antitrust Litigation*, Lead Case Docket No. 1:19-CV-00385 (W.D.N.Y.) (Wolford, J.)).

Mr. Maider received his Juris Doctor from the Benjamin N. Cardozo School of Law in 2016, where he graduated with honors. While at Cardozo, he also participated in the Securities Arbitration Clinic, recovering damages on behalf of investors. He received a Bachelor of Science in Finance from Rutgers University, with honors, in 2011 and previously held Series 7 and 63 licenses.

Mr. Maider is a member of the New Jersey Bar and the New York Bar. He is admitted to the United States District Court for the Southern District of New York.



JILL MILLER

Jill Miller focuses her practice on e-discovery, including project management and litigation support services for securities fraud class and derivative actions. As Managing Discovery Attorney, she oversees the staff attorneys at the firm and manages the document review process. Ms. Miller was a member of the litigation teams that secured one of the largest settlements in 2018, *In re Wilmington Trust Corporation Securities Litigation* (\$210 million). She was also part of the litigation teams that successfully prosecuted Wells Fargo (\$320 Million settlement), and DaVita (\$135 million settlement, the second largest all-cash securities class action settlement in D. Colo. history).

Prior to joining Saxena White, Ms. Miller served as team lead at various law firms for discovery in large, complex class actions and mass torts in the areas of securities fraud, software technology, pharmaceutical and patent infringement. Prior to her litigation experience, Ms. Miller was an associate at Ruden McClosky where she practiced real estate law. During her 11 years with the firm, she represented large developers of residential and commercial real estate throughout the South Florida area. Ms. Miller began her legal career as an associate in the real estate practice division of a major New Jersey law firm where she concentrated her practice on residential and commercial real estate transactions and development. She also dedicated a significant portion of her practice to casino licensing and compliance.

For the past 10 years, Ms. Miller has volunteered her time as a Guardian ad Litem, protecting the rights of abused and neglected children in Broward County, Florida.



Ms. Miller graduated from the University of Maryland, College Park with a Bachelor of Arts in Political Science. She received her law degree from Hofstra University where she was the Articles Editor of the *International Property Investment Journal*. She also interned at the United States Federal Court, Eastern District of New York during law school. Ms. Miller is a member of the Florida Bar and is admitted to the United States District Court for the Southern District of Florida.



DIANNE PITRE

Dianne Pitre, Senior Attorney, prosecutes securities fraud, corporate governance and shareholder rights litigation on behalf of injured shareholders. Ms. Pitre has served on the litigation teams that successfully prosecuted securities fraud class actions and shareholder derivative actions, including *In re Wells Fargo & Company Shareholder Litigation* (\$320 million settlement), *Peace Officers' Annuity and Benefit Fund of Georgia, et al. v. DaVita Inc., et al.* (\$135 million settlement, the second largest all-cash securities class action settlement in D. Colo. history), *In re Rayonier Inc. Securities Litigation* (\$73 million settlement), *Milbeck v. TrueCar, Inc., et al.* (\$28.25 million settlement), and *Plymouth County Ret. Sys. v. GTT Communications, Inc.* (\$25 million settlement).

Before joining Saxena White, Ms. Pitre was a legal intern for Jack in the Box, Inc. and Alliant Insurance Services, Inc. She worked extensively with their in-house departments, assisting in a variety of corporate, employment, and government regulation matters. Ms. Pitre was an intern for Jewish Family Service of San Diego and Housing Opportunities Collaborative, two San Diego pro bono legal organizations. Additionally, she served as a Legal Intern for the San Diego City Attorney's Office with their Advisory Division, Public Works Section.

Ms. Pitre graduated from the University of California, San Diego in 2008, where she received a Bachelor of Arts degree, majoring in Political Science with a minor in Law and Society. In 2012, she received her Juris Doctor degree from the University of San Diego School of Law. While attending law school, Ms. Pitre earned various scholarships and awards, including the San Diego La Raza Lawyers Association Scholarship and Frank E. and Dimitra F. Rogozienski Scholarship for outstanding academic performance in business law courses. Her outstanding law school academic achievements culminated in two CALI Excellence for the Future Awards for receiving the top grade in her Fall 2011 International Sports Law and Entertainment Law classes. Ms. Pitre is an alumnus of Phi Delta Phi, the international legal honor society and oldest legal organization in continuous existence in the United States. Ms. Pitre has recently been recognized as a *Super Lawyer* "Rising Star" for the last three years in a row.

Ms. Pitre is a member of the Florida and California State Bars. She is admitted to practice before the United States District Courts for the Southern and Northern Districts of Florida and the Northern, Central, Southern, and Eastern Districts of California.



JOSHUA SALTZMAN

Joshua Saltzman, Senior Attorney, focuses his practice on securities and derivative litigation. Before joining Saxena White, Mr. Saltzman litigated investor class actions, opt-out securities actions, and derivative actions at two boutique law firms in New York City. Recently, Mr. Saltzman was a member of the respective litigation teams that achieved a \$63 million securities class action settlement for shareholders of Patterson Companies, Inc., and a \$31.9 million securities class action



settlement for shareholders of Perrigo Company, plc. Mr. Saltzman was also a member of the litigation team that obtained a \$53 million derivative settlement on behalf of New Senior Investment Group, which was the largest settlement of all time in a derivative lawsuit when measured as a percentage of the company's total market capitalization. He was also a member of the litigation team that obtained a \$50 million settlement on behalf of shareholders of HD Supply Holdings, Inc. – one of the largest securities class action settlements ever achieved in the U.S. District Court for the Northern District of Georgia.

Additionally, Mr. Saltzman has been a member of litigation teams that have obtained numerous other substantial recoveries on behalf of investors, including cases involving American International Group (\$40 million settlement on behalf of AIG employees who invested in AIG's company stock fund, representing one of the largest ERISA stock drop recoveries of all time), Cornerstone Therapeutics (\$17.9 million for minority stockholders of Cornerstone Therapeutics whose shares were purchased in a controller buyout), and Petrobras (high percentage recovery on behalf of the state pension system in opt-out securities action).

Mr. Saltzman received a Bachelor of Arts degree in English from Rutgers University in 2002, and a Juris Doctor degree from Brooklyn Law School in 2011, graduating *magna cum laude*. During law school, Mr. Saltzman served as an editor on the *Brooklyn Law Review*, where he published a note and interned for the Honorable Victor Marrero in the United States District Court for the Southern District of New York.

Mr. Saltzman is a member of the New York Bar, the United States District Court for the Southern District of New York, and the United States Court of Appeals for the Third Circuit.



DAVID L. WALES

David L. Wales is Senior Counsel at Saxena White P.A., focusing on corporate governance litigation. Mr. Wales is an experienced securities litigator and trial attorney, and a former Assistant United States Attorney for the Southern District of New York.

Prior to joining Saxena White, Mr. Wales was a partner for 12 years at a nationally recognized securities litigation firm, where he served as one of the leaders of the corporate governance litigation practice.

During his career, Mr. Wales has led numerous significant corporate governance actions including the derivative action against the board of directors of Pfizer Inc., arising out of the off-label marketing of pharmaceuticals, resulting in a \$75 million recovery and the first case requiring the establishment of a board-level regulatory compliance committee. Mr. Wales has been a leader in the fight against corporate abuse in the sale of opioids including a derivative action on behalf of McKesson Corporation achieving a \$175 million recovery and substantial corporate governance reforms, and successfully tried a books and records action against Walmart Inc. He was a leader in the action against the board and senior management of Twenty-First Century Fox, Inc., arising out of workplace harassment, obtaining a \$90 million recovery and groundbreaking corporate governance reforms. Mr. Wales has successfully litigated numerous actions arising out of mergers and acquisitions, as well as conflicted transactions, including *In re New Senior Investment Group, Inc. Derivative Litigation*, a \$53 million recovery arising out of a conflicted transaction and *In re Jefferies Group, Inc. Shareholders Litigation*, a \$70 million settlement on behalf of shareholders in the sale of the company.

Mr. Wales has extensive experience successfully prosecuting class actions under the federal securities laws, including *In Re Merck & Co., Inc. Securities Litigation*, achieving a \$1.06 billion settlement weeks before trial; *Public Employees' Retirement System of Mississippi v. Merrill Lynch & Co. Inc.*, obtaining a \$315 million settlement after arguing the first successful class certification motion in an RMBS action; and *In re Sepracor Corp. Securities Litigation*, a \$52.5 million recovery in a certified securities fraud class action.



Mr. Wales has been consistently recognized for his legal excellence. He is AV rated, the highest rating from *Martindale-Hubbell*. He has also been named a top practitioner by Legal 500, a “New York Super Lawyer” in securities litigation by Thomson Reuters, and as one of the “500 Leading Plaintiff Financial Lawyers” by *Lawdragon*. Mr. Wales is a frequent speaker on corporate governance including ESG and securities fraud matters.

Mr. Wales graduated *magna cum laude* from the State University of New York at Albany and *cum laude* from the Georgetown University Law Center.

Mr. Wales is a member of the New York Bar and the District of Columbia Bar. He is admitted to the United States District Court for the Northern, Southern, Eastern and Western Districts of New York, the District of Columbia, the Eastern District of Michigan, and the Northern District of Illinois and the Trial Bar. He is also admitted to the United States Court of Appeals for the Second, Third and Fourth Circuits.



ADAM WARDEN

Adam Warden is involved in all of Saxena White’s practice areas, including shareholder derivative actions, securities fraud litigation, and merger and acquisition litigation. During his tenure at Saxena White, Mr. Warden has been a member of the teams securing significant recoveries, including *Cumming v. Edens* (derivative settlement of \$53 million for claims challenging acquisition by senior living operator New Senior Investment Group, Inc., representing more than 10% of the company’s market capitalization), *In re Wells Fargo & Company Shareholder Litigation* (derivative settlement valued at \$320 million, including \$240 million in cash and corporate governance reforms), *In re Jefferies Group, Inc. Shareholders Litigation* (class action settlement of \$70 million, one of the largest settlements in the history of the Delaware Court of Chancery), and *In re Parametric Sound Corporation Shareholders’ Litigation* (\$9.65 million settlement, the second largest post-merger class action settlement in Nevada state history).

Mr. Warden has been recognized as a *Super Lawyer* “Rising Star” in 2018, a *South Florida Legal Guide’s* “Up and Comer” from 2018-2020, and a *Palm Beach Illustrated* “Top Lawyer” in 2020. Mr. Warden is also a member of Saxena White’s Diversity and Social Responsibility Committee.

Mr. Warden earned his Bachelor of Arts degree from Emory University in 2001 with a double major in Political Science and Psychology. He received his Juris Doctor from the University of Miami School of Law in 2004. During law school, Mr. Warden served as the Articles Editor of the *University of Miami International and Comparative Law Review*.

Mr. Warden is a member of the Florida Bar and the District of Columbia Bar. He is admitted to the United States District Courts for the Southern, Middle, and Northern Districts of Florida.



WOLFRAM T. WORMS

Wolfram T. Worms is an Attorney in Saxena White’s California office. Mr. Worms has twenty years of experience in securities litigation and has assisted shareholders in recovering over a billion dollars.

Mr. Worms began his career practicing law at Gibson Dunn and Crutcher LLP, a national defense firm, and Bernstein Litowitz Berger and Grossmann LLP, a plaintiffs securities litigation firm. Prior to joining Saxena



White, Mr. Worms owned and operated a private investigation business specializing in securities fraud and related forms of corporate misconduct. In this capacity, Mr. Worms was engaged by court-appointed lead counsel, or prospective lead counsel, on hundreds of securities fraud cases. Representative examples of Mr. Worms' successful engagements as a private investigator include the securities class actions against Regions Financial Corporation (\$90 million settlement), Hospira, Inc. (\$60 million settlement), Sirva, Inc. (\$53 million settlement), and Baxter International (\$42.5 million settlement). Mr. Worms has also coordinated with the U.S. Securities Exchange Commission and the U.S. Department of Justice on major securities fraud investigations and advised the U.S. Senate Financial Crisis Inquiry Commission regarding the role of rating agencies in the mortgage crisis.

At Saxena White, Mr. Worms is a member of the Firm's case starting group, where he leverages his extensive experience in the field of securities litigation in identifying, investigating, and advising the Firm's institutional clients on potential new matters.

Mr. Worms received his Bachelor of Arts degree with a major in History from Western Oregon University. He earned his Juris Doctor from the UCLA School of Law.

Mr. Worms is a member of the California Bar.

PROFESSIONALS**SHERRIL CHEEVERS***Client Services Specialist*

Sherril Cheevers is a Client Services Specialist at Saxena White. She is responsible for client outreach and business development among institutional investors. Ms. Cheevers attends industry conferences and organizes events and opportunities to give back to the community.

Prior to joining Saxena White, Ms. Cheevers worked as a sales and community liaison in multiple markets. Ms. Cheevers earned her Bachelor of Science from the University of Tampa.

**MICHAEL A. D'ALONZO***Senior Investigator*

Michael A. D'Alonzo is a Senior Investigator at Saxena White. Prior to joining Saxena White, Mr. D'Alonzo served over 21 years with the FBI, most recently as the Assistant Special Agent in Charge of the FBI Miami Office. In this role, he was responsible for the oversight of the Miami Divisions Resident Agencies and Miami's Special Operations Groups. As head of the Resident Agencies, he was responsible for both the counterterrorism and criminal investigations in the Fort Pierce, West Palm Beach, Homestead and Key West Resident Agencies.

During his service with the FBI, Mr. D'Alonzo served as a Supervisory Special Agent for over 9 years. While in the FBI Newark Division in New Jersey, he was responsible for Newark's Special Operations Group which provided support to covert and undercover operations, and Newark's Humint Squad, responsible for identifying and addressing FBI intelligence gaps. In the Newark Division, he developed educational platforms for state and local law enforcement entities regarding the Newark Division Intelligence Program, while maintaining effective liaison with New Jersey colleges and universities, increasing domain awareness, and increasing intelligence production efforts.

Prior to his service with the FBI Newark Division, Mr. D'Alonzo served in the FBI New York Office as both a criminal and counterterrorism Supervisory Special Agent. In his criminal role, he was responsible for New York's Civil Rights and Crimes Against Children programs. This role involved oversight of investigations related to human trafficking as well as overseeing kidnapping investigations.

As a counterterrorism Supervisory Special Agent, Mr. D'Alonzo was responsible for a Joint Terrorism Task Force. He was responsible for ensuring the coordination between other field offices, legal attaché offices, local law enforcement, state police, the Central Intelligence Agency, National Security Agency, Department of Homeland Security, and Department of Defense. Mr. D'Alonzo was also engaged with international terrorism cases that were worked hand in hand with foreign law enforcement organizations such as the Canadian Security Intelligence Service, Royal Canadian Mounted Police, New Scotland Yard and British Security Services. He had oversight over high profile investigations including Operation High Rise, Operation Silent Digit, Aafia Siddiqui, and Syed Hashmi, all of whom were found guilty of terrorism related charges.



Mr. D'Alonzo was elevated to Supervisory Special Agent at FBI Headquarters in the Counterterrorism Division's International Terrorism Operations Section I. In this role, he served as a program manager for numerous FBI field offices and was responsible for the coordination and support for FBI forward operations in the field. As a Special Agent assigned to the FBI New York Office, Mr. D'Alonzo was part of the FBI's Special Operations Group and the Criminal Division, working South American, Columbian drugs. Prior to his FBI employment, Mr. D'Alonzo served as a Police Officer in the State of New Jersey for 9 years following his graduation from Villanova University, PA.



SAM JONES
Financial Analyst

Sam Jones is a Financial Analyst with Saxena White's California office. Prior to joining Saxena White, Mr. Jones worked for over ten years as a financial analyst at a leading securities litigation law firm where he specialized in developing techniques for data modeling and visualization. He worked on numerous landmark securities cases including *In re Bank of America Securities Litigation* (\$2.425 billion recovery); *In re Lehman Brothers Equity/Debt Securities Litigation* (\$735 million recovery); *In re Wachovia Corp. Securities Litigation* (\$627 million recovery); and *Merrill Lynch Mortgage Pass-Through Litigation* (\$315 million recovery).

In the fallout of the housing and credit crisis, Sam pioneered techniques in data management and analysis for the firm's then-developing RMBS and structured finance practice. He has worked on numerous individual and class action RMBS cases against most of the major Wall Street banks.

Sam graduated from Vassar College, where he studied anthropology with a focus on economics. After graduation he worked extensively as a field archaeologist throughout the U.S. and in Israel before transitioning to a career in securities litigation and financial analysis.



STEFANIE LEVERETTE
Manager of Client Services

Stefanie Leverette is Saxena White's Manager of Client Services. In this role, she manages the Firm's client outreach and developmental programs and oversees the Firm's portfolio monitoring program. Since joining Saxena White in 2008, Ms. Leverette has coordinated the Firm's presence at industry conferences attended by representatives of various institutional clients throughout the United States. In addition, Ms. Leverette is responsible for the timely dissemination of all reports, notifications and all new cases and class action settlements that may have an impact to an investment portfolio. Ms. Leverette's main role is acting as the liaison between institutional clients and the Firm.

Ms. Leverette is a member of the Firm's Diversity and Social Responsibility Committee and a member of the Women's Initiative Subcommittee. She is also a member of the Firm's Case Starting Team, providing institutional clients with important information regarding potential litigation.

Ms. Leverette earned her undergraduate degree in Business Administration with a focus on Management from the University of Central Florida, and her Master's in Business Administration with a focus on International Business at Florida Atlantic University.



JEROME PONTRELLI

Chief of Investigations

With over two decades of law enforcement experience, including 12 years with the Federal Bureau of Investigation, Jerome Pontrelli serves as Saxena White's Chief of Investigations. He oversees all of the Firm's efforts to detect, investigate, and prosecute securities cases. Prior to joining Saxena White, Mr. Pontrelli was Director of Investigations at Labaton Sucharow LLP, where his cases resulted in monetary relief for harmed investors in excess of \$4 billion. He was also part of the firm's initial SEC Whistleblower Program.

Over the years, in the FBI and in private practice, Mr. Pontrelli has led over one hundred investigations of possible securities violations. Throughout his award-winning career, he has developed extensive experience in securities-related matters. Mr. Pontrelli began his career with the FBI in Covert Special Operations, and was later assigned to the FBI/NYPD Joint Bank Robbery Task Force. Following the September 11th attacks, Mr. Pontrelli was assigned to the Joint Terrorism Task Force. He later transferred to the White Collar Crime Health Care Fraud Unit. Mr. Pontrelli has an extensive network of high-level relationships throughout the state and federal law enforcement communities.

Mr. Pontrelli received a Bachelor of Arts degree from St. Thomas Aquinas College and a Master of Arts degree from Seton Hall University. He graduated from the FBI Academy in 1996.



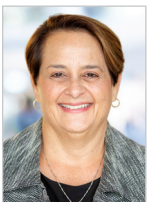
EDWARD STINSON

Manager of Information Technology

Edward Stinson has been Saxena White's Manager of Information Technology (IT) for over a decade. Mr. Stinson oversees all of Saxena White's various IT needs, projects, and maintenance, and coordinates all internal and external IT partners. He is also responsible for managing the Firm's day-to-day IT support, including all computer operations, cyber security, physical system maintenance, IT deliverables, and ongoing recommendations for risk mitigation. During his time with Saxena White, Mr. Stinson designed and built an entire network system spanning over three office locations, and includes dozens of servers and hosts nearly 100 users. He also designed and implemented a SD-WAN solution utilizing FortiGate routers as a fault-tolerant component to an overall business continuity strategy.

Before joining Saxena White, Mr. Stinson was an aviation electrician in the United States Marines Corp. After honorably serving the military, he leveraged his skills and training to start his own Information Technology business in 1997. Mr. Stinson's specialties are in Network/System Administration and Engineering and has achieved multiple certifications in his field, including Certified Information Systems Security Professional, Microsoft Certified Systems Engineer, and Certified Network Administration. Mr. Stinson adheres to the "Semper Fidelis" motto and is committed to honing his expertise.

Mr. Stinson is a Certified Information Systems Security Professional and a Microsoft Certified Systems Engineer.)



ANABELLE TUCHMAN

Firm Administrator

Anabelle Tuchman is Saxena White's Firm Administrator. In this role, she supervises firm operations, including human resources, hiring and managing the support staff, overseeing

administrative and billing matters, and handles other day-to-day firm operation responsibilities. Ms. Tuchman brings nearly twenty years of experience in human resources in a law firm setting and has a strong background in talent acquisition, management, and training non-attorney staff members. She has distinctive interpersonal skills that aid her in identifying, attracting, and retaining highly qualified candidates.

Ms. Tuchman earned her Bachelor of Science from Emory University. She is a Society for Human Resource Management (SHRM) Certified Professional and is also certified by the Professional in Human Resources (PHR).



SAM WANKEL

Senior Data Analyst

Sam Wankel, Senior Data Analyst, has over 25 years of experience providing research relating to business valuation and complex securities litigation. Specifically, Mr. Wankel has expertise in calculating damage estimates to preparation of settlement allocations to class members. Prior to joining Saxena White, Mr. Wankel worked at a leading securities class action law firm as well as a private economic consulting firm specializing in business valuation and complex shareholder disputes.

In his early career, Mr. Wankel researched and prepared statistical information presented to the United States Congress and the Senate Banking and Finance Committee regarding public offerings, stock trading, securities class actions and the Private Securities Litigation Reform Act.

Mr. Wankel received a Bachelor of Arts degree from Colorado State University and is a two-time Ironman USA Triathlon finisher.



RIAN WROBLEWSKI

Head of Investigative Intelligence

With over eighteen years of intelligence gathering experience, Rian Wroblewski serves as Saxena White's Head of Investigative Intelligence. He oversees all of the Firm's efforts to generate proprietary sources of intelligence using advanced technological tools, systems, and methods. Prior to joining Saxena White, Mr. Wroblewski was Senior Manager of Investigative Intelligence at Labaton Sucharow LLP, where his cases resulted in monetary relief for harmed investors in excess of \$4 billion. He was also part of the firm's initial SEC Whistleblower Program.

Over the years, Mr. Wroblewski has provided expert commentary to The Washington Post, Investor's Business Daily, Canadian Broadcasting Corporation, and other news outlets. Mr. Wroblewski has provided consulting to database providers, eDiscovery vendors, corporate boards, and government entities throughout the world. He has extensive pro bono experience assisting political asylum seekers and targets of honor killings, working alongside the FBI and Department of State. Mr. Wroblewski is an active member of the FBI's InfraGard Program. He has an extensive network of high-level relationships within the global intelligence community.

Mr. Wroblewski received a Bachelor of Science degree from John Jay College of Criminal Justice.

STAFF ATTORNEYS**CHRISTOPHER DONNELLY**

Christopher Donnelly has extensive experience in the securities industry as both an attorney and a securities analyst for bond rating agencies, institutional investors and investment banks. Mr. Donnelly has most recently dedicated his expertise to working for plaintiffs who have been the victims of securities fraud. His legal practice has focused primarily on early resolution of matters, with an objective toward achieving just results for clients through thorough pre-trial preparation and sound litigation strategy. He has extensive experience in e-discovery, project management and litigation support services for class actions and other complex litigation. While at Saxena White, he has been part of the discovery teams that assisted the firm in successfully obtaining settlements against DaVita (\$135 million settlement) and Perrigo (\$31.9 million settlement).

Mr. Donnelly received his Bachelor of Arts from Rutgers University and his Juris Doctor from the University of Pennsylvania. Mr. Donnelly also earned an LL.M. in Taxation from New York University.

Mr. Donnelly is a member of the California Bar, the Florida Bar, the New Jersey Bar and the New York Bar.

**MICHELE FASSBERG**

Michele Fassberg focuses her practice on e-discovery and document review. She also performs legal research and assists attorneys with preparation for deposition and mediation. She was a member of the discovery teams that assisted the firm in successfully obtaining settlements against Davita (\$135 million settlement), TrueCar (\$28.25 million settlement) and Perrigo (\$31.9 million settlement).

Prior to working at Saxena White, Ms. Fassberg practiced in the areas of personal injury, worker's compensation, default, Fair Debt Collection Practices Act, and the Florida Deceptive and Unfair Trade Practices Act. She also worked as in-house counsel for a national lending institution.

Ms. Fassberg received her Bachelor of Arts from Florida International University and her Juris Doctor from St. Thomas University College of Law. Prior to beginning her legal career, Ms. Fassberg interned for the Honorable Michael H. Salmon in the 11th Judicial Circuit of Miami-Dade County, Florida.

Ms. Fassberg is a member of the Florida Bar and is admitted to the United States District Court for the Southern District of Florida.

**TARA HEYDT**

With over 25 years of experience, Tara Heydt has extensive experience with e-discovery in class actions, securities fraud, and other complex litigation matters. At Saxena White, in addition to document review, Ms. Heydt's responsibilities include quality control, deposition and mediation preparation, and legal research. She was a member of the discovery teams that assisted the firm in successfully obtaining settlements against DaVita (\$135 million settlement), Wells Fargo (\$320 million settlement), and GTT (\$25 million settlement).



Ms. Heydt began her legal career in California, where her practice focused on civil litigation. After 4 years in private practice, Ms. Heydt served as a Research Attorney with the Los Angeles County Superior Court for 12 years, where she provided judges with recommended rulings on civil law and motion matters, both pre-trial and post-trial.

Ms. Heydt received her Bachelor of Arts, magna cum laude, from the University of Pennsylvania and her Juris Doctor from the UCLA School of Law.

Ms. Heydt is a member of the Florida Bar.



RYAN JOSEPH

Ryan Joseph concentrates his practice on e-discovery and deposition preparation. He was a member of the discovery teams that assisted the firm in successfully obtaining settlements in HD Supply (\$50 million settlement), Davita (\$135 million settlement), and GTT (\$25 million settlement).

Mr. Joseph began his legal career practicing complex commercial and securities litigation at a boutique Miami law firm, where he represented one of the world's largest hedge fund providers of administrative and custodial services, Citco Fund Services, in a multi-billion dollar state and federal class action suit arising out of the Ponzi scheme perpetrated by Bernard L. Madoff Investment Securities LLC. Mr. Joseph is an experienced e-discovery attorney having worked on several class actions including the Volkswagen emissions scandal, NHL concussion lawsuit, and Fiat emissions scandal.

Mr. Joseph received his Bachelor of Science in Business Administration, *magna cum laude*, from Boston University and his Juris Doctor, *magna cum laude*, from New York Law School where he was a member of the Law Review.

Mr. Joseph is a member of the Florida Bar.



VALERIE KANNER BONK

Valerie Kanner Bonk is experienced in e-discovery and litigation support services for class actions and other litigation. She has over 12 years of litigation experience in matters related to the Federal Trade Commission, U.S. Securities and Exchange Commission, Family Law and Trusts & Estates. She was a member of the discovery team that assisted the firm in successfully obtaining a settlement against Perrigo (\$31.9 million settlement).

Ms. Kanner Bonk received her Bachelor of Arts from the University of Maryland, College Park and her Juris Doctor from the Catholic University of America, Columbus School of Law.



LESLIE MARTEY

Leslie Martey focuses her practice on e-discovery and litigation support services for securities class actions and other complex litigation. She was a member of the discovery teams that assisted the firm in successfully obtaining settlements in TrueCar (\$28.25 million settlement) and HD Supply (\$50 million settlement).



With 20 years of extensive experience in corporate and securities transactional law, including securities reporting and compliance, Ms. Martey has represented numerous domestic and international public and private entities in various businesses, including consumer products, entertainment, technology and pharmaceuticals. She was formerly Of Counsel to several New York City law firms and in-house counsel for a U.S. publicly-traded, international corporation.

Ms. Martey also clerked for a Family Court judge in New York City and provided pro bono legal services to the Jewish Board of Family & Children's Services, Inc. of New York. She also served as President and as a member of the Board of Directors and the Advisory Board of Women in Toys, Licensing & Entertainment (The WiT Foundation), a not-for-profit professional organization for the advancement of women in the toy, entertainment and licensing industries.

Ms. Martey received her Bachelor of Arts from C.W. Post College and her Juris Doctor from Fordham University School of Law.

Ms. Martey is a member of the New York Bar.



REBECCA NILSEN

Rebecca Nilsen focuses her practice on e-discovery and litigation support services for class actions and other complex litigation. She was a member of the discovery teams that assisted the firm in successfully obtaining settlements in Wilmington Trust (\$210 million settlement), Wells Fargo (\$320 million settlement), and DaVita (\$135 million settlement). Prior to joining Saxena White, she was a litigator for 13 years in matters related to Federal Trade Commission, U.S Securities and Exchange Commission, Fair Debt Collection Practices and Consumer Financial Protection Bureau.

Ms. Nilsen received her Bachelor of Arts, *cum laude*, from Florida Atlantic University and her Juris Doctor from Nova Southeastern University, Shepard Broad College of Law. While attending law school, Ms. Nilsen interned in the Pro Bono Honor Program earning the Gold Award for 2001 - 2002.



CHRISTINE SCIARRINO

Christine Sciarrino has extensive experience in e-discovery and litigation support services for class action securities fraud litigation. Her legal practice has focused primarily on early resolution of matters, with an objective toward achieving optimum results for litigating parties through superb pre-trial preparation and informed decision making. As an experienced practitioner for plaintiffs who have been wronged by financial institutions and other entities, Ms. Sciarrino has most recently dedicated her expertise exclusively to this area. She was a member of the discovery teams that assisted the firm in successfully obtaining settlements in Wilmington Trust (\$210 million settlement), Wells Fargo (\$320 million settlement), and DaVita (\$135 million settlement).

Ms. Sciarrino received her Bachelor of Arts with a major in History from Florida Atlantic University. She received her Juris Doctor from the St. Thomas University School of Law. Ms. Sciarrino also earned a Master of Fine Arts in Creative Writing at Florida Atlantic University in 2004.



ZERIN TAHER

Zerin Taher has been involved in e-discovery matters since 2020. Some of Ms. Taher’s responsibilities include assisting with the prosecution of complex securities fraud class actions and shareholder derivative actions, preparing for depositions, reviewing and analyzing documents produced in the course of litigation, performing legal research, and drafting memoranda and discovery-related materials. She was a member of the discovery team that assisted the firm in successfully obtaining a settlement against Perrigo (\$31.9 million settlement).

Ms. Taher received her Master of Business Administration and Bachelor of Science from Nova Southeastern University and her Juris Doctor from Western Michigan University. While attending law school, Ms. Taher was the President of the Florida Association for Women Lawyers (FAWL) for her school’s student chapter. Ms. Taher speaks fluent Hindi, Urdu, and Bangla.

Ms. Taher is a member of the Florida Bar.



COURTNEY WEISHOLTZ

Courtney Weisholtz has more than 20 years of professional experience in civil litigation focusing in the areas of insurance subrogation, collections, foreclosure, and family law. Ms. Weisholtz has significant experience in e-discovery. At Saxena White, she focuses her practice on e-discovery and litigation support services for class actions and other complex litigation. She was a member of the discovery team that assisted the firm in successfully obtaining a settlement against TrueCar (\$28.25 million settlement).

Ms. Weisholtz received her Bachelor of Arts from Northern Illinois University and her Juris Doctor from Nova Southeastern University.

Ms. Weisholtz is a member of the Florida Bar and is admitted to the United States District Court for the Southern District of Florida.

OFFICES

FLORIDA

7777 Glades Road
Suite 300
Boca Raton, FL 33434
P: 561.394.3399
F: 561.394.3382

NEW YORK

10 Bank Street
Suite 882
White Plains, NY 10606
P: 914.437.8551
F: 888.631.3611

CALIFORNIA

505 Lomas Santa Fe Drive
Suite 180
Solana Beach, CA 92075
P: 858.997.0860
F: 858.369.0096

DELAWARE

824 N Market Street
Suite 1003
Wilmington, DE 19801
P: 302.485.0483
F: 888.424.8566

www.saxenawhite.com

Exhibit 7

David R. Kaplan (SBN 230144)
SAXENA WHITE P.A.
505 Lomas Santa Fe Dr., Suite 180
Solana Beach, CA 92075
Telephone: (858) 997-0860
Facsimile: (858) 369-0096
Email: dkaplan@saxenawhite.com

*Counsel for Additional Named Plaintiff /
Settlement Class Member Oklahoma
Firefighters Pension and Retirement System*

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

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

CLASS ACTION

**DECLARATION OF DAVID R. KAPLAN
ON BEHALF OF SAXENA WHITE P.A.
IN SUPPORT OF LEAD PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT AND LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND
AWARD OF COSTS AND EXPENSES TO
PLAINTIFFS**

Date: March 2, 2023

Time: 10:00 a.m.

Dept.: 4 – 17th Floor

Judge: Hon. Vince Chhabria

I, David R. Kaplan, declare:

1. I am a Director in the law firm of Saxena White P.A. (“Saxena White”), counsel for Settlement Class representative and additional named plaintiff Oklahoma Firefighters Pension and Retirement System (“OFPRS”) in the above-captioned securities class action. I respectfully submit this declaration on behalf of Saxena White in support of:

A. Lead Plaintiff’s Motion for: (I) Final Approval of Proposed Class Action Settlement, (II) Final Certification of the Settlement Class, and (III) Final Approval of Proposed Plan of Allocation (“Final Approval Motion”); and

B. Lead Counsel’s Motion for (I) Attorneys’ Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs (“Fee and Expense Motion”).

Unless otherwise specifically noted, I have personal knowledge of the matters stated herein based on my participation in the action and review of records maintained by my firm, and, if called upon, I could and would testify thereto under oath.¹

2. Saxena White is a national law firm with offices in California, Florida, New York, and Delaware. The firm has litigated securities class actions and other forms of complex shareholder litigation in the Northern District of California and in courts around the country. A copy of my firm’s resume is attached as **Exhibit 6** to the Declaration of Daniel E. Barenbaum In Support of Lead Plaintiff’s Motion For Final Approval of Proposed Class Action Settlement and Lead Counsel’s Motion For Attorneys’ Fees, Reimbursement of Expenses, and Award of Costs and Expenses To Plaintiffs (“Barenbaum Declaration”), filed concurrently herewith (and to which this declaration is attached as **Exhibit 7**).

3. Throughout the litigation of this action, I personally rendered legal services and was responsible for coordinating and supervising the activity carried out by attorneys and

¹ All capitalized terms not otherwise defined herein have the same meaning as set forth in the September 19, 2022 Stipulation of Settlement (ECF No. 231-2) (the “Stipulation” or “Stip.”).

professional staff at Saxena White. In its capacity as counsel for OFPRS and in support of the Settlement Class, Saxena White performed the following tasks:

- a. Saxena White investigated and researched causes of action, including reviewing public information, relevant pleadings in this case and other relevant cases, and analyzing OFPRS' holdings. Saxena White advised OFPRS on whether and in what capacity to participate in this case;
- b. In consultation and communication with Lead Counsel, Saxena White kept itself informed throughout the litigation of relevant factual and legal issues relating to OFPRS and the Settlement Class, and Saxena White worked with OFPRS throughout to keep OFPRS informed and to seek its direction and oversight for representation of the Settlement Class;
- c. Saxena White participated with Lead Counsel in strategy sessions regarding general litigation, pleading, briefing, and discovery (including, but not limited to, those issues pertinent to claims supported by OFPRS' purchase of Portola common stock in an August 2019 secondary public offering that were brought under Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o) (the "Securities Act Claims");
- d. Saxena White participated in researching, drafting, and/or reviewing of pleadings and briefs, including the Consolidated Complaint and amendments thereto (ECF Nos. 51, 87, 113, 149); Lead Plaintiff's briefs and supporting papers in opposition to Defendants' serial motions to dismiss the Consolidated Complaint and amendments thereto (ECF Nos. 73, 94, 121, 165); Lead Plaintiff's briefs and supporting papers in connection with its motion for class certification (ECF Nos. 190, 217); and Lead Plaintiff's motion for preliminary

and final settlement approval and supporting papers, filed concurrently herewith;

- e. At Lead Counsel's request, Saxena White, *inter alia*, drafted, reviewed, and edited draft versions of the stipulated Protective Order and the Parties' stipulation governing the production of electronically stored information; and drafted and propounded discovery requests to certain Defendants, met and conferred with those defendants regarding discovery requests, obtained document discovery from those defendants, and reviewed and analyzed such documents (in consultation with Lead Counsel), with a particular focus on discovery directed against the Underwriter Defendants for which, if Securities Act standing was challenged by Defendants, OFPRS could be proffered as arguably the only named Plaintiff with standing to pursue claims against Defendants on behalf of itself and other Settlement Class Members;
- f. Saxena White worked with OFPRS to gather and produce OFPRS' documents and information in support of Lead Plaintiff and OFPRS' case and in response to discovery requests; to obtain OFPRS' information for inclusion in initial disclosures served pursuant to Rule 23(a) of the Federal Rules of Civil Procedure; to prepare OFPRS for and defend the deposition of its designated organizational witness under, Rule 30(b)(6) of the Federal Rules of Civil Procedure; to prepare for and attend the depositions of OFPRS' outside investment manager and Defendants' class certification experts, Jack R. Wiener and Mark J. Garmaise; and to work with Lead Plaintiff's expert Professor Thomas Lee Hazen to rebut Mr. Wiener's testimony, in particular, relating to OFPRS' standing to pursue Securities Act claims; and

g. Saxena White reviewed mediation submissions and discussed settlement strategy with Lead Counsel, OFPRS, and Lead Plaintiff ACERA; participated in the all-day mediation session with mediator Robert A. Meyer, Esq. of JAMS (“Mr. Meyer”); engaged with its client over the substance of the proposed settlement; and provided opinions on the proposed settlement to Lead Counsel.

4. Based on my involvement in this litigation as OFPRS’ counsel, I have carefully evaluated the merits of the claims and believe that the Settlement Amount of \$17.5 million is an excellent result for the Settlement Class. I recognize that Defendants would strenuously challenge the allegations and proof regarding each element of the causes of action, including materiality, falsity, scienter, and loss causation, and that the vigorously contested motion for class certification presented challenges for Plaintiffs. Defendants would further challenge the class-wide damages alleged by Plaintiffs, arguing that actual damages were significantly less, if not nonexistent. As such, I believe that the Settlement is fair, reasonable, and adequate, and in the best interest of the Settlement Class.

5. Based on my work performed in this action as well as a review of the billing records reflecting work performed by attorneys and professional staff at Saxena White in this action, I directed the preparation of the chart attached hereto as **Exhibit A**, which is a summary table of the current hourly rates of all Saxena White counsel, the hours expended by each professional, and the total lodestar calculation for each professional with regard to this matter. Counsel’s current rates for attorneys range from \$775 to \$880 for Directors and from \$400 to \$680 for other attorneys, including staff attorneys. Rates for various non-attorney positions are listed for specific employees on **Exhibit A**. For personnel who are no longer employed by Saxena White, the calculation is based upon the billing rates for such personnel in their final year of employment with Saxena White. The schedule was prepared from contemporaneous daily

time records regularly prepared and maintained by my firm.² In reviewing those records, the reviewing attorneys exercised billing judgement and reduced or excluded certain time entries. Time expended in preparing any papers for this motion for fees and reimbursement of expenses has not been included in this request.

6. The hourly rates charged are the firm's regular rates for contingent cases and those generally charged to clients for their services in non-contingent/hourly matters. Based on my knowledge and experience, these rates are also within or less than the range of rates normally and customarily charged in their respective cities by attorneys and legal staff of similar qualifications and experience in cases similar to this action, and that have been approved in connection with other class action settlements.

7. The total time expended by Saxena White in prosecuting this case on behalf of the Settlement Class from investigation to present is 2,120.75 hours, with a lodestar value of \$1,141,928.75. Such time and lodestar value does not include time spent working on Lead Counsel's Fee and Expense Motion. Nor does it include time spent by attorneys or professional staff who expended relatively *de minimis* time in the case.

8. As required under the Northern District of California's Procedural Guidance for Class Action Settlements, attached hereto as **Exhibit B** is a billing category-based summary chart of the work performed by the attorneys and professional staff in connection with prosecuting and/or settling the action.

9. In my judgment, the number of hours expended and the services performed by the attorneys and professional staff at Saxena White were reasonable and expended for the benefit of the Settlement Class in this action.

² Saxena White is prepared to submit copies of detailed billing records in camera at the Court's request.

10. My firm's lodestar figures do not include charges for litigation expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

11. As set forth in **Exhibit C**, Saxena White has incurred \$42,339.42 in unreimbursed litigation expenses on behalf of the Settlement Class from inception through present. The types of expenses for which Saxena White seeks reimbursement were necessarily incurred in this action and are of the type routinely charged to classes in contingent litigation, including expenses associated with, inter alia, a financial consulting expert, research, discovery (including travel), and similar expenses. The following is additional information regarding certain of my firm's expenses:

- a. **Consulting Expert:** \$15,400. In connection with the prosecution of this action, my firm consulted with and retained a consulting expert in damages and loss causation. We engaged a highly experienced financial and damages expert consultant to assist in evaluating potential Class-wide damages for the asserted Exchange Act claims and Securities Act claims under a variety of different scenarios implicated by Defendants' arguments and the Court's decisions, and to respond to arguments raised by Defendants concerning OFPRS' standing to pursue Securities Act claims based on purchases of Portola shares in the secondary public offering, including in response to Defendants' expert Jack Weiner.
- b. **Transportation, Hotels, and Meals:** \$9,006.03. In connection with the prosecution of this action, my firm incurred travel expenses for me and a representative for additional plaintiff OFPRS to attend OFPRS' organizational deposition under Rule 30(b)(6) of the Federal Rules of Civil Procedure in New York City, New York.

- c. **Discovery Costs:** \$6,926.40. My firm engaged a third-party vendor, KLDDiscovery, for services that included maintaining a document review database, preparing documents for production, and assisting in technical administration and organization of documents related to Defendants' discovery of OFPRS.
- d. **Online Legal and Factual Research:** \$6,631.93. The charges reflected are for out-of-pocket payments to legal, financial, and factual research services such as Westlaw, Lexis/Nexis, PACER, and Thomson Reuters, for research done in connection with this litigation. These resources were used to obtain access to court filings, to conduct legal research and cite-checking of briefs, and to evaluate expert witnesses. These expenses represent the actual expenses incurred by Saxena White for use of these services in connection with this litigation. There are no administrative charges included in these figures. On-line research is billed to each case based on actual usage at a charge set by the vendor.
- e. **Transcript and Deposition Expenses:** \$2,849.25. My firm engaged a third-party vendor, TransPerfect Translations International Inc., for services pertaining to the taking of OFPRS-related and -focused depositions, including fees for transcription.

12. These expenses are reflected on the books and records maintained by Saxena White. These books and records are prepared from expense vouchers, check records, and other source materials. They were prepared in the ordinary course of business and are an accurate record of the litigation expenses incurred. During my review of these expense records, I exercised billing judgement and reduced or excluded certain expenses. In my judgment, these expenses for which reimbursement is sought are reasonable in amount and were necessary for the

effective and efficient prosecution of the litigation and expended for the benefit of the Settlement Class in this action. I also believe that the expenses submitted are of a type normally charged to and paid by fee-paying clients.

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

Executed in Solana Beach, California, on January 26, 2023.

David Kaplan

David R. Kaplan

EXHIBIT A

EXHIBIT A*Hayden et al., v. Portola Pharmaceuticals Inc., et al.*, No. 3:20-cv-00367-VC**LODESTAR REPORT****FIRM: SAXENA WHITE P.A.****REPORTING PERIOD: Inception to Present**

PROFESSIONAL	HOURLY RATE	HOURS	LODESTAR
Directors			
David Kaplan	\$880.00	299.5	\$263,560.00
Brandon Marsh	\$775.00	15.5	\$12,012.50
Attorneys			
Scott Guarcello	\$680.00	173.75	\$118,150.00
Fei-Lu Qian	\$650.00	123.25	\$80,112.50
Hani Farah	\$575.00	189.5	\$108,962.50
Mario Alvite	\$495.00	67.5	\$33,412.50
Investigators			
Jerome Pontrelli	\$545.00	123	\$67,035.00
Rian Wroblewski	\$465.00	167	\$77,655.00
Financial Analyst			
Samuel Jones	\$325.00	32.75	\$10,643.75
Paralegal			
Lisa Mix	\$275.00	24	\$6,600.00
Staff Attorneys			
Christine Sciarrino	\$460.00	29.75	\$13,685.00
Mauri Lynn Levy	\$400.00	545	\$218,000.00
Harriet Atsegbua	\$400.00	200.5	\$80,200.00
Christopher James Donnelly	\$400.00	71	\$28,400.00
Paul Burns	\$400.00	58.75	\$23,500.00
Total		2,120.75	\$1,141,928.75

EXHIBIT B

EXHIBIT B**Hayden et al., v. Portola Pharmaceuticals Inc., et al., No. 3:20-cv-00367-VC****TIME REPORT**

FIRM NAME: Saxena White P.A.
REPORTING PERIOD: Inception to Present

Categories:

- | | |
|--|------------------------------------|
| (1) Legal Research | (7) Class Certification |
| (2) Pleadings & Motions | (8) Court Appearance & Preparation |
| (3) Facutal Investigation & Analysis | (9) Trial Preparation |
| (4) Case Planning, Organization & Strategy | (10) Settlement |
| (5) Merits Discovery | (11) Appeals |
| (6) Depositions | |

Status:

- | | |
|------------------------|------------------|
| (D) Director | (I) Investigator |
| (A) Attorney | (PL) Paralegal |
| (SA) Staff Attorney | |
| (FA) Financial Analyst | |

NAME	STATUS	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	Hourly Rate	Cumulative Hours	Cumulative Lodestar
Attorneys:															
Brandon Marsh	D	1.00	12.75		1.75								\$775.00	15.50	\$12,012.50
David Kaplan	D		38.50	12.50	25.25	67.25	96.75	29.25	12.00		18.00		\$880.00	299.50	\$263,560.00
Paul Burns	SA					58.75							\$400.00	58.75	\$23,500.00
Hani Farah	A	1.00	33.00	4.00		82.00	38.00	27.00			4.50		\$575.00	189.50	\$108,962.50
Mario Alvite	A	12.75	36.25	10.50	8.00								\$495.00	67.50	\$33,412.50
Fei-Lu Qian	A	9.75	76.25	37.25									\$650.00	123.25	\$80,112.50
Scott Guarcello	A				6.25	133.25	1.25	18.75			14.25		\$680.00	173.75	\$118,150.00
Christine Sciarrino	SA							29.75					\$460.00	29.75	\$13,685.00
Christopher James Donnell	SA					34.00		37.00					\$400.00	71.00	\$28,400.00
Harriet Atsegbua	SA					200.50							\$400.00	200.50	\$80,200.00
Mauri Lynn Levy	SA					500.25	44.75						\$400.00	545.00	\$218,000.00
Subtotal Attorneys:		24.50	196.75	64.25	41.25	1,076.00	180.75	141.75	12.00	0.00	36.75	0.00		1,774.00	\$979,995.00
Professional Staff:															
Jerome Pontrelli	I			115.00	8.00								\$545.00	123.00	\$67,035.00
Samuel Jones	FA			32.75									\$325.00	32.75	\$10,643.75
Rian Wroblewski	I			167.00									\$465.00	167.00	\$77,655.00
Lisa Mix	PL		22.25	0.25	1.50								\$275.00	24.00	\$6,600.00
Subtotal Professional Staff:		0.00	22.25	315.00	9.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00		346.75	\$161,933.75
TOTALS:		24.50	219.00	379.25	50.75	1,076.00	180.75	141.75	12.00	0.00	36.75	0.00		2,120.75	\$1,141,928.75

EXHIBIT C

EXHIBIT C*Hayden et al., v. Portola Pharmaceuticals Inc., et al.*, No. 3:20-cv-00367-VC**EXPENSE REPORT****FIRM: SAXENA WHITE P.A.****REPORTING PERIOD: Inception to Present**

EXPENSE	TOTAL AMOUNT
Consulting Expert	\$15,400.00
Transportation, Hotels, and Meals	\$9,006.03
Discovery Costs	\$6,926.40
Online Legal and Factual Research	\$6,631.93
Transcript and Deposition Expenses	\$2,849.25
Publication of PSLRA Notice	\$580.00
Court Filing Fee	\$400.00
Postage & Delivery	\$391.13
Internal Printing and Copying	\$154.68
Total	\$42,339.42

Exhibit 8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

CLASS ACTION

**DECLARATION OF CHASE RANKIN
ON BEHALF OF ADDITIONAL NAMED
PLAINTIFF OKLAHOMA
FIREFIGHTERS PENSION AND
RETIREMENT SYSTEM IN SUPPORT
OF LEAD PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF PROPOSED
CLASS ACTION SETTLEMENT AND
LEAD COUNSEL'S MOTION FOR
ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES,
AND AWARD OF COSTS AND
EXPENSES TO PLAINTIFFS**

Date: March 2, 2023

Time: 10:00 a.m.

Dept.: 4 – 17th Floor

Judge: Hon. Vince Chhabria

I, Chase Rankin, on behalf of additional named plaintiff and Settlement Class representative Oklahoma Firefighters Pension and Retirement System (“OFPRS”), hereby certify that the following is true and correct to the best of my knowledge, information, and belief:

1. I am the Executive Director of OFPRS. OFPRS manages over \$3 billion in assets for approximately 25,000 plan participants as of June 30, 2022. I respectfully submit this declaration on behalf of OFPRS in support of:

- A. Lead Plaintiff’s Motion for: (I) Final Approval of Proposed Class Action Settlement; (II) Final Certification of the Settlement Class, and (III) Final Approval of Proposed Plan of Allocation (“Final Approval Motion”); and
- B. Lead Counsel’s Motion for (I) Attorneys’ Fees, (II) Reimbursement of Expenses, and (III) Award of Costs and Expenses to Plaintiffs (“Fee and Expense Motion”).

2. Unless otherwise specifically noted, I have personal knowledge of the information in this declaration as I have been directly involved in the prosecution and settlement of this action, and, if called as a witness, I could and would testify competently thereto under oath.

3. As set forth in OFPRS’ Certification and Authorization (appended to Lead Plaintiff’s Third Amended Complaint for Violations of the Securities Laws (ECF No. 149-2)), OFPRS purchased Portola common stock during the Settlement Class Period.¹ As a result, I believe that OFPRS has suffered damages.

Work Performed by OFPRS on Behalf of the Settlement Class

4. On March 16, 2020, OFPRS filed a motion for appointment as Lead Plaintiff and approval of selection of Lead Counsel, Saxena White P.A. (“Saxena White”) for the Class. ECF No. 22. After reviewing Alameda County Employees’ Retirement Association’s (“ACERA” or “Lead Plaintiff”) competing motion and supporting papers seeking appointment as Lead

¹ All capitalized terms not otherwise defined herein have the same meaning as set forth in the Stipulation and Agreement of Settlement, dated September 19, 2022 (ECF No. 231-2), (the “Stipulation”).

Plaintiff, OFPRS filed a notice of non-opposition to ACERA's motion. ECF No. 40. On April 22, 2020, pursuant to the lead plaintiff provisions of the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), the Court appointed ACERA as Lead Plaintiff in this action and its counsel, Berman Tabacco, as Lead Counsel. ECF No. 49.

5. During the Class Period, OFPRS purchased Portola common stock on the open market and directly in the Company's August 2019 secondary public offering (the "Offering" or "SPO"). OFPRS therefore had standing to represent the interests of Class members who purchased securities pursuant to the Offering, should standing otherwise have been challenged. Accordingly, OFPRS was included as a named plaintiff and continued (and continues) to serve in the action as an additional named plaintiff, including for the purpose of serving as a representative plaintiff for claims brought under Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o, for injuries stemming from OFPRS' direct purchases in the SPO.

6. As a named plaintiff in this action, OFPRS understands its obligations under Rule 23 of the Federal Rules of Civil Procedure ("Rule 23") and the federal securities laws to monitor the conduct in this action and act for the benefit of Class members. OFPRS is a large, sophisticated institutional investor that committed itself to vigorously prosecuting this litigation, through trial and appeal if necessary. OFPRS has diligently pursued the effective prosecution of this action and has kept itself informed of all pertinent case developments.

7. Among other things, on behalf of OFPRS, I reviewed the four complaints and various other pleadings, motion papers (including those in opposition to Defendants' serial motions to dismiss and in support of Lead Plaintiff's motion for class certification); consulted regularly with OFPRS' securities litigation counsel, Saxena White, as well as OFPRS' general outside counsel, Phillips Murrah P.C. ("Phillips Murrah"); produced documents and written responses in response to Defendants' discovery requests; prepared a declaration in support of Lead Plaintiff's motion for class certification; and reviewed the Court's related orders and

opinions.² OFPRS has also participated in strategic discussions with Saxena White by phone and email concerning case status, strategy, Court orders, pre-trial discovery, the collection of potentially relevant hard copy and electronic documents and communications from OFPRS' files, OFPRS' deposition, and maintaining the sealing of certain of OFPRS' confidential and business sensitive information.

8. During the course of the litigation, OFPRS produced approximately 1,900 pages of documents. I also worked with Saxena White to prepare for the deposition of OFPRS' designated organizational witness under Rule 30(b)(6) of the Federal Rules of Civil Procedure, and I served as that witness. Further, I travelled from Oklahoma to New York City for OFPRS' Rule 30(b)(6) deposition and extensively prepared for that deposition, including individually and during in-person sessions with counsel. I also communicated regularly with Saxena White regarding all settlement discussions and negotiations leading up to and following the Settlement, and I participated in the all-day mediation session in this case with mediator Robert A. Meyer, Esq. of JAMS. All of the foregoing efforts were undertaken with the intention of maximizing the outcome for the Settlement Class.

OFPRS Endorses Approval of the Settlement, the Requested Attorneys' Fees, and Payment of Litigation Expenses

9. Based on its involvement as a named plaintiff throughout the prosecution of the action, OFPRS believes that the proposed Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class. OFPRS believes that the proposed Settlement represents a very favorable recovery, particularly in light of the substantial risks of continuing to litigate the action against Defendants. Accordingly, OFPRS authorized Saxena White to execute the Settlement agreement with Defendants, and it endorses approval of the Settlement by the Court.

² Phillips Murrah's time and lodestar are not included in the lodestar calculation submitted by Saxena White or Lead Counsel, nor are Phillips Murrah's fees or expenses included as expenses submitted by either firm as part of the Fee and Expense Motion.

10. OFPRS understands that Lead Counsel seeks an attorneys' fee award of 25% of the Settlement Fund (or \$4,375,000), plus interest, for its own time and that of OFPRS' counsel Saxena White. OFPRS believes that Lead Counsel's request for an award of attorney's fees in the amount of 25% is fair and reasonable. In reaching that conclusion, OFPRS has considered the amount of work Lead Counsel and Saxena White have performed on behalf of the Settlement Class over the course of the litigation, the complexity of the litigation, and the recovery obtained relative to the overall recoverable damages when considering the risks of further litigation. Significantly, it is my understanding that this requested amount of fees represents a significant "negative" multiplier of less than 0.5 on Plaintiffs' Counsel's lodestar even before considering the additional time Lead Counsel will have to spend administering the Settlement in the future.

11. OFPRS further understands that Lead Counsel also seeks reimbursement of litigation expenses of less than \$840,000, plus interest. OFPRS further understands that the substantial majority of these litigation expenses went to pay for the services of experts and consultants, including Plaintiffs' class certification expert, a forensic accounting consultant who advised on the accounting misrepresentation claims under Generally Accepted Accounting Principles (including novel claims under Accounting Standards Codification 606), and expert financial consultants who assisted on such issues as loss causation/damages, class certification/market efficiency, mediation, and creation of the proposed Plan of Allocation. OFPRS believes that the expenses incurred by Plaintiffs' Counsel are fair and reasonable and were necessary to the successful prosecution and resolution of this action, particularly considering the work performed by Plaintiffs' Counsel, the substantial recovery obtained, the complexity of the issues in the action, and the significant risks of continued litigation.

12. Accordingly, based on the foregoing, and consistent with OFPRS' obligations to the Settlement Class, OFPRS supports final approval of the proposed Settlement and Lead Counsel's request for attorneys' fees and reimbursement of litigation expenses.

OFPRS Seeks Partial Reimbursement of Its Costs and Expenses, Pursuant to the PSLRA

13. OFPRS understands that reimbursement of a plaintiff's reasonable costs and expenses, including lost wages, directly relating to the representation of the class is authorized under Section 21D(a)(4) of the PSLRA, 15 U.S.C. § 78u(a)(4). Accordingly, OFPRS is requesting the reimbursement of \$8,500 of costs and expenses in connection with its efforts in this action, which are described in ¶¶7-8. This request is based on a calculation of hours I spent on the case, and it represents only a partial reimbursement of OFPRS' total costs and expenses. Although other employees, including support staff, as well as OFPRS' general outside counsel at Phillips Murrah, also assisted in the pursuit and oversight of this litigation, OFPRS is limiting its request for partial reimbursement for the time expended by me. I devoted 111.5 hours to the litigation activities described supra, ¶¶7-8. At a rate of \$103 per hour for my time, the total of OFPRS partial lost wages reported is \$11,484.50.

14. The hours spent on this case constitute time that I would have otherwise devoted to other professional activities.

* * *

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

Executed in Oklahoma City, Oklahoma, on January 26, 2023.


Chase Rankin

Exhibit 9

Nicole Lavallee (SBN 165755)
Daniel E. Barenbaum (SBN 209261)
Jeffrey V. Rocha (SBN 304852)
BERMAN TABACCO
425 California Street, Suite 2300
San Francisco, CA 94104
Telephone: (415) 433-3200
Facsimile: (415) 433-6382
Email: nlavallee@bermantabacco.com
dbarenbaum@bermantabacco.com
jrocha@bermantabacco.com

*Counsel for the Lead Plaintiff Alameda County Employees’
Retirement Association and Lead Counsel for the Class*

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

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

CLASS ACTION

**DECLARATION OF ERIC BLOW
REGARDING DISSEMINATION AND
PUBLICATION OF SETTLEMENT
NOTICE**

Date: March 2, 2023

Time: 10:00 a.m.

Dept.: 4 – 17th Floor

Judge: Hon. Vince Chhabria

I, Eric Blow, declare as follows:

1. I am a Project Manager for Epiq Class Action and Claims Solutions, Inc. (“Epiq”). I am over 21 years of age and am not a party to the above-captioned action (the “Action”).¹ Unless otherwise specifically noted, I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

MAILING OF THE NOTICE AND PROOF OF CLAIM

2. Pursuant to the Order Preliminarily Approving Settlement and Providing for Notice entered by the Court on October 31, 2022 (ECF No. 242) (the “Preliminary Approval Order”), Epiq was authorized to act as the Claims Administrator in connection with the Settlement of the Action.

3. As set forth in the Preliminary Approval Order, the Settlement Class consists of:

all persons and entities who purchased or otherwise acquired the common stock of Portola Pharmaceuticals, Inc. (“Portola Inc.”) between January 8, 2019 and February 28, 2020, inclusive (the “Settlement Class Period”), and were allegedly damaged thereby; including those who purchased or otherwise acquired Portola Inc. common stock either in or traceable to Portola Inc.’s secondary public offering (“SPO”) on or about August 14, 2019, and were allegedly damaged thereby (“Settlement Class”). Excluded from the Settlement Class are: (i) Defendants; (ii) members of the immediate family of any Individual Defendant; (iii) any person who was an officer, director, or controlling person of Portola Inc. or any of the Underwriter Defendants; (iv) any subsidiaries or affiliates of Portola or any of the Underwriter Defendants; (v) any entity in which any such excluded party has, or had, a direct or indirect majority ownership interest; (vi) Defendants’ directors’ and officers’ liability insurance carriers, and any affiliates or subsidiaries thereof; and (vii) the legal representatives, heirs, successors-in-interest, or assigns of any such excluded persons or entities. Notwithstanding the foregoing and for the avoidance of doubt, the Settlement Class shall not exclude any “Investment Vehicles,” defined as any investment company, or pooled investment fund or separately managed account (including, but not limited to, mutual fund families, exchange traded funds, funds of funds, private equity funds, real estate funds, hedge funds, and employee benefit plans) in which the Underwriter Defendants, or any of them, have, has, or may have a direct or indirect interest, or as to which its affiliates may serve as a fiduciary or act as an investment advisor, general partner, managing member, or in any other similar capacity but in which any of the Underwriter Defendants, alone or

¹ All capitalized terms not otherwise defined herein have the same meaning as set forth in the September 19, 2022 Stipulation of Settlement (ECF No. 231-2) (the “Stipulation” or “Stip.”).

together with its, his, or her respective affiliates, is not a majority owner or does not hold a majority beneficial interest. Also excluded from the Settlement Class is any Settlement Class Member that validly and timely requests exclusion in accordance with the requirements set by the Court.

Preliminary Approval Order, at 2-3.

4. Pursuant to the Preliminary Approval Order, Epiq mailed or emailed the Notice of Pendency of Class Action and Proposed Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice") and the Proof of Claim and Release Form (the "Claim Form" and, collectively with the Notice, the "Notice Packet") to potential Settlement Class Members and Nominees (defined infra, ¶6). A copy of the Notice Packet is attached hereto as **Exhibit A**.

5. As in most class actions of this nature, the large majority of potential Settlement Class Members are expected to be beneficial purchasers whose securities are held in "street name" – i.e., the securities are purchased by brokerage firms, banks, institutions, and other third-party nominees in the name of the respective nominees and on behalf of the beneficial purchasers. Epiq maintains a proprietary database with names and addresses of the largest and most common banks, brokers, and other nominees (the "Nominees"). On November 14, 2022, Epiq caused Notice Packets to be sent by First-Class Mail to the 1,046 mailing records contained in the Nominees database after reviewing and consolidating duplicate records.

6. In reviewing the mailing of the Notice Packet to Nominees, Epiq determined that the posting of the Notice Packet on the Depository Trust Company's ("DTC") Electronic Legal Notice System ("LENS") was not necessary. Epiq's list of Nominees includes many of the DTC banks and brokers to whom we mailed a Notice Packet. Furthermore, many of the largest DTC banks and brokers will receive the Notice Packet from a third-party filer with whom they have contracted to notify them of the Settlement and file claims on their behalves.

7. In addition, on or around November 14, 2022, Epiq received from Lead Counsel a data file containing eighteen (18) names and addresses of potential Settlement Class Members. I am informed that the file was provided to Lead Counsel by counsel for Defendant Portola Inc.

and were obtained from Portola's transfer agent. On November 14, 2022, Epiq caused the Notice Packet to be sent by First-Class Mail to those 18 potential Settlement Class Members.

8. The Notice sent to Nominees directed those brokers and nominees who held any Portola Inc. common stock purchased during the Settlement Class Period as nominee for a beneficial owner to, within ten (10) days after they received the Notice Packet, either (a) provide to Epiq a list of the names and addresses of such persons for which they purchased Portola Inc. common stock during the Settlement Class Period; or (b) send a copy of the Notice and the Claim Form by first-class mail to all such persons. See **Exhibit A**, at page 6.

9. As of the date of this declaration, since the mailing of the Notice Packet to Nominees, Epiq has received an additional 11,575 names and addresses of potential Settlement Class Members from individuals or brokerage firms, banks, institutions, and other Nominees. Epiq has also received requests from brokers and other nominees for 31,366 Notice Packets to be forwarded directly by the Nominees to their customers. All such requests have been, and will continue to be, compiled and addressed in a timely manner.

10. As of the date of this declaration, a total of 44,005 Notice Packets have been mailed to potential Settlement Class Members and Nominees. In addition, Epiq received back forty-seven (47) Notice Packets that were sent to persons whose original mailings were returned by the U.S. Postal Service and re-mailed two (2) Notice Packets to those for whom updated addresses were subsequently obtained through TransUnion.

11. Although the claims submission deadline is not until February 13, 2023, Epiq has already received 432 claims. In connection with Lead Plaintiff's reply papers in further support of final approval, Epiq will submit a supplemental declaration with updated information about the notice program, including about claims received. The number of Settlement Class Members who submit valid claims will be determined after the completion of the February 13, 2023 deadline.

PUBLICATION OF THE SUMMARY NOTICE

12. The Court’s Preliminary Approval Order directed that no later than November 21, 2022, “Summary Notice [] be published once in the national edition of *Investor’s Business Daily* and once over a national newswire service....” Preliminary Approval Order, at 5, ¶ 9(c). Accordingly, on November 21, 2022, Epiq caused the Summary Notice to be published in Investor’s Business Daily/Weekly and transmitted over PR Newswire. True and correct copies of proof of publication of the Summary Notice in Investor’s Business Daily/Weekly and over PR Newswire are attached hereto as **Exhibits B** and **C**, respectively.

TELEPHONE HELPLINE

13. On November 14, 2022, Epiq established a case-specific toll-free telephone helpline—(844) 808-4889—with an interactive voice response system and live operators to accommodate potential Settlement Class Members who call with questions about the Action and the Settlement. The automated attendant answers the calls and presents callers with a series of choices to respond to basic questions. Callers requiring further help have had the option to be transferred to a live operator during business hours. Epiq continues to maintain the telephone helpline and will update the interactive voice response system as necessary through the administration of the Settlement.

SETTLEMENT WEBSITE

14. On November 14, 2022, Epiq established and continues to maintain a website dedicated to the Settlement—www.PortolaSecuritiesLitigation.com—as a resource to assist potential Settlement Class Members who access it. The website includes information regarding the Action and the proposed Settlement, including the exclusion, objection, and claim filing deadlines, as well as the date, time, and location of the Court’s Final Approval Hearing. Copies of the Notice, Claim Form, Stipulation, Preliminary Approval Order, Third Amended Complaint, and other relevant documents are posted on the website and available for download. The website

is accessible 24 hours a day, 7 days a week. Epiq will update the website as necessary through the administration of the Settlement.²

REPORT ON EXCLUSIONS

15. Pursuant to ¶14 of the Preliminary Approval Order and page 9 (Question No. 13) of the Notice, those Settlement Class Members requesting exclusion were to provide a signed letter requesting exclusion with the following information: (i) name; (ii) address; (iii) telephone number; (iv) number of shares of Portola Inc. common stock purchased or otherwise acquired during the Settlement Class Period; (v) the date of each such purchase or acquisition and the price or other consideration paid; (vi) the date of each sale or other disposal of any share of Portola Inc. common stock during the Settlement Class Period and the price or other consideration received; (vii) the number of shares of Portola Inc. common stock held immediately before the commencement of the Settlement Class Period; and (viii) a statement that the Person or entity wishes to be excluded from the Settlement Class. All requests for exclusion must be postmarked no later than February 9, 2023.

16. As of the date of this Declaration, Epiq has not received any requests for exclusion. In connection with Lead Plaintiff's reply papers in further support of final approval (after the exclusion deadline has passed), Epiq will submit a supplemental declaration with updated information about the notice program, including about exclusions received, if any.

REPORT ON OBJECTIONS

17. Pursuant to ¶¶16-17 of the Preliminary Approval Order and page 10 (Question No. 16) of the Notice, those members of the Settlement Class who wish to object to either the Settlement, the Plan of Allocation, or Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and/or request for reimbursement of costs and expenses to

² Lead Plaintiff's final approval motion as well as its fee and expense motion and supporting papers will also be posted on the website when filed.

Plaintiffs were to submit such written objection to the Court so that such papers are received, and not simply postmarked, on or before February 9, 2023.

18. The Settlement Notice directs Settlement Class Members to submit their objections to the Court, and not to Epiq as Claims Administrator. Thus, Epiq does not expect to be served with objections. Nonetheless, Epiq has checked for receipt of any objections and is unaware of any having been received.

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

Executed at Louisville, KY, on January 26, 2023.


Eric Blow

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS
INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT, FINAL APPROVAL
HEARING, AND MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION
EXPENSES

**IF YOU PURCHASED PORTOLA PHARMACEUTICALS, INC. COMMON STOCK DURING THE
PERIOD BEGINNING JANUARY 8, 2019 THROUGH FEBRUARY 28, 2020, YOU MAY BE ENTITLED
TO PAYMENT FROM A CLASS ACTION SETTLEMENT.**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.
This is not a notice that you have been sued.*

Notice of Pendency of Class Action: Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”) pending in the United States District Court for the Northern District of California (the “Court”), if, during the period from January 8, 2019, through and including February 28, 2020 (“Settlement Class Period”), you purchased or otherwise acquired common stock of Portola Pharmaceuticals, Inc. (“Portola Inc.” or the “Company”), including pursuant to the Company’s secondary public offering in August 2019, and were damaged thereby.¹

Notice of Settlement: Please also be advised that the Court-appointed Lead Plaintiff, Alameda County Employees’ Retirement Association (“ACERA” or “Lead Plaintiff”), on behalf of itself, Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System (“OFPRS”), and the Settlement Class (as defined in Question No. 5 below), have reached a proposed settlement of the Action for \$17,500,000 in cash (the “Settlement”).

PLEASE READ THIS NOTICE CAREFULLY. This Notice summarizes the proposed Settlement and explains important rights you may have, including the possible receipt of a payment from the Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Stipulation available at (i) www.PortolaSecuritiesLitigation.com, (ii) by contacting Lead Counsel or the Claims Administrator (see Question Nos. 7 & 14, below), (iii) by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or (iv) by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE, OR PORTOLA OR ANY OTHER DEFENDANT OR THEIR COUNSEL TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

Description of the Action and the Settlement Class: The Settlement, which is subject to Court approval, resolves this Action—a class action brought in federal court by Lead Plaintiff ACERA, on behalf of itself, Additional Named Plaintiff OFPRS, and others who purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock (“Portola Common Stock”) during the Settlement Class Period, over whether Portola; Defendants Scott Garland,

¹ All capitalized terms used in this Notice are defined in the Stipulation and Agreement of Settlement, dated September 19, 2022 (the “Stipulation”), available for download at www.PortolaSecuritiesLitigation.com. For convenience, certain capitalized terms are also defined in this Notice. To the extent there is any conflict between the definitions of capitalized terms in this Notice and the Stipulation, the definition in the Stipulation controls.

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or visit www.PortolaSecuritiesLitigation.com.**

Mardi C. Dier, and Sheldon Koenig (“Officer Defendants”); Defendants Hollings C. Renton, Jeffrey W. Bird, Laura Brege, Dennis Fenton, John H. Johnson, David C. Stump, and H. Ward Wolff (“Director Defendants”) (together with Portola and Officer Defendants, the “Portola Defendants”); and Defendants Goldman Sachs & Co. LLC, Citigroup Global Markets Inc., Cowen and Company, LLC, William Blair & Company, L.L.C., and Oppenheimer & Co. Inc. (“Underwriter Defendants”) (together with Portola Defendants, “Defendants”) made materially false and/or misleading statements and omissions concerning primarily the Company’s overstatement of revenue, as well as general compliance with Generally Accepted Accounting Principles and, specifically, Accounting Standard Codification, Topic 606, as well as misrepresenting the demand and utilization of Portola’s drug Andexxa throughout the Settlement Class Period. The proposed Settlement, if approved by the Court, will settle claims of the Settlement Class, as defined in Question Nos. 2 and 5 below.

Statement of the Settlement Class’s Recovery: Subject to Court approval, Lead Plaintiff and Additional Named Plaintiff OFPRS, on behalf of themselves and the Settlement Class, have agreed to settle the Action in exchange for \$17.5 million in cash (the “Settlement Amount”) to be deposited into an Escrow Account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the “Settlement Fund”) less (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; (iv) any attorneys’ fees awarded by the Court; and (v) any other costs or fees approved by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court. The proposed plan of allocation (the “Plan of Allocation”) is set forth at pages 12 to 16 below. The Plan of Allocation will determine how the Net Settlement Fund shall be allocated among members of the Settlement Class.

Estimate of Average Amount of Recovery: Based on Lead Plaintiff’s consulting damages expert’s estimate of the number of shares of Portola Common Stock purchased or otherwise acquired during the Settlement Class Period that may have been affected by the conduct at issue in the Action, and assuming that all Settlement Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses, and costs described herein) is \$0.62 per affected common share. Settlement Class Members should note, however, that the average recoveries provided herein are only estimates. Some Settlement Class Members may recover more or less than these estimated amounts depending on, among other factors, when and at what price they purchased or otherwise acquired or sold their Portola stock, and the total number and value of valid Claim Forms submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation as set forth herein (*see* pages 12 to 16 below) or such other plan of allocation as may be ordered by the Court.

Average Amount of Damages Per Share: The Parties do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff were to prevail in the Action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any damages were suffered by any members of the Settlement Class as a result of their conduct.

Attorneys’ Fees and Expenses Sought: Lead Counsel, Berman Tabacco, has been prosecuting the Action on a wholly contingent basis since its appointment as Lead Counsel on April 22, 2020, and has not received any payment of attorneys’ fees for its representation of the Settlement Class, and has advanced the funds to pay expenses necessarily incurred to prosecute this Action. Lead Counsel will apply to the Court for an award of attorneys’ fees in an amount not to exceed 25% of the Settlement Fund. In addition, Lead Counsel will apply for the payment of Litigation Expenses incurred in connection with the institution, prosecution, and resolution of the Action in an amount not to exceed \$840,000, as well as for reimbursement of reasonable costs and expenses (in an amount not to exceed \$20,000 in total) incurred by Lead Plaintiff ACERA and Additional Named Plaintiff OFPRS directly related to their representation of the Settlement Class, pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”). Any fees and expenses awarded by the Court will be paid from the Settlement Fund plus that percentage of interest accrued. Settlement Class Members are not personally liable for any such fees or expenses. The estimated average cost for such fees and expenses, if the Court approves Lead Counsel’s fee and expense application, is \$0.19 per affected common share.

Identification of Attorneys’ Representative: Lead Plaintiff and the Settlement Class are represented by Daniel E. Barenbaum, Esq. of Berman Tabacco, 425 California Street, 23rd Floor, San Francisco, CA 94104; (415) 433-3200; law@bermantabacco.com.

Reasons for the Settlement: Lead Plaintiff’s principal reason for entering into the Settlement is the substantial and certain recovery for the Settlement Class without the risk or delays inherent in further litigation. Moreover, the substantial recovery provided under this Settlement must be considered against the significant risk that a smaller recovery—or indeed no recovery at all—might be achieved after contested motions, a trial of the Action, and the likely appeals that would follow a trial. This process could be expected to last several years. Defendants, who have denied and continue to deny all allegations of liability, fault, or wrongdoing whatsoever, are entering into the Settlement solely to eliminate the uncertainty, burden, and expense of further protracted litigation.

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YOUR LEGAL RIGHTS AND OPTIONS	
You can:	That Means:
Submit a Claim Form Postmarked or Submitted Electronically by February 13, 2023	You can show that you are a Settlement Class Member and can get payment from the Settlement. If the proposed Settlement is finally approved by the Court, you may share in the proceeds if your Claim is received, timely, and valid, and you meet the other requirements of the Plan of Allocation described on pages 12 to 16 below. This is the only way to get a payment. Regardless of whether you submit a Claim, you will be bound by the Settlement as approved by the Court and you will give up any Released Plaintiffs' Claims (defined in Question No. 12 below) that you have against Defendants and the other Defendants' Releasees (defined in Question No. 12 below), so it is in your interest to submit a Claim.
Exclude Yourself by Submitting a Written Request for Exclusion Postmarked by February 9, 2023	You can ask to be excluded from the Settlement Class. If excluded, you will get no payment from this Settlement and will not be part of the Settlement Class, and will not be bound by any Judgment. This is the only option that allows you to ever be part of any other separate lawsuit, including your own lawsuit, against any of Defendants about the legal claims being settled in this Action.
Object by Submitting A Written Objection So That it is Received by February 9, 2023	If you remain part of the Settlement Class but have an objection to the Settlement, or some part of it, or the requested attorneys' fees or Litigation Expenses or other costs and expenses, you can write to the Court to explain why.
Attend a Hearing on March 2, 2023 (which may be held in person or virtually)	If you remain part of the Settlement Class, you can write by February 9, 2023 to the Court and ask to speak at the Final Approval Hearing on March 2, 2023 when the Court considers the fairness of the Settlement, the request for attorneys' fees and reimbursement of Litigation Expenses and the request for awards to Lead Plaintiff ACERA and Additional Named Plaintiff OFPRS for their costs and expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection. Please check Judge Chhabria's website and docket closer to the Final Approval Hearing Date for whether the hearing will be held in person or via Zoom.
Do Nothing	You will get no payment and will give up your rights to sue Defendants about the claims that are resolved by this Settlement. You will, however, remain a member of the Settlement Class, which means that you will be bound by any judgment or orders entered by the Court in this Action.

These rights and options—and the deadlines to exercise them—are explained in this Notice.

While the Court in charge of this case has given preliminary approval to the Settlement, it still has to decide whether to give final approval to the Settlement (subject to any appeals) as fair, reasonable, and adequate.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

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BASIC INFORMATION

1. Why did I get this Notice package?

You or someone in your family may have purchased or otherwise acquired Portola Common Stock during the period between January 8, 2019 through February 28, 2020, inclusive.

The Court caused this Notice to be sent to you because you have a right to know about a proposed Settlement of a class action lawsuit, a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, and about all of your options, before the Court decides whether to approve the Settlement.

This Notice explains this Action, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and the Plan of Allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

The Court in charge of the case is the United States District Court for the Northern District of California, and the case is known as *Hayden, et al. v. Portola Pharmaceuticals, Inc., et al.*, Case No. 3:20-cv-00367-VC. District Judge Vince Chhabria is the Judge in charge of this class action. The person or entity who sued is called the “Lead Plaintiff” (here, ACERA) and there is an Additional Named Plaintiff, OFPRS, named in the complaint as well. The company being sued, Portola Pharmaceuticals, Inc., and the persons and other entities being sued, Scott Garland; Mardi C. Dier; Sheldon Koenig; Hollings C. Renton; Jeffrey W. Bird; Laura Brege; Dennis Fenton; John H. Johnson; David C. Stump; H. Ward Wolff; Goldman Sachs & Co. LLC; Citigroup Global Markets Inc.; Cowen and Company, LLC; William Blair & Company, L.L.C.; and Oppenheimer & Co. Inc., are called the “Defendants.”

2. What is this Action about?

In the Action, Lead Plaintiff alleges that Defendants violated the federal securities law by allegedly misrepresenting and/or failing to disclose material information about the Company’s revenue recognition and return reserves and general compliance with Generally Accepted Accounting Principles and, specifically, Accounting Standard Codification, Topic 606, as well as about the demand and utilization of Portola’s drug, Andexxa, throughout the Settlement Class Period. Lead Plaintiff alleges that the misleading nature of Defendants’ statements artificially inflated the price of Portola Common Stock and remained hidden until a series of partial disclosures were made beginning on January 9, 2019 and ending on February 28, 2020 regarding Portola’s financial results for 2019, which Lead Plaintiff alleges caused Portola’s stock price to drop. Defendants vigorously contest Lead Plaintiff’s allegations, denying all allegations of liability in the Action and denying that they are liable in any way to the Settlement Class.

Beginning on January 16, 2020, three class action complaints were filed in the United States District Court for the Northern District of California. These three cases have since been consolidated under case number 3:20-cv-00367-VC for all purposes by an order dated March 29, 2022. By separate order, on April 22, 2020, this Court appointed the ACERA as Lead Plaintiff for the Settlement Class and approved Lead Plaintiff’s choice of the law firm of Berman Tabacco as Lead Counsel.

On May 20, 2020, after extensive investigation by Lead Counsel, Lead Plaintiff filed a Consolidated Complaint for Violations of the Securities Laws alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b) and 78t(a) (“Exchange Act”), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, as well as for violations of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o (“Securities Act”). On July 1, 2020, Defendants moved to dismiss the Consolidated Complaint. On September 24, 2020, the Court granted the motion to dismiss the Consolidated Complaint with leave to amend.

On November 5, 2020, Lead Plaintiff filed a First Amended Consolidated Complaint for Violations of the Securities Laws. On December 15, 2020, Defendants moved to dismiss the First Amended Complaint. On March 10, 2021, the Court entered an Order granting the motion to dismiss the First Amended Complaint with leave to amend.

On March 31, 2021, Lead Plaintiff filed a Second Amended Consolidated Complaint for Violations of the Securities Laws. On May 5, 2021, Defendants moved to dismiss the Second Amended Complaint. On August 10, 2021, the Court entered an Order Granting In Part and Denying In Part Defendants’ Motion To Dismiss Second Amended Complaint.

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On September 8, 2021, the Court entered its pretrial schedule order. Following its September 1, 2020 case management conference, the Court allowed discovery to proceed and, among other things, set the Class Certification Motion for filing on February 17, 2022, the fact discovery cutoff for June 9, 2022, and trial for December 12, 2022. (On February 22, 2022, the Court entered an amended pretrial order, resetting the class certification hearing for June 9, 2022, the fact discovery cutoff for August 25, 2022, and trial for March 20, 2023.)

On August 31, 2021, Lead Plaintiff filed a Third Amended Consolidated Complaint for Violations of the Securities Laws. On September 21, 2021, Defendants moved to dismiss the Third Amended Complaint. On January 20, 2022, the Court entered an order denying the Defendants' motion to dismiss the Third Amended Complaint.

On March 3, 2022, the Portola Defendants and Underwriter Defendants filed their answers to the Third Amended Complaint. Between entry of the September 8, 2020 pretrial schedule order and June 8, 2022, the parties conducted discovery between the parties, including Defendants' production to Lead Plaintiff of over 32,000 documents (including over 211,000 produced pages), seven depositions, and third-party discovery. On February 17, 2022, Lead Plaintiff filed its motion for class certification. On April 25, 2022, Defendants filed their opposition to Lead Plaintiff's motion for class certification, and Lead Plaintiff filed its reply on June 2, 2022. Hearing was set for June 9, 2022, and on June 7, 2022, the Court issued an order rescheduling it to July 7, 2022.

In April 2022, the parties engaged the services of a nationally-recognized mediator, Robert A. Meyer, Esquire, to mediate a resolution of this Action. On May 13, 2022, the parties submitted detailed mediation statements, and on May 20, 2022, they submitted detailed reply mediation statements. On May 24, 2022, the parties engaged in a full-day mediation session with Mr. Meyer. Although the parties were unable to reach agreement to settle on that date, they continued to engage in arm's-length settlement negotiations through the mediator. On June 8, with the continued assistance of Mr. Meyer, the parties reached an agreement in principle to settle the Action for \$17,500,000, subject to approval by the Court.

On October 31, 2022, the Court preliminarily approved the Settlement, authorized this Notice to be sent to potential Settlement Class Members, and scheduled the Final Approval Hearing to consider whether to grant final approval to the Settlement.

3. What is a class action?

In a class action, the plaintiff is called the Class Representative, and he/she/it sues on behalf of numerous people who have similar claims. All these people with similar claims are a class, and each one is a class member. One court resolves the claims of all class members, except for those who properly exclude themselves from the class.

4. Why is there a Settlement?

Instead of litigating the Action through trial, Lead Plaintiff and Defendants, after an intensive, arm's-length negotiation facilitated by a neutral mediator, agreed to a compromise of the claims for \$17.5 million. The Court did not decide in favor of Lead Plaintiff or Defendants. Lead Plaintiff believes it could have obtained money if it won a trial; the Defendants believe Lead Plaintiff would not have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the risks and cost of a trial and possible appeals, and Settlement Class Members affected will get compensation. Lead Plaintiff ACERA and Additional Named Plaintiff OFPRS, as Class Representatives, and Lead Counsel believe the Settlement is best for all Settlement Class Members.

Lead Plaintiff believes that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. Throughout the litigation, Defendants raised a number of arguments and defenses (which they would continue to do through class certification, summary judgment, and trial), including, among others, that none of the challenged misrepresentations were false or misleading when made, that some or all of the corrective disclosures did not correct the alleged misrepresentations and omissions, and that Defendants did not act with the requisite fraudulent intent. Defendants would also likely argue that, even if Lead Plaintiff could establish liability, it would have trouble showing what part of Portola's stock price decline is attributable to the alleged fraud rather than other Company-specific bad news. While Lead Plaintiff believes that these arguments lack merit, there is no guarantee that Defendants would not prevail on one or more of these arguments. In the absence of a Settlement, the Settling Parties would present factual and expert testimony on each of these issues, and there is considerable risk that the Court or jury would resolve these issues against Lead Plaintiff and the Settlement Class.

Lead Counsel have thoroughly investigated and litigated the case prior to and since its appointment as Lead Counsel in 2020. Based upon its extensive investigation, its consultation with multiple experts, and its evaluation of the claims asserted against the Defendants and defenses that might be asserted, Lead Counsel believe that the Settlement is

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fair, reasonable, adequate, and in the best interests of the Settlement Class. The Settlement provides an immediate and certain monetary recovery. By settling, Lead Plaintiff and Defendants avoid the cost, uncertainty, and delay of continued litigation. The parties engaged in extensive negotiations that led to the Settlement described in this Notice. Lead Counsel believe the Settlement is fair because there is no guarantee the Settlement Class would win on any of the claims and, even if it did win, it might not be awarded any more money than the \$17.5 million plus interest, as provided for in the Stipulation, that Defendants have agreed to in order to settle the Action. Defendants' lawyers believe the Settlement is fair because even though Defendants deny Lead Plaintiff's claims, Defendants avoid the cost of continued litigation and risk of losing at trial.

Defendants deny all allegations of liability in the Action and deny that they are liable to the Settlement Class. The Settlement should not be seen as an admission or concession on the part of Defendants regarding the truth or validity of the allegations or claims in the Action, the lack of merit of any defenses or affirmative defenses, or their fault or liability for alleged damages by any Member of the Class.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am a Settlement Class Member?

For the purposes of Settlement, with the few exceptions listed below, everyone who fits the following description is a Settlement Class Member: all persons and entities who purchased or otherwise acquired Portola Common Stock between January 8, 2019 and February 28, 2020, inclusive (the "Settlement Class Period"), and were allegedly damaged thereby; including those who purchased or otherwise acquired Portola common stock either in or traceable to Portola's secondary public offering ("SPO") on or about August 14, 2019, and were allegedly damaged thereby ("Settlement Class").

6. Are there any exceptions to being included as a Settlement Class Member?

Yes. You are **not** a Settlement Class Member if **any** of the following apply to you:

- a. You are a Defendant.
- b. You are a member of the immediate family of any Officer or Director Defendant.
- c. You served as an officer, director, and/or controlling person of Portola Inc. or any Underwriter Defendant at any time during the Settlement Class Period.
- d. You are a subsidiary or affiliate of Portola or any of the Underwriter Defendants.
- e. You are an insurance carrier for any of Defendants' directors' and officers' liability insurance policies, or an affiliate or subsidiary of such an insurance carrier.
- f. You are the legal representative, heir, successors-in-interest, or assign of any such excluded person or entity.
- g. You are an entity in which any excluded party has, or had, a direct or indirect majority ownership interest, except for Investment Vehicles in which the Underwriter Defendants have a direct or indirect ownership interest.
- h. You properly exclude yourself from the Settlement Class.

7. I am still not sure if I'm included.

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator at (844) 808-4889 (Toll-Free) or info@PortolaSecuritiesLitigation.com, or you can fill out the Claim Form described in Question No. 10 below ("*How can I get a payment?*") to see if you qualify. You can also contact Lead Counsel at the address and phone number listed below. Please do not contact the Court.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

Defendants have paid or will pay \$17.5 million into an Escrow Account that will earn interest, as provided for in the Stipulation, for the benefit of the Settlement Class. After deduction of Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, and any other costs, expenses, or amounts as may be approved by the Court, the balance (the "Net Settlement Fund") will be distributed to the Settlement Class Members in accordance with the Plan of Allocation, discussed at pages 12 to 16 below.

In exchange for Defendants' payment, the claims described in response to Question No. 12 below ("*What am I giving up to get a payment or stay in the Settlement Class?*") will be released, discharged, and dismissed with prejudice.

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9. How much will my payment be?

Your share of the Net Settlement Fund will depend on a variety of factors, including the number of valid and timely Claim Forms that Settlement Class Members send in, how many shares of Portola Common Stock you bought and sold, and when you bought and sold them. You should look at the Plan of Allocation section of this Notice that appears on pages 12 to 16 below for a description of the calculations to be made by the Claims Administrator in computing the amounts to be paid to the “Authorized Claimants,” that is, those investors who submit valid and timely Claim Forms establishing that they are Settlement Class Members.

10. How can I get a payment?

To qualify for payment, you must timely send in a Claim Form to the Claims Administrator. A Claim Form is attached to this Notice. Read the instructions carefully, fill out the Claim Form, include all the documents the form asks for, sign it, and mail it so that it is postmarked, or submit it electronically, no later than February 13, 2023. Unless the Court orders otherwise, if you do not timely submit a Claim Form, you will be barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the Judgment in the case.

11. When would I get my payment?

The Settlement is conditioned on two main events: (i) the entry of the Judgment by the Court, as provided for in the Stipulation, after the Court holds a Final Approval Hearing to decide whether to approve the Settlement; and (ii) the expiration of the applicable period to file all appeals from the Judgment. If the Settlement is approved, it is possible there may be an appeal by someone. There is always uncertainty as to how these appeals will be resolved, and resolving them can take time, perhaps more than a year. Also, if certain conditions of the Settlement described in the Stipulation are not met, the Settlement will be terminated and become null and void. In addition, the Claims Administrator will need time to process all of the timely Claims before any distribution can be made.

12. What am I giving up to get a payment or stay in the Settlement Class?

As a member of the Settlement Class, in consideration for the benefits of the Settlement, you will be bound by the terms of the Settlement, and you will release Defendants’ Releasees, as defined below, from the Plaintiffs’ Released Claims, as defined below. Likewise, Defendants will be bound by the terms of the Settlement and will release Plaintiffs’ Releasees, as defined below, from the Defendants’ Released Claims, as defined below.

“Defendants’ Releasees” means, collectively, each and all of (i) the Defendants, the members of each Defendant’s immediate family, any entity in which any Defendant or any member of any of Defendant’s immediate family has or had a controlling interest (directly or indirectly), any estate or trust of which any Defendant is a settlor or which is for the benefit of any Defendant and/or members of his/her family; and (ii) for each and every Person listed in part (i), their respective former, present, or future parents, subsidiaries, divisions, and affiliates and the respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, attorneys, advisors, accountants, auditors, and insurers and reinsurers; and the predecessors, successors, estates, spouses, heirs, executors, trusts, trustees, administrators, agents, legal or personal representatives, assigns, and assignees, in their capacity as such.

“Released Plaintiffs’ Claims” means any and all claims, demands, losses, rights, and causes of action of every nature and description, including Unknown Claims, whether arising under federal, state, common, or foreign law, that Plaintiffs or any other member of the Settlement Class, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, representatives, attorneys, and agents in their capacities as such, (i) asserted in the Third Amended Consolidated Complaint for Violation of Securities Laws filed in the Action on August 31, 2021 (the “Complaint”) or (ii) could have asserted or could in the future assert in any court or forum that both arise out of or relate to any of the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint and that relate in any way, directly or indirectly, to the purchase, acquisition, holding, sale or disposition of Portola common stock during the Class Period. Released Plaintiffs’ Claims are only those claims based on the identical factual predicate as the securities claims at issue in the Action. This release does not cover, include, or release (i) any claims relating to the enforcement of the Settlement, or (ii) any claims of any person or entity that submits a request for exclusion from the Settlement Class that is accepted by the Court.

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“Plaintiffs’ Releasees” means Plaintiffs, all other Settlement Class Members, and their respective current and former parents, affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees, partnerships, partners, trustees, trusts, employees’ immediate family members, insurers, reinsurers, and attorneys in their capacity as such.

“Released Defendants’ Claims” means, collectively, any and all claims, debts, demands, rights, or causes of action of every nature and description (including Unknown Claims), whether arising under federal, state, common, or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants. Released Defendants’ Claims do not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims against any Person or entity that submits a request for exclusion from the Settlement Class that is accepted by the Court.

“Released Claims” means all Released Defendants’ Claims and all Released Plaintiffs’ Claims.

“Unknown Claims” means any Released Plaintiffs’ Claims which Plaintiffs or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant does not know or suspect to exist in his, or her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and Defendants shall expressly waive, and each of the Defendants’ Releasees and the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil 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.

If the Court approves the Settlement, all Settlement Class Members who have not excluded themselves in writing will have fully, finally, and forever settled and released any and all Released Claims, contingent or non-contingent, that now exist, or heretofore have existed, upon any theory of law or equity that were asserted or could have been asserted in the Action.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the Settlement?

If you do not wish to be included in the Settlement Class and you do not wish to participate in the proposed Settlement described in this Notice, you may request to be excluded. To do so, you must submit a written request for exclusion, postmarked no later than February 9, 2023. The request must provide the following information to the Claims Administrator: (i) name; (ii) address; (iii) telephone number; (iv) number of shares of Portola Common Stock purchased or otherwise acquired during the Settlement Class Period; (v) the date of each such purchase or acquisition and the price or other consideration paid; (vi) the date of each sale or other disposal of any share of Portola Common Stock during the Settlement Class Period and the price or other consideration received; (vii) the number of shares of Portola Common Stock held immediately before the commencement of the Settlement Class Period; and (viii) a statement that the Person or entity wishes to be excluded from the Settlement Class. Any request for exclusion must also be signed by the Person or entity requesting exclusion.

The request must be addressed as follows:

Portola Pharmaceuticals, Inc. Securities Litigation
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 6800
Portland, OR 97228-6800

You cannot exclude yourself by phone or by email.

If you ask to be excluded from the Settlement Class, you will not get any Settlement payment, and you cannot object to the Settlement. If you exclude yourself, you will not be legally bound by anything that happens in this Action. You may be able to sue (or continue to sue) Portola and the other Defendants in the future about the claims in this Action.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes. The Court appointed Berman Tabacco, Lead Counsel, to represent all Settlement Class Members. Lead Counsel may be contacted at the address and phone number listed on page 2 above. There is no need to retain your own lawyer. If you want to be represented by your own lawyer you may hire one at your own expense.

15. How will the lawyers be paid?

At the Final Approval Hearing, Lead Counsel will ask the Court to approve payment of up to 25% of the Settlement Fund, or approximately \$4,375,000 for attorneys' fees, for reimbursement of out-of-pocket expenses not to exceed \$840,000, and for reimbursement of Plaintiffs' expenses in an amount not to exceed \$20,000 in total. Any fees and expenses awarded by the Court will be paid from the Settlement Fund plus that percentage of interest accrued. The attorneys' fees and expenses requested will be the only payment to Lead Counsel for its efforts in achieving the Settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Lead Counsel has not been paid for their services for conducting this Action on behalf of Lead Plaintiff and the Class, nor for their subsequent substantial out-of-pocket expenses. The fee requested will compensate Lead Counsel for their work in achieving the Settlement Fund. The Court may, however, award less than this amount. In that case, the difference will remain with the Settlement Fund.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I do not like the Settlement?

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You must object to the proposed Settlement in writing. You also may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court, Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102-3489, or by filing them electronically or in person at any location of the United States District Court for the Northern District of California so that they are received, and not simply postmarked, on or before February 9, 2023.

Any objection must: (i) clearly identify the case name and number, *Hayden, et al. v. Portola Pharmaceuticals, Inc., et al.*, Case No. 3:20-cv-00367-VC; (ii) include the full name, address, and phone number of the objecting Settlement Class Member and must be signed by the objecting Settlement Class Member; (iii) include a list of all of the Settlement Class Member's Settlement Class Period transactions in Portola Common Stock, including dates thereof; (iv) include a written statement of all grounds for the objection; and (v) include copies of any legal support for the objection and any papers, briefs, or other documents upon which the objection is based which you wish to bring to the Court's attention in support of your objection.

If you wish to appear in person at the Final Approval Hearing, you must submit to the Court with your objection a Notice of Intention to Appear. If you intend to appear at the Final Approval Hearing through counsel, your objection must also state the identity of all attorneys who will appear at the Final Approval Hearing and your counsel must submit a Notice of Intention to Appear with the objection.

If you do not make your objection, you shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement or any part thereof. The requirement of a written objection as a prerequisite to appearing at the Final Approval Hearing to object to the Settlement may be excused upon a showing of good cause. The Court will require only substantial compliance with the requirements for submitting an objection.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

17. What's the difference between objecting and being excluded from the Settlement Class?

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

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You do not need to attend that hearing but are welcome to attend if you so desire.

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

The Final Approval Hearing will be held at 10:00 a.m. on March 2, 2023 before the Honorable Vince Chhabria, United States District Court for the Northern District of California, either via video conference or in San Francisco Courthouse, Courtroom 4 – 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. THE FINAL APPROVAL HEARING DATE MAY CHANGE WITHOUT FURTHER NOTICE TO THE SETTLEMENT CLASS, SO PLEASE CHECK THE SETTLEMENT WEBSITE OR THE COURT'S PACER SYSTEM TO CONFIRM THE HEARING DATE. At this hearing, the Court will consider (i) whether the Settlement is fair, reasonable, and adequate; (ii) the Action should be dismissed with prejudice against the Defendants, as set forth in the Stipulation; (iii) whether the proposed Plan of Allocation to distribute the Settlement proceeds (described on pages 12 to 16 below) is reasonable; and (iv) whether to approve the application by Lead Counsel for attorneys' fees and reimbursement of reimbursement of Litigation Expenses and other costs and expenses. If there are objections, the Court will consider them. The Court has discretion to listen to people who have made a written request to speak at the hearing. The Court can only approve or reject the Settlement, and not change it. After the hearing, the Court will decide whether to approve the Settlement and the attorneys' fees and reimbursement of reimbursement of Litigation Expenses and other costs and expenses request. We do not know how long these decisions will take.

19. Do I have to come to the Final Approval Hearing?

No. Lead Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

20. May I speak at the Final Approval Hearing?

Any Settlement Class Member who did not request to be excluded from the Settlement Class by February 9, 2023 is entitled to appear at the Final Approval Hearing, in person or through a duly authorized attorney, and to show cause why the Settlement should not be approved as fair, reasonable, and adequate. However, you may not be heard at the Final Approval Hearing unless, on or before February 9, 2023, you file a Notice of Intention to Appear and a statement of the position that you will assert and the grounds for the position, together with copies of any supporting papers or briefs with the Clerk of the Court, United States District Court, Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102-3489, as described in the response to Question No. 16 ("*How do I tell the Court that I do not like the Settlement?*") above.

Only Settlement Class Members who have submitted written notices in this manner may be heard at the Final Approval Hearing, unless the Court orders otherwise.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you are a Settlement Class Member but do nothing, then you will get no money from this Settlement. You must file a Claim Form to be eligible to receive anything from the Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the legal issues in this case ever again.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

GETTING MORE INFORMATION

22. Are there more details about the Settlement?

Yes. This Notice summarizes the proposed Settlement. More details (including definitions of various terms used in this Notice) are contained in the pleadings and other papers in this Action, including the formal Stipulation, which have been filed with the Court. Lead Plaintiff's submissions in support of the Settlement and Lead Counsel's fee and expense application will be filed with the Court prior to the Final Approval Hearing. In addition, information about the Settlement will be posted on the website set up for this case: www.PortolaSecuritiesLitigation.com. If you have any further questions, you may contact Lead Counsel identified in the response to Question No. 14 ("Do I have a lawyer in this case?") above. You can also call the Claims Administrator at (844) 808-4889 (Toll-Free) to find answers to common questions about the Settlement and obtain information about the status of the Settlement approval process.

SPECIAL NOTICE TO NOMINEES

23. Special Notice to Banks, Trustees, Brokerage Firms, or Other Nominees

If you hold any Portola Common Stock purchased during the Settlement Class Period as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (i) send a copy of this Notice and the Claim Form by First-Class Mail to all such Persons; or (ii) provide a list of the names and addresses of such Persons to the Claims Administrator:

Portola Pharmaceuticals, Inc. Securities Litigation
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 6800
Portland, OR 97228-6800

If you choose to mail the Notice and Claim Form 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. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable costs actually incurred or expected to be incurred in connection with forwarding the Notice and Claim Form and which would not have been incurred but for the obligation to forward the Notice and Claim Form, upon submission of appropriate documentation to the Claims Administrator.

UNDERSTANDING YOUR PAYMENT—THE PLAN OF ALLOCATION

A. Introduction to the Plan of Allocation

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants based on their respective alleged economic losses as a result of the alleged misstatements and omissions, as opposed to losses caused by market- or industry-wide factors, or company-specific factors unrelated to the alleged fraud. The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula ("Recognized Loss") described below.

A Recognized Loss will be calculated for each share of Portola Common Stock purchased or otherwise acquired during the Settlement Class Period.² The calculation of Recognized Loss will depend upon several factors, including when shares of Portola Common Stock were purchased or otherwise acquired during the Settlement Class Period and in what amounts, and whether such stock was sold and, if sold, when and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund to the extent that it is equitably and economically feasible. The Court will be asked to approve the Claims Administrator's determinations before the Net Settlement Fund is distributed to Authorized Claimants.

The Plan of Allocation was created with the assistance of a consulting damages expert to calculate how the price of Portola Common Stock was allegedly artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the price of Portola Common Stock during the Settlement Class Period is reflected in Table 1 below. The computation of the estimated alleged artificial inflation in the price of Portola Common Stock

² Throughout the Settlement Class Period, Portola Common Stock was listed on NASDAQ Global Select Market under the symbol PTLA.

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during the Settlement Class Period is based on certain misrepresentations alleged by Lead Plaintiff and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements that allegedly corrected the misrepresentations alleged by Lead Plaintiff.

In this Action, Lead Plaintiff alleges that Defendants made false statements and/or omitted material facts during the Settlement Class Period, which had the purported effect of artificially inflating the price of Portola Common Stock. Lead Plaintiff further alleges that corrective disclosures removed artificial inflation from the price of Portola Common Stock on January 10, 2020, February 27, 2020, and March 2, 2020 (the “Corrective Disclosure Impact Dates”). Thus, in order for a Settlement Class Member to have a Recognized Loss under the Plan of Allocation, Portola Common Stock must have been purchased or acquired during the Settlement Class Period and held through at least one of these Corrective Disclosure Impact Dates.

Table 1 Artificial Inflation in Portola Common Stock		
From	To	Per-Share Price Inflation Alleged By Plaintiffs
1/8/2019	1/9/2020	\$12.43
1/10/2020	2/26/2020	\$2.56
2/27/2020	2/28/2020	\$0.82
3/2/2020	Thereafter	\$0.00

Portola Common Stock purchased in and/or traceable to the Company’s secondary public offering on or about August 14, 2019 (the “August 2019 Offering”), are the only securities eligible for a claim under the Securities Act. The Recognized Loss for Common Stock with a claim under both the Exchange Act and the Securities Act shall be the maximum of: (i) the Recognized Loss amount calculated under the Exchange Act as described below in “Calculating Recognized Loss Per Share Under the Exchange Act”; or (ii) the Recognized Loss amount calculated under the Securities Act as described below in “Calculating Recognized Loss Per Share Under the Securities Act.” The Securities Act provides for an affirmative defense of negative causation which prevents recovery for losses that Defendants prove are not attributable to misrepresentations and/or omissions alleged by Lead Plaintiff in the offering’s registration statement. Given Lead Counsel’s assessment of the relative risks of the Securities Act and Exchange Act claims in this lawsuit, the Recognized Loss calculation under the Securities Act assumes that the Company-specific declines in the price of Portola Common Stock on the Corrective Disclosure Impact Dates alleged by Lead Plaintiff are the only compensable losses.

The “90-day lookback” provision of the PSLRA is incorporated into the calculation of the Recognized Loss for Portola Common Stock under the Exchange Act. The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on Portola Common Stock purchased during the Settlement Class Period and held as of the close of the 90-day period subsequent to the Settlement Class Period (the “90-Day Lookback Period”) cannot exceed the difference between the purchase price paid for such stock and its average price during the 90-Day Lookback Period. The Recognized Loss on Portola Common Stock purchased during the Settlement Class Period and sold during the 90-Day Lookback Period cannot exceed the difference between the purchase price paid for such stock and its rolling average price during the portion of the 90-Day Lookback Period elapsed as of the date of sale.

In the calculations below, all purchase and sale prices shall exclude any fees, taxes, and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero. Any transactions in Portola Common Stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session for the U.S. financial markets.

A Recognized Loss will be calculated as set forth below for each share of Portola Common Stock purchased or otherwise acquired during the Settlement Class Period that is listed in the Claim Form and for which adequate documentation is provided.

Please note that the approval of the Settlement is separate from and not conditioned on the Court’s approval of the Plan of Allocation. You do not need to make any of these calculations yourself. The Claims Administrator will make all of these calculations for you.

B. Calculating Recognized Loss Per Share Under The Exchange Act

For each share of Portola Common Stock purchased or otherwise acquired during the Settlement Class Period, *i.e.*, January 8, 2019, through February 28, 2020, inclusive, the Recognized Loss per share under the Exchange Act shall be calculated as follows:

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

- I. For each share of Portola Common Stock that was sold prior to January 10, 2020, the Recognized Loss per share is \$0.00.
- II. For each share of Portola Common Stock that was sold during the period January 10, 2020 through February 28, 2020, inclusive, the Recognized Loss per share is *the lesser of*:
- price inflation alleged by Plaintiffs on the date of purchase *minus* price inflation on the date of sale, as shown in Table 1 above; or
 - the purchase price *minus* the sale price.
- III. For each share of Portola Common Stock that was sold during the period March 2, 2020 through May 28, 2020, inclusive, the Recognized Loss per share is *the lesser of*:
- price inflation alleged by Plaintiffs on the date of purchase as shown in Table 1 above; or
 - the purchase price *minus* the “90-Day Lookback Value” on the date of sale as provided in Table 2 below; or
 - the purchase price *minus* the sale price.
- IV. For each share of Portola Common Stock that was still held as of the close of trading on May 28, 2020, the Recognized Loss per share is *the lesser of*:
- price inflation alleged by Plaintiffs on the date of purchase as shown in Table 1 above; or
 - the purchase price *minus* the average closing price for Portola Common Stock during the 90-Day Lookback Period, which is \$10.25.

Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value
3/2/2020	\$9.83	3/31/2020	\$7.80	4/30/2020	\$7.38
3/3/2020	\$9.79	4/1/2020	\$7.74	5/1/2020	\$7.38
3/4/2020	\$9.95	4/2/2020	\$7.72	5/4/2020	\$7.38
3/5/2020	\$9.98	4/3/2020	\$7.67	5/5/2020	\$7.61
3/6/2020	\$9.85	4/6/2020	\$7.64	5/6/2020	\$7.83
3/9/2020	\$9.62	4/7/2020	\$7.60	5/7/2020	\$8.04
3/10/2020	\$9.56	4/8/2020	\$7.58	5/8/2020	\$8.24
3/11/2020	\$9.44	4/9/2020	\$7.56	5/11/2020	\$8.43
3/12/2020	\$9.16	4/13/2020	\$7.56	5/12/2020	\$8.61
3/13/2020	\$9.00	4/14/2020	\$7.55	5/13/2020	\$8.79
3/16/2020	\$8.72	4/15/2020	\$7.53	5/14/2020	\$8.96
3/17/2020	\$8.48	4/16/2020	\$7.50	5/15/2020	\$9.13
3/18/2020	\$8.33	4/17/2020	\$7.47	5/18/2020	\$9.28
3/19/2020	\$8.25	4/20/2020	\$7.45	5/19/2020	\$9.43
3/20/2020	\$8.17	4/21/2020	\$7.43	5/20/2020	\$9.58
3/23/2020	\$8.07	4/22/2020	\$7.41	5/21/2020	\$9.72
3/24/2020	\$8.02	4/23/2020	\$7.40	5/22/2020	\$9.86
3/25/2020	\$7.96	4/24/2020	\$7.40	5/26/2020	\$9.99
3/26/2020	\$7.91	4/27/2020	\$7.40	5/27/2020	\$10.12
3/27/2020	\$7.86	4/28/2020	\$7.39	5/28/2020	\$10.25
3/30/2020	\$7.83	4/29/2020	\$7.39		

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

C. Calculating Recognized Loss Per Share Under The Securities Act

For each share of Portola Common Stock purchased in and/or traceable to the Company's August 2019 Offering, the Recognized Loss per share under the Securities Act shall be calculated as follows:

- I. For each share that was sold prior to January 10, 2020, the Recognized Loss per share is \$0.
- II. For each share that was sold during the period January 10, 2020 through February 27, 2020, inclusive, the Recognized Loss per share is *the lesser of*:
 - a. price inflation alleged by Plaintiffs on the date of purchase *minus* price inflation on the date of sale, as shown in Table 1 above; or
 - b. \$28 (*i.e.*, the offering price) *minus* the sale price.
- III. For each share that was sold on February 28, 2020³, the Recognized Loss per share is *the lesser of*:
 - a. price inflation alleged by Plaintiffs on the date of purchase *minus* price inflation on the date of sale, as shown in Table 1 above; or
 - b. \$28 (*i.e.*, the offering price) *minus* the greater of the sale price or \$10.11.
- IV. For each share that was sold during the period March 2, 2020 through July 1, 2020⁴, inclusive, the Recognized Loss per share is *the lesser of*:
 - a. price inflation alleged by Plaintiffs on the date of purchase as shown in Table 1 above; or
 - b. \$28 (*i.e.*, the offering price) *minus* the greater of the sale price or \$10.11.
- V. For each share that was retained through the close of the U.S. financial markets on July 1, 2020, the Recognized Loss per share is *the lesser of*:
 - a. price inflation alleged by Plaintiffs on the date of purchase as shown in Table 1 above; or
 - b. \$10.

D. General Provisions Applicable to the Plan of Allocation

The payment you receive will reflect your proportionate share of the Net Settlement Fund. Such payment will depend on the number of eligible securities that participate in the Settlement, and when those securities were purchased and sold. The number of Claimants who send in Claims varies widely from case to case.

A purchase or sale of Portola Common Stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date.

Acquisition by Gift, Inheritance, or Operation of Law: If a Settlement Class Member acquired Portola Common Stock during the Settlement Class Period by way of gift, inheritance, or operation of law, such a claim will be computed by using the date and price of the original purchase and not the date and price of transfer. Notwithstanding any of the above, receipt of Portola Common Stock during the Settlement Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or sale of Portola Common Stock.

If a Settlement Class Member made more than one purchase/acquisition or sale of Portola Common Stock during the Settlement Class Period, all purchases/acquisitions and sales shall be matched on a First In, First Out ("FIFO") basis such that Settlement Class Period sales will be matched against previous purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Settlement Class Period.

The date of covering a "short sale" of Portola Common Stock is deemed to be the date of purchase of Portola shares. The date of a "short sale" of Portola Common Stock is deemed to be the date of sale of Portola shares. In accordance

³ February 28, 2020 is the date of the first complaint filed in this action that states a claim under the Securities Act for the August 2019 Offering. The closing price for Portola Common Stock that day was \$10.11.

⁴ Following the Settlement Class Period, in July 2020, Portola Inc. was acquired by Alexion Pharmaceuticals, Inc. ("Alexion") through a tender offer and subsequent merger with a wholly owned subsidiary of Alexion. The tender offer was to purchase all issued and outstanding shares of Portola Common Stock at a price of \$18.00 per share in cash. The offer expired one minute following 11:59 p.m., New York City time, on July 1, 2020. As a result of the merger, as of July 2, 2020, Portola Common Stock ceased trading on the NASDAQ Global Select Market.

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or visit www.PortolaSecuritiesLitigation.com.**

with the Plan of Allocation, however, the Recognized Loss on “short sales” is zero. In the event that a claimant has a short position in Portola Common Stock, the earliest subsequent Settlement Class Period purchases shall be matched against such short position and not be entitled to a recovery until that short position is fully covered.

Payment according to the Plan of Allocation will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined herein and cannot be less than zero. The Claims Administrator shall allocate to each Authorized Claimant a *pro rata* share of the Net Settlement Fund based on his, her, or its total Recognized Losses as compared to the total Recognized Losses of all Authorized Claimants. No distribution will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

Settlement Class Members who do not submit an acceptable Claim Form will not share in the Settlement proceeds. The Stipulation and Judgment dismissing this Action will nevertheless bind Settlement Class Members who do not submit a request for exclusion or submit an acceptable Claim Form.

Defendants, their respective counsel, and all other Defendants’ Releasees will have no responsibility for, interest in, or liability whatsoever for the investment of the Settlement Fund; the distribution of the Net Settlement Fund; the Plan of Allocation; the determination, administration, or calculation of Claims; the payment of any Claim; the payment or withholding of Taxes or Tax Expenses; or any losses incurred in connection therewith. Lead Plaintiff, the Escrow Agent, Plaintiff’s Counsel, or any Claims Administrator likewise will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

No Authorized Claimant will have any claim against Lead Plaintiff, Additional Named Plaintiff OFPRS, Lead Counsel, OFPRS’ counsel, the Claims Administrator, or any other agent designated by Lead Counsel based on the distributions made substantially in accordance with the Stipulation, the Plan of Allocation, or further orders of the Court. In addition, in the interest of achieving substantial justice, Lead Counsel will have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms filed.

Date: October 31, 2022

THE HONORABLE VINCE CHHABRIA
District Judge, United States District Court for
the Northern District of California

Portola Pharmaceuticals, Inc. Securities Litigation
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 6800
Portland, OR 97228-6800
Toll-Free Number: (844) 808-4889
Settlement Website: www.PortolaSecuritiesLitigation.com
Email: info@PortolaSecuritiesLitigation.com

PROOF OF CLAIM AND RELEASE FORM

To be eligible to receive a share of the Net Settlement Fund in connection with the Settlement of *Hayden, et al. v. Portola Pharmaceuticals, Inc., et al.*, Case No. 3:20-cv-00367-VC (N.D. Cal.) (the “Action”), pending in the United States District Court for the Northern District of California (the “Court”), you must be a Settlement Class Member and complete and sign this Proof of Claim and Release Form (“Claim Form”) and mail it by First-Class Mail to the above address, **postmarked no later than February 13, 2023**.

Failure to submit your Claim Form by the date specified will subject your Claim to rejection and may preclude you from being eligible to recover any money in connection with the Settlement.

Do not mail or deliver your Claim Form to the Court, the Settling Parties, or their counsel. Submit your Claim Form only to the Claims Administrator at the address set forth above.

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Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.

PART I – CLAIMANT INFORMATION

(Please read Part II. General Instructions below before completing this page.)

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.

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 Beneficial Owner is not an individual)

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

Address 1 (street name and number)

Address 2 (apartment, unit, or box number)

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

Foreign Country (only if not USA)

Last four digits of Social Security Number or Taxpayer Identification Number

Telephone Number (Day)	Telephone Number (Evening)
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>

Email address (Email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this Claim).

Account Number (account(s) through which the securities were traded)¹

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)	

¹ If the account number is unknown, you may leave blank. If filing for more than one account for the same legal entity, you may write "multiple." Please see paragraph 11 of the General Instructions for more information on when to file separate Claim Forms for multiple accounts, *i.e.*, when you are filing on behalf of distinct legal entities.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

PART II – GENERAL INSTRUCTIONS

1. It is important that you completely read and understand the Notice of Pendency of Class Action and Proposed Settlement, Final Approval Hearing, and Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”) that accompanies this Claim Form, including the Plan of Allocation set forth in the Notice. The Notice describes the proposed Settlement, how Settlement Class Members are affected by the Settlement, and the manner in which the Net Settlement Fund will be distributed if the Settlement and Plan of Allocation are approved by the Court. The Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. You may also find the Settlement Stipulation at (i) www.PortolaSecuritiesLitigation.com, (ii) by contacting Lead Counsel or the Claims Administrator (*see* Question Nos. 7 & 14 in the Notice), (iii) by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or (iv) by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. **BY SIGNING AND SUBMITTING THIS CLAIM FORM, YOU WILL BE CERTIFYING THAT YOU HAVE READ AND THAT YOU UNDERSTAND THE NOTICE, INCLUDING THE TERMS OF THE RELEASES DESCRIBED THEREIN AND PROVIDED FOR HEREIN.**

2. This Claim Form is directed to all Persons who purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock, which traded on the NASDAQ Global Select Market (Ticker: PTLA) (CUSIP: 737010108), during the period between January 8, 2019 through February 28, 2020, inclusive, and were allegedly damaged thereby, including those who purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock either in or traceable to Portola’s secondary public offering on or about August 14, 2019, and were damaged thereby (“Settlement Class”). Any Person who falls within the definition of the Settlement Class is referred to as a “Settlement Class Member.”

3. Excluded from the Settlement Class are: (i) Defendants; (ii) members of the immediate family of any Individual Defendant; (iii) any person who was an officer, director, or controlling person of Portola Pharmaceuticals, Inc. or any of the Underwriter Defendants; (iv) any subsidiaries or affiliates of Portola or any of the Underwriter Defendants; (v) any entity in which any such excluded party has, or had, a direct or indirect majority ownership interest; (vi) Defendants’ directors’ and officers’ liability insurance carriers, and any affiliates or subsidiaries thereof; and (vii) the legal representatives, heirs, successors-in-interest, or assigns of any such excluded persons or entities.² Also excluded from the Settlement Class is any Settlement Class Member that validly and timely requests exclusion in accordance with the requirements set by the Court.

4. If you are not a Settlement Class Member, do not submit a Claim Form. **YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF YOU ARE NOT A SETTLEMENT CLASS MEMBER. THUS, IF YOU ARE EXCLUDED FROM THE CLASS (AS SET FORTH IN PARAGRAPH 3 ABOVE), ANY CLAIM FORM THAT YOU SUBMIT, OR THAT MAY BE SUBMITTED ON YOUR BEHALF, WILL NOT BE ACCEPTED.**

5. If you are a Settlement Class Member, you will be bound by the terms of any judgments or orders entered in the Action **WHETHER OR NOT YOU SUBMIT A CLAIM FORM**, unless you submit a request for exclusion from the Settlement Class. Thus, if you are a Settlement Class Member, the Judgment will release, and join the filing or continued prosecution of, the Released Plaintiffs’ Claims against the Defendants and Defendants’ Releasees.

6. You are eligible to participate in the distribution of the Net Settlement Fund only if you are a member of the Settlement Class and if you complete and return this Claim Form as specified herein. If you fail to submit a timely, properly addressed, and completed Claim Form with the required documentation, your Claim may be rejected, and you may be precluded from receiving any distribution from the Net Settlement Fund.

7. Submission of this Claim Form does not guarantee that you will share in the proceeds of the Settlement. The distribution of the Net Settlement Fund will be governed by the Plan of Allocation set forth in the Notice, if it is approved by the Court, or by such other plan of allocation approved by the Court.

² Notwithstanding the foregoing and for the avoidance of doubt, the Settlement Class shall not exclude any “Investment Vehicles,” defined as any investment company, or pooled investment fund or separately managed account (including, but not limited to, mutual fund families, exchange traded funds, funds of funds, private equity funds, real estate funds, hedge funds, and employee benefit plans) in which the Underwriter Defendants, or any of them, have, has, or may have a direct or indirect interest, or as to which its affiliates may serve as a fiduciary or act as an investment advisor, general partner, managing member, or in any other similar capacity but in which any of the Underwriter Defendants, alone or together with its, his, or her respective affiliates, is not a majority owner or does not hold a majority beneficial interest.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

8. Use the Schedule of Transactions in Part III of this Claim Form to supply all required details of your transaction(s) in and holdings of Portola Pharmaceuticals, Inc. common stock. On the Schedule of Transactions, please provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of Portola Pharmaceuticals, Inc. common stock, whether such transactions resulted in a profit or a loss. Failure to report all transaction and holding information during the requested time periods may result in the rejection of your Claim.

9. Please note: To be eligible to receive a distribution under the Plan of Allocation, you must have purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock between January 8, 2019 through February 28, 2020, inclusive (including, but not limited to, the purchase or acquisition of Portola Pharmaceuticals, Inc. common stock either in or traceable to Portola's secondary public offering on or about August 14, 2019).

10. You are required to submit genuine and sufficient documentation for all of your transactions and holdings of Portola Pharmaceuticals, Inc. common stock set forth in the Schedule of Transactions in Part III of this Claim Form. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Parties and the Claims Administrator do not independently have information about your investments in Portola Pharmaceuticals, Inc. common stock. **IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT CONTEMPORANEOUS DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator. Also, please do not highlight any portion of the Claim Form or any supporting documents.**

11. **One Claim Form should be submitted for each separate legal entity or separately managed account.** Separate Claim Forms should be submitted for each separate legal entity (e.g., an individual should not combine his or her IRA holdings and transactions with holdings and transactions made solely in the individual's name). Generally, a single Claim Form should be submitted on behalf of one legal entity including all holdings and transactions made by that entity on one Claim Form. However, if a single person or legal entity had multiple accounts that were separately managed, separate Claim Forms may be submitted for each such account. The Claims Administrator reserves the right to request information on all the holdings and transactions in Portola Pharmaceuticals, Inc. common stock made on behalf of a single beneficial owner.

12. All joint beneficial owners must sign this Claim Form. If you purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock and held the securities in your name, you are the beneficial owner as well as the record owner and you must sign this Claim Form to participate in the Settlement. If, however, you purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock and the securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these securities, but the third party is the record owner. The beneficial owner, not the record owner, must sign this Claim Form.

13. Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, Social Security Number (or Taxpayer Identification Number), address, and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Portola Pharmaceuticals, Inc. common stock; and
- (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade stock in another person's accounts.)

14. By submitting a signed Claim Form, you will be swearing that you:

- (a) own(ed) the Portola Pharmaceuticals, Inc. common stock you have listed in the Claim Form; or
- (b) are expressly authorized to act on behalf of the owner thereof.

15. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your Claim and may subject you to civil liability or criminal prosecution.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

16. If the Court approves the Settlement, payments to eligible Authorized Claimants pursuant to the Plan of Allocation (or such other plan of allocation as the Court approves) will be made after the completion of all Claims processing. This could take substantial time. Please be patient.

17. PLEASE NOTE: As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant, however, calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

18. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Notice, you may contact the Claims Administrator, Epiq Class Action & Claims Solutions, Inc., by email at info@PortolaSecuritiesLitigation.com, or by toll-free phone at (844) 808-4889, or you may download the documents from the Settlement website, www.PortolaSecuritiesLitigation.com.

19. 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. To obtain the mandatory electronic filing requirements and file layout, you may visit the Settlement website at www.PortolaSecuritiesLitigation.com, or you may email the Claims Administrator's electronic filing department at info@PortolaSecuritiesLitigation.com. Any file not in accordance with the required electronic filing format will be subject to rejection. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues an email to that effect after processing your file with your Claim numbers and respective account information. Do not assume that your file has been received or processed until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at info@PortolaSecuritiesLitigation.com to inquire about your file and confirm it was received and acceptable.

IMPORTANT: PLEASE NOTE

YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, PLEASE CALL THE CLAIMS ADMINISTRATOR TOLL-FREE AT (844) 808-4889.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

PART III – SCHEDULE OF TRANSACTIONS IN PORTOLA PHARMACEUTICALS, INC. COMMON STOCK

Complete this Part III if, and only if, you purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock during the period January 8, 2019 through February 28, 2020, inclusive, including if you purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock either in or traceable to Portola’s secondary public offering on or about August 14, 2019. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, Paragraph 10, above. Do not include information in this section regarding securities other than Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) (CUSIP: 737010108).

1. HOLDINGS AS OF MONDAY, JANUARY 7, 2019 – State the total number of shares of Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) held as of the close of trading on Monday, January 7, 2019. (Must be documented.) If none, write “zero” or “0.”

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2. PURCHASES/ACQUISITIONS FROM TUESDAY, JANUARY 8, 2019 THROUGH FRIDAY, FEBRUARY 28, 2020 – Separately list each and every purchase/acquisition of Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) made from after the opening of trading on Tuesday, January 8, 2019, through and including the close of trading on Friday, February 28, 2020. (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/ Acquired	Purchase/Acquisition Price Per Share	Total Purchase/Acquisition Price (excluding taxes, commissions, and fees)
□□ – □□ – □□	□□□□□□□□	\$ □□□□□□ . □□	\$ □□□□□□□□ . □□
□□ – □□ – □□	□□□□□□□□	\$ □□□□□□ . □□	\$ □□□□□□□□ . □□
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3. PURCHASES/ACQUISITIONS FROM MONDAY, MARCH 2, 2020, THROUGH WEDNESDAY, JULY 1, 2020 – State the total number of shares of Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) purchased/acquired from after the opening of trading on Monday, March 2, 2020, through and including the close of trading on Wednesday, July 1, 2020. If none, write “zero” or “0.”

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4. SALES FROM TUESDAY, JANUARY 8, 2019 THROUGH WEDNESDAY, JULY 1, 2020 – Separately list each and every sale/disposition of Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) that was made from after the opening of trading on Tuesday, January 8, 2019, through and including the close of trading on Wednesday, July 1, 2020. (Must be documented.)

**IF NONE, CHECK
HERE**

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions, and fees)
□□ – □□ – □□	□□□□□□□□	\$ □□□□□□ . □□	\$ □□□□□□□□ . □□
□□ – □□ – □□	□□□□□□□□	\$ □□□□□□ . □□	\$ □□□□□□□□ . □□
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□□ – □□ – □□	□□□□□□□□	\$ □□□□□□ . □□	\$ □□□□□□□□ . □□

5. HOLDINGS AS OF JULY 1, 2020 — State the total number of shares of Portola Pharmaceuticals, Inc. common stock (Ticker: PTLA) held as of the close of trading on July 1, 2020. (Must be documented.) If none, write “zero” or “0.”

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IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, YOU MUST PHOTOCOPY THIS PAGE AND CHECK THIS BOX.

IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

PART IV – RELEASE OF CLAIMS AND SIGNATURE

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 8 OF THIS CLAIM FORM.

I (we) hereby acknowledge that, as of the Effective Date of the Settlement, pursuant to the terms set forth in the Stipulation, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, affiliates, and assigns, in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Plaintiffs' Claims (as defined in the Stipulation and in the Notice) against Defendants and Defendants' Releasees (as defined in the Stipulation and in the Notice), whether served or unserved with any complaint in the Action, and shall have covenanted not to sue Defendants or Defendants' Releasees with respect to all such Released Plaintiffs' Claims, and shall be permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Released Plaintiffs' Claims, either directly, representatively, derivatively, or in any other capacity, against any of Defendants or Defendants' Releasees.

CERTIFICATION

By signing and submitting this Claim Form, the Claimant(s) or the person(s) who represent(s) the Claimant(s) certifies (certify), as follows:

1. that I (we) have read and understand the contents of the Notice and this Claim Form, including the releases provided for in the Settlement and the terms of the Plan of Allocation;
2. that the Claimant(s) is a (are) Settlement Class Member(s), as defined in the Notice and in paragraph 2 on page 3 of this Claim Form, and is (are) not excluded from the Settlement Class by definition or pursuant to request as set forth in the Notice and in paragraph 3 on page 3 of this Claim Form;
3. that I (we) own(ed) the Portola Pharmaceuticals, Inc. common stock and have not assigned the claim against the Defendants' Releasees to another or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
4. that the Claimant(s) has (have) not submitted any other Claim covering the same purchases/acquisitions of Portola Pharmaceuticals, Inc. common stock and knows (know) of no other person having done so on the Claimant's (Claimants') behalf;
5. that the Claimant(s) submit(s) to the jurisdiction of the Court with respect to Claimant's (Claimants') Claim and for purposes of enforcing the releases set forth herein;
6. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator, or the Court may require;
7. that the Claimant(s) waive(s) the right to trial by jury, to the extent it exists, and agree(s) to the Court's summary disposition of the determination of the validity or amount of the Claim made by this Claim Form;
8. that I (we) acknowledge that the Claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and
9. that the Claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the Claimant(s) is (are) exempt from backup withholding or (b) the Claimant(s) has (have) not been notified by the IRS that he/she/it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the Claimant(s) that he/she/it is no longer subject to backup withholding. **If the IRS has notified the Claimant(s) that he, she, or it is subject to backup withholding, please strike out the language in the preceding sentence indicating that the Claim is not subject to backup withholding in the certification above.**

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of Claimant

Date:

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MM DD YYYY

Print your name here

Signature of joint Claimant, if any

Date:

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MM DD YYYY

Print your name here

If the Claimant is other than an individual, or is not the person completing this form, the following also must be provided:

Signature of person signing on behalf of Claimant

Date:

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MM DD YYYY

Print your name here

Capacity of person signing on behalf of Claimant, if other than an individual, e.g., executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of Claimant – see paragraph 13 on page 4 of this Claim Form.)

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

REMINDER CHECKLIST:

1. Please sign the above release and certification. If this Claim Form is being made on behalf of joint Claimants, both must sign.
2. Remember to attach only **copies** of acceptable supporting documentation, as these documents will not be returned to you.
3. Please do not highlight any portion of the Claim Form or any supporting documents.
4. Do not send original security certificates or documentation. These items cannot be returned to you by the Claims Administrator.
5. Keep copies of the completed Claim Form and documentation for your own records.
6. The Claims Administrator will acknowledge receipt of your Claim Form by mail within 60 days. Your Claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at (844) 808-4889.**
7. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, please send the Claims Administrator written notification of your new address. If you change your name, please inform the Claims Administrator.
8. If you have any questions or concerns regarding your Claim, please contact the Claims Administrator at the address below, by email at info@PortolaSecuritiesLitigation.com, toll-free at (844) 808-4889, or visit www.PortolaSecuritiesLitigation.com.

Please DO NOT call Portola Pharmaceuticals, Inc. or any of the other Defendants or their counsel with questions regarding your Claim.

THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTMARKED NO LATER THAN FEBRUARY 13, 2023, ADDRESSED AS FOLLOWS:

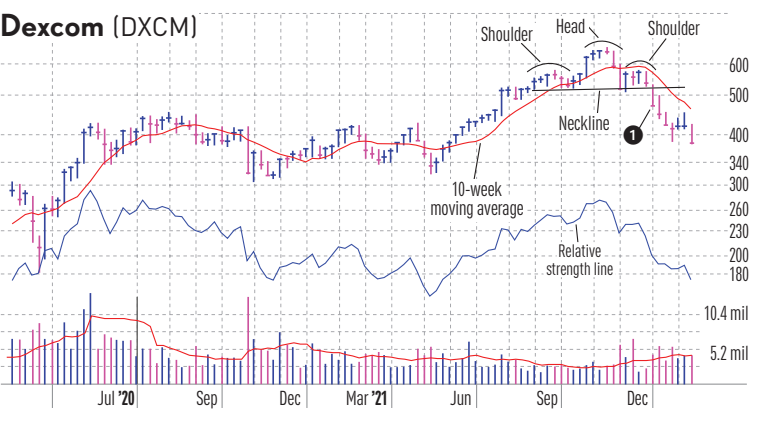
Portola Pharmaceuticals, Inc. Securities Litigation
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 6800
Portland, OR 97228-6800

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted if a postmark date on or before February 13, 2023 is indicated on the envelope and it is mailed First-Class and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

**Questions? Call (844) 808-4889 (Toll-Free)
or visit www.PortolaSecuritiesLitigation.com.**

EXHIBIT B



INVESTOR'S CORNER

Head-And-Shoulders Formation Helps Spot Stocks Topping Out

BY DOMINIC GESSEL INVESTOR'S BUSINESS DAILY

Any good investor knows that in the stock market, you make the majority of your money on the long side. The goal of the market is to foster growth and make money. As such, the market ultimately tends to trend upward. But no bull market will last forever. As the tides change and your percentage invested comes down, you might consider starting a short position. When it comes to selling short, there is one pattern that stands head and shoulders above the rest, in a manner of speaking. The head-and-shoulders pattern consists of three tops, with the middle one (the head) reaching higher than the two at either side (the shoulders). The left shoulder usually starts after a successful breakout from a base. Your stock will slow and consolidate, finding a new level of support. The head forms when the stock rallies to new highs, before coming right back down, often below the 10-week moving average. This new low will usually occur below a prior support level and helps establish the "neckline" of the pattern. Finally, the right shoulder devel-

ops. You want at least two or three attempts by the stock to rally back above or near the 10-week line, only to find resistance each time. With the drop below the 10-week line or support level, amateur traders see the new low as their golden opportunity. With the pattern confirmed, now is the time to find your entry. If the right shoulder was able to reach above the 10-week line, the ideal entry will be when it crosses back below it, but before crossing the neckline. If not, use the neckline instead. In either case, above-average volume on the decline is key. Dexcom (DXCM), a developer of glucose monitoring systems, broke out of a cup base in June 2021. By September, the stock had run up 35% and consolidated. DXCM found nearly 14% further profit by November 2021 before plunging 22% in two weeks. With the left shoulder and head completed, the right shoulder began taking shape. The stock attempted to rally but never could get above the 10-week line. Your ideal short entry would have been in the week ended Jan. 7, 2022, when Dexcom took out the neckline (1) with above-average volume, nearly double the week prior.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION. PAUL HAYDEN, et al., Plaintiffs, v. PORTOLA PHARMACEUTICALS INC., et al., Defendants. No. 3:20-cv-00367-VC. SUMMARY NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES. TO: All Persons that purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock during the period from January 8, 2019, through and including February 28, 2020 (the "Settlement Class Period"). PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED SETTLEMENT OF A CLASS ACTION LAWSUIT PENDING IN THIS COURT. PLEASE DO NOT CONTACT THE COURT, PORTOLA, OR ANY OTHER DEFENDANT OR THEIR COUNSEL, REGARDING THIS NOTICE. ALL QUESTIONS ABOUT THIS NOTICE, THE PROPOSED SETTLEMENT, OR YOUR ELIGIBILITY TO PARTICIPATE IN THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO LEAD COUNSEL OR THE CLAIMS ADMINISTRATOR, WHOSE CONTACT INFORMATION IS PROVIDED BELOW. ADDITIONAL INFORMATION ABOUT THE SETTLEMENT IS AVAILABLE: (i) on the settlement website (www.PortolaSecuritiesLitigation.com), (ii) by contacting Lead Counsel or the Claims Administrator, (iii) through the Court's Public Access to Court Electronic Records (PACER) system (for a fee) at https://ecf.cand.uscourts.gov, or (iv) by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the Court, that the Settlement Class in the above-captioned litigation (the "Action") has been preliminarily certified for the purposes of the proposed settlement only. YOU ARE ALSO NOTIFIED that Alameda County Employees' Retirement Association ("Lead Plaintiff") and Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System (collectively, "Plaintiffs"), on behalf of themselves and the Settlement Class, and the Defendants have reached a proposed settlement of the Action for \$17,500,000 in cash (the "Settlement Amount"), that, if approved, will resolve all claims in the Action based on the identical factual predicate as the securities claims at issue in the Action (the "Settlement"). A hearing (the "Final Approval Hearing") will be held at 10:00 a.m. on March 2, 2023 before the Honorable Vince Chhabria, United States District Court for the Northern District of California, either via video conference or in San Francisco Courthouse, Courtroom 4 - 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to, among other things, determine whether: (i) the proposed Settlement should be approved by the Court as fair, reasonable, and adequate; (ii) the Action should be dismissed with prejudice against the Defendants, as set forth in the Stipulation and Agreement of Settlement ("Stipulation"), dated September 19, 2022; (iii) the proposed Plan of Allocation for distribution of the Settlement Fund, and any interest earned thereon, less Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, and any other costs, expenses, or amounts as may be approved by the Court (the "Net Settlement Fund") should be approved as fair and reasonable; and (iv) the application of Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses and other costs and expenses should be approved. The Court may change the date of the Final Approval Hearing without providing another notice. PLEASE CHECK THE SETTLEMENT WEBSITE OR THE COURT'S PACER SYSTEM TO CONFIRM THE HEARING DATE. You do NOT need to attend the Final Approval Hearing in order to receive a distribution from the Net Settlement Fund.

IBD SMART NYSE + NASDAQ Tables With 10 Vital Rankings Unsung ideas and ratings to help you invest better

- 1 IBD Composite Rating has 5 Smart-Select Ratings, 1-99, with 99 the best. Ratings of 98 or more are boldfaced.
2 Earnings Per Share (EPS) rating compares your stock's last 2 quarters and 3 years EPS growth to all stocks. Rating of 90 means earns outperformed 90% of all stocks.
3 Relative Strength (RS) Stock's relative price change in last 12 months vs. all stocks. Best rate 80 or more.
4 Sales+Profit Margins+ROE Rating combines recent sales, profit margins and return on equity into an A to E rating. ROE over 17% is preferred.
5 Accumulation/Distribution Our price and vol. formula shows if your stock is under accumulation (buying) or distribution (selling) last 3 months. A buying; E selling.
6 Vol % Change is volume traded yesterday vs. average daily volume last 50 days. Vol % chg. + 50% & up bolded.
7 52-Week High is boldfaced if closing price within 10% of new high.
8 Boldfaced stocks are up 1 point or more or new high. Underlined stocks are down 1 point or more or at a new low.
9 Stocks have EPS & RS Ratings of 80 or more and were IPOs in the last 15 years.
10 after the stock symbol means stock story at investors.com

Table with 4 main columns: 1. ENERGY | +0.1% Daily Change | +51.00% Since Jan. 1, 2. AGRICLTRE | +0.4% Daily Change | +22.24% Since Jan. 1, 3. INSURANCE | +1.3% Daily Change | +7.82% Since Jan. 1, 4. METALS | +0.8% Daily Change | +5.98% Since Jan. 1. Each column contains a list of stocks with various metrics like IBD Composite Rating, Earnings Per Share, Relative Strength, Sales+Profit Margins+ROE, Accumulation/Distribution, Vol % Change, 52-week High, and Price Change.

EXHIBIT C

Berman Tabacco Announces Class Action Settlement In Securities Litigation Involving Purchasers of Portola Pharmaceuticals, Inc. Common Stock

NEWS PROVIDED BY

Berman Tabacco →

Nov 21, 2022, 08:00 ET

SAN FRANCISCO, Nov. 21, 2022 /PRNewswire/ --

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PAUL HAYDEN, et al.,

Plaintiffs,

v.

PORTOLA PHARMACEUTICALS INC., et al.,

Defendants.

No. 3:20-cv-00367-VC

**SUMMARY NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED
SETTLEMENT, FINAL APPROVAL HEARING, AND MOTION FOR
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

TO: All Persons that purchased or otherwise acquired Portola Pharmaceuticals, Inc. common stock during the period from January 8, 2019, through and including February 28, 2020 (the "Settlement Class Period").

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED SETTLEMENT OF A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

PLEASE DO NOT CONTACT THE COURT, PORTOLA, OR ANY OTHER DEFENDANT OR THEIR COUNSEL, REGARDING THIS NOTICE.

ALL QUESTIONS ABOUT THIS NOTICE, THE PROPOSED SETTLEMENT, OR YOUR ELIGIBILITY TO PARTICIPATE IN THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO LEAD COUNSEL OR THE CLAIMS ADMINISTRATOR, WHOSE CONTACT INFORMATION IS PROVIDED BELOW. ADDITIONAL INFORMATION ABOUT THE SETTLEMENT IS AVAILABLE: (i) on the settlement website (www.PortolaSecuritiesLitigation.com), (ii) by contacting Lead Counsel or the Claims Administrator, (iii) through the Court's Public Access to Court Electronic Records (PACER) system (for a fee) at <https://ecf.cand.uscourts.gov>, or (iv) by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the Court, that the Settlement Class in the above-captioned litigation (the "Action") has been preliminarily certified for the purposes of the proposed settlement only.

YOU ARE ALSO NOTIFIED that Alameda County Employees' Retirement Association ("Lead Plaintiff") and Additional Named Plaintiff Oklahoma Firefighters Pension and Retirement System (collectively, "Plaintiffs"), on behalf of themselves and the Settlement Class, and the Defendants have reached a proposed settlement of the Action for \$17,500,000 in cash (the "Settlement Amount"), that, if approved, will resolve all claims in the Action based on the identical factual predicate as the securities claims at issue in the Action (the "Settlement").

A hearing (the "Final Approval Hearing") will be held at 10:00 a.m. on March 2, 2023 before the Honorable Vince Chhabria, United States District Court for the Northern District of California, either via video conference or in San Francisco Courthouse, Courtroom 4 - 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to, among other things, determine whether: (i) the proposed Settlement should be approved by the Court as fair, reasonable, and adequate; (ii) the Action should be dismissed with prejudice against the Defendants, as set forth in the Stipulation and Agreement of Settlement ("Stipulation"), dated September 19, 2022; (iii) the proposed Plan of Allocation for distribution of the Settlement Fund, and any interest earned thereon, less Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, and any other costs, expenses, or amounts as may be approved by the Court (the "Net Settlement Fund") should be approved as fair and reasonable; and (iv) the application of Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses and

other costs and expenses should be approved. The Court may change the date of the Final Approval Hearing without providing another notice. PLEASE CHECK THE SETTLEMENT WEBSITE OR THE COURT'S PACER SYSTEM TO CONFIRM THE HEARING DATE. You do NOT need to attend the Final Approval Hearing in order to receive a distribution from the Net Settlement Fund.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO SHARE IN THE NET SETTLEMENT

FUND. If you have not yet received (i) the printed Notice of Pendency of Class Action and Proposed Settlement, Final Approval Hearing, and Motion for Attorneys' Fees and Reimbursement of Litigation Expenses ("Notice"), or (ii) the Proof of Claim and Release Form ("Claim Form"), you can obtain a copy of those documents on the website www.PortolaSecuritiesLitigation.com, or by contacting the Claims Administrator:

Portola Pharmaceuticals, Inc. Securities Litigation
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 6800
Portland, OR 97228-6800

Please refer to the website for more detailed information and to review the Settlement documents. Inquiries other than requests for information about the status of a Claim may also be made to Lead Counsel:

Daniel E. Barenbaum
BERMAN TABACCO
425 California Street, 23rd Floor
San Francisco, CA 94104
Telephone: (415) 433-3200

If you are a potential Settlement Class Member, to be eligible to share in the distribution of the Net Settlement Fund you must timely submit a valid Claim Form, which can be found on the website listed above, **postmarked no later than February 13, 2023**. If you are a potential Settlement Class Member and do not 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 any judgments or orders entered by the Court in the Action.

If you are a potential Settlement Class Member, but wish to exclude yourself from the Settlement Class, you must submit a written request for exclusion in accordance with the instructions set forth in the Notice, which can also be found on the website, **postmarked no later than February 9, 2023**. If you are a

potential Settlement Class Member and do not timely exclude yourself from the Settlement Class, you will be bound by any judgments or orders entered by the Court in the Action.

Any written objections and supporting papers to the proposed Settlement, Plan of Allocation, or Lead Counsel's application for attorneys' fees and reimbursement of Litigation Expenses and other costs and expenses must be submitted to or filed with the Court in accordance with the instructions set forth in the Notice so that it is **received, not simply postmarked, no later than February 9, 2023**. The requirement of a written objection as a prerequisite to appearing at the Final Approval Hearing to object to the Settlement may be excused upon a showing of good cause. The Court will require only substantial compliance with the requirements for submitting an objection.

DATED: October 31, 2022

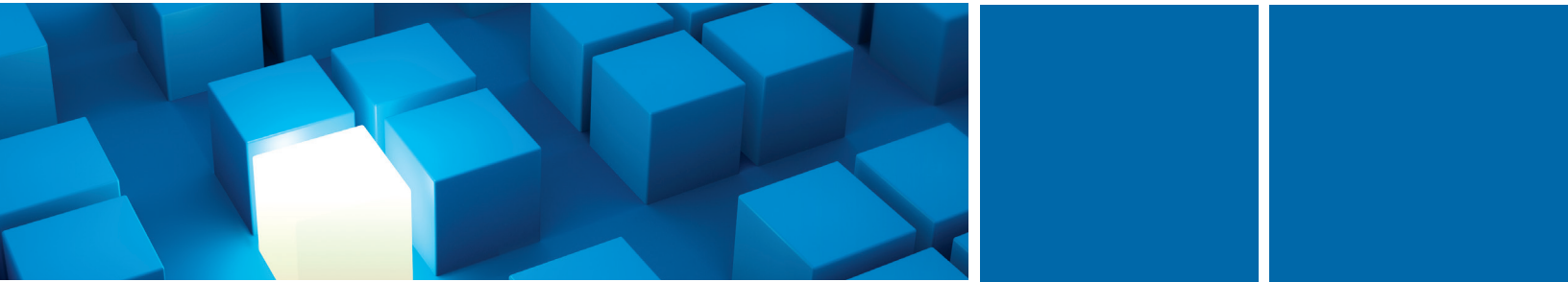
THE HONORABLE VINCE CHHABRIA
District Judge, United States District Court for the Northern District of California

URL// www.PortolaSecuritiesLitigation.com

SOURCE Berman Tabacco

Exhibit 10

25 January 2022



Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review

Over 10% of New Federal Filings Were Related to Special Purpose Acquisition Companies
Substantially Fewer Merger Objections Filed, Leading to a Decline in Aggregate New Filings
Total Resolutions, Average and Median Settlement Values Declined

By Janeen McIntosh and Svetlana Starykh

As settlement size increases, fees and expenses represent a declining percentage of settlement value. More specifically, while the percentage is only 10.5% for cases that settled for over \$1 billion in the last 10 years, for cases with settlement amounts under \$5 million, fees and expenses represent 34% of the settlement. See Figure 25.

Figure 25. **Median of Plaintiffs' Attorneys' Fees and Expenses by Size of Settlement**
Excludes Merger Objections and Settlements for \$0 to the Class

