UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:22-cv-07203-CBA-JRC **PLAINTIFFS' NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Lead Plaintiffs Kaoutar Kajjame, Philip Granite, and Ricardo Joseph (collectively, "Plaintiffs"), by and through their undersigned counsel, hereby respectfully move this Court, pursuant to Federal Rule of Civil Procedure 23, for entry of an Order:

1. Granting preliminary approval of the proposed Settlement;
2. Approving the proposed form and manner of providing notice of the proposed Settlement to Class members;
3. Certifying the proposed Settlement Class for purposes of the Settlement; and
4. Scheduling a Settlement Fairness Hearing.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, the undersigned submits the accompanying Memorandum of Law, the Declarations of Adam M. Apton, Paul Mulholland, Kaoutar Kajjame, Philip Granite, and Ricardo Joseph, and all exhibits attached thereto. The terms of the proposed Settlement are set forth in the Stipulation and Agreement of Settlement dated January 19, 2024 (the "Stipulation"), which was entered into by all Parties in the above-captioned action. Plaintiffs also submit a Proposed Order.

Defendants do not oppose the Motion.

DATED: January 19, 2024

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:22-cv-07203-CBA-JRC

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AND APPROVAL OF NOTICE TO THE SETTLEMENT CLASS

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Dated: January 19, 2024

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Lead Plaintiffs Kaoutar Kajjame, Philip Granite, and Ricardo Joseph (collectively, "Plaintiffs"), on behalf of themselves and the proposed Settlement Class, respectfully submit this memorandum of law in support of their unopposed motion, for entry of an Order: (i) granting preliminary approval of the proposed Settlement; (ii) approving the form and manner of providing notice of the Settlement to Class Members; (iii) certifying the proposed Settlement Class for purposes of Settlement; and (iv) scheduling a hearing for final approval of the Settlement (the "Settlement Fairness Hearing").[1]

PRELIMINARY STATEMENT

Plaintiffs have negotiated a Settlement that provides a strong and immediate recovery to Class Members that is highly favorable in light of the risks of continued litigation. Pursuant to the proposed Settlement, Meta Materials, on behalf of all Defendants,[2] has agreed to pay, or cause to be paid, $3,000,000 in cash for the benefit of the Settlement Class in exchange for the settlement of all claims asserted in the Action, the dismissal with prejudice of the Consolidated Complaint, and the release of all Released Plaintiffs' Claims by Plaintiffs and the other members of the Settlement Class against Defendants and Defendants' Releasees.

The Settlement provides a substantial, immediate, and guaranteed recovery for the Settlement Class, eliminates additional costs to the Parties, and circumvents future risks of litigation. These risks include disputes over liability and damages concerning Plaintiffs' ability to prove falsity, scienter, loss causation, and damages given Defendants' reliance on expert advice and the market's reaction (or lack thereof) to news from the Company. In addition, Plaintiffs faced

[1] All capitalized terms used and not otherwise defined in this Memorandum have the meanings ascribed to them in the Stipulation of Settlement dated January 19, 2024 ("Stipulation" or "Stip."), filed herewith.

[2] Defendants are Meta Materials Inc. f/k/a Torchlight Energy Resources, Inc. ("Meta Materials"), George Palikaras, Kenneth Rice, Greg McCabe, and John Brda (the "Individual Defendants," with Meta Materials, "Defendants," and together with Plaintiffs, the "Parties").

numerous other risks unique to large complex class action litigation, such as their ability to secure and maintain a certified class as well as recover any award obtained at trial. For these reasons and others, the Settlement is fair, reasonable, adequate, and in the Settlement Class Members' best interest. The Settlement is the product of vigorous good-faith, arm's-length negotiations between experienced counsel, including significant mediation efforts overseen by Jed D. Melnick, Esq. of JAMS ADR, a nationally recognized mediator. The Settlement meets the requirements of Federal Rule of Civil Procedure ("Rule") 23(e) and Second Circuit precedent. Moreover, the proposed content and manner of providing notice satisfies requirements imposed by Rule 23, the Private Securities Litigation Reform Act of 1995 ("PSLRA"), and due process. For these reasons, the Court should approve Plaintiffs' motion.

FACTUAL AND PROCEDURAL BACKGROUND

I. SUMMARY OF THE LITIGATION

The initial complaint in this Action was filed on January 3, 2022. ECF No. 1. The operative complaint, the Consolidated Complaint, was filed on August 29, 2022, asserting violations of Sections 10(b), 14(a), and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), SEC Rule 10b-5 promulgated thereunder, and Sections 11 and 15 of the Securities Act of 1933 ("Securities Act"), on behalf of all persons and entities who purchased or acquired Meta Materials' publicly traded securities: (i) between September 21, 2020 and June 24, 2022 at approximately 12:59 pm EDT, inclusive; and/or (ii) pursuant and/or traceable to the Registration Statement issued in connection with the business combination between Torchlight and Meta Materials, and who were damaged thereby. ECF No. 46.

Meta Materials is the product of a reverse merger with Torchlight Energy Resources Inc. ("Torchlight"). The Consolidated Complaint alleges that at the time of the merger, Meta Materials

had not developed any products that were ready to be manufactured on a "scaled" basis or sold at "commercial" levels. Instead, it had accumulated a deficit of over $52 million, was in breach of its debt covenants, and had an outstanding "going concern" qualification. The Consolidated Complaint further alleges that Torchlight was also on the verge of financial ruin. As a failing oil and gas company, it had accumulated losses of nearly $100 million and had issued similar doubts over its ability to stay in business. Its executive officers were owed back-pay and were using personal assets to sustain company operations.

The precarious financial position of each company ultimately brought them together, damaging thousands of investors in the process. Torchlight was publicly traded on the Nasdaq Capital Market and, consequently, provided Meta Materials with access to public equity. Meta Materials, meanwhile, provided Torchlight and its executives with the ability to avoid bankruptcy while also triggering lucrative "change in control" provisions and retaining ownership over legacy oil and gas assets that they could sell at their discretion.

While mergers often provide each party with advantageous outcomes, they cannot be secured through fraudulent means. The Consolidated Complaint alleges, however, that is exactly what occurred here. To consummate this transaction, Defendants overstated the development status of Meta Material's products and misrepresented the benefits the merger provided to current and prospective investors. Instead of gaining access to a high-tech company with products in multiple markets, investors received shares in a failing operation with no marketable products. Worse still, the Consolidated Complaint alleges that the Company's executive officers sought to use the merger to personally enrich themselves at the expense of public shareholders.

The Consolidated Complaint alleges that the truth about Meta Materials' technologies, development, scalability, and financial condition was ultimately revealed in a series of corrective

disclosures, causing significant damages to investors who purchased Meta Materials Securities based in part on Defendants false statements and omissions.

On October 13, 2022, Defendants moved to dismiss Plaintiffs' Consolidated Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b). ECF Nos. 51, 52. Plaintiffs opposed Defendants' motion on November 29, 2022 (ECF No. 55), and Defendants replied in further support of their motion on January 12, 2023 (ECF No. 54). On February 27, 2023, the Court held oral argument on the motion. ECF No. 57.

On September 29, 2023, the Court issued an order granting Defendants' motion to dismiss. ECF No. 59. The Clerk entered Judgment in favor of Defendants dismissing the Action with prejudice on October 3, 2023. ECF No. 60.

On October 27, 2023, Plaintiffs moved to vacate the dismissal with prejudice and requested leave to amend the pleadings. ECF No. 62. Plaintiffs premised their motion on an extensive body of Second Circuit precedent holding that plaintiffs in securities fraud actions should be given an opportunity for leave to amend after a dismissal on the pleadings. Plaintiffs also argued that new evidence obtained from confidential witnesses remedied several critical issues that led the Court to dismiss the Action. Defendants responded in opposition to Plaintiffs' motion on November 13, 2023 (ECF No. 63), and Plaintiffs replied in further support of their motion on November 27, 2023 (ECF No. 66). Defendants maintain their denial of any and all allegations of wrongdoing and deny that they have committed any act or omission giving rise to any liability or violation of law.

II. NEGOTIATION OF THE SETTLEMENT

After Plaintiffs moved to vacate the Court's dismissal with prejudice and requested leave to amend the pleadings, the Parties began discussing the possibility of mediation. *See* Declaration of Adam M. Apton ("Lead Counsel Decl.") at ¶29.

The Parties retained Mr. Melnick of JAMS ADR, a well-respected and highly experienced mediator, to assist them in negotiating a potential resolution of the claims in the Action, and scheduled mediation for December 14, 2023. *See* Lead Counsel Decl. at ¶¶30-32.

In advance of the scheduled mediation, the Parties exchanged mediation statements, which addressed issues of liability and damages and presented the Parties' respective view of the claims and risks of continued litigation. *See* Lead Counsel Decl. at ¶31. On December 14, 2023, the Parties, through counsel, participated in a full-day mediation session before Mr. Melnick in an attempt to resolve the Action. *Id.* at ¶32.

Though mediation did not result in a resolution, the Parties continued to engage in settlement negotiations thereafter, and on December 19, 2023, Plaintiffs and Defendants each agreed to settle the Action for $3 million in response to a "mediator's proposal" provided by Mr. Melnick. *Id.* at ¶33.

On December 20, 2023, the Parties jointly notified the Court that a settlement-in-principle had been reached, and Plaintiffs intended to file the necessary motion papers for preliminary approval on or before January 19, 2024. ECF No. 68. And, in light of the settlement-in-principle, the Parties jointly requested that, in the interim, all pending motions be kept on the docket and that the case be administratively stayed. *Id.*

That same day, the Parties executed a memorandum of understanding, agreeing to settle the Action for $3 million subject to the execution of a formal, final settlement agreement. *See* Lead Counsel Decl. at ¶35.

On December 21, 2023, the Court issued an order granting the Parties request for an administrative stay and instructed that the present motion be filed by January 19, 2024.

III. THE TERMS OF THE PROPOSED SETTLEMENT

The Stipulation (together with its exhibits) constitutes the final and binding agreement between the Parties. Pursuant to the Stipulation, Meta Materials, on behalf of all Defendants, will pay or cause to be paid $3,000,000 in cash, which amount plus accrued interest comprises the Settlement Fund. Stip. at ¶1.29. In exchange for monetary consideration, Plaintiffs agreed to the release of all Released Plaintiffs' Claims by Plaintiffs and the Settlement Class against Defendants and Defendants' Releasees. Stip. at ¶4.

The proposed Settlement Class is defined as consisting of:

> (a) All Persons that purchased Meta Materials and/or Torchlight Energy Resources, Inc. ("Torchlight") publicly traded securities during the Class Period, and were damaged thereby;
>
> (b) All holders of Torchlight stock as of the May 5, 2021 record date, eligible to vote on the proposed merger with Metamaterial, Inc. at Torchlight's June 11, 2021 special meeting of shareholders, and were damaged thereby; and
>
> (c) All holders of Torchlight stock as of June 28, 2021, the date the proposed merger with Metamaterial, Inc. was consummated, and were damaged thereby.

Stip, at ¶1.27. Excluded from the Settlement Class are: (i) the Settling Defendants and their Related Parties; (ii) the officers, directors, and affiliates of Meta Materials, at all relevant times; (iii) Meta Materials' employee retirement or benefit plan(s) and their participants or beneficiaries to the extent they purchased or acquired Meta Materials securities through any such plan(s); (iv) any entity in which the Settling Defendants have or had controlling interest; (v) Immediate Family members of any excluded person; and (vi) the legal representatives, heirs, successors, or assigns of any excluded person or entity. *Id.*

The cost of Notice to the Settlement Class and settlement administration ("Notice and Administration Expenses") will be funded by the Settlement Fund. Stip. at ¶2.9. After a competitive bidding process, Lead Counsel retained a nationally recognized class action settlement

administrator, Strategic Claims Services, to administer the process of giving notice to the Settlement Class, receive and assess claims submitted by Claimants and, upon Court approval, distribute the Net Settlement Fund to Class Members. *See* Lead Counsel Decl. at ¶41.

The Notice provides that Lead Counsel will submit an application for an award of attorneys' fees in an amount not to exceed one-third of the Settlement Amount and litigation expenses in an amount not to exceed $60,000, plus interest accrued on both amounts at the same rate as earned by the Settlement Fund. *See* Stipulation, Ex. A-1 ("Notice"). The Notice also states that Plaintiffs may also seek compensatory awards under the PSLRA not to exceed $10,000 in the aggregate for all Plaintiffs. *Id*. Such fees, awards, and expenses shall be paid from the Settlement Fund. *Id*.

While Plaintiffs believe that the merits of their case are strong, Defendants contend that they did not violate the securities laws, did not act with scienter, and did not cause damages to the Settlement Class. Plaintiffs recognize that they face numerous risks, including an unfavorable decision on their motion to vacate the judgment, an unfavorable decision on a second motion to dismiss or summary judgment, the possibility that a jury may not return a verdict in their favor or may award damages less than the Settlement Amount, or an unfavorable appellate decision. Moreover, even if Plaintiffs were able to achieve a favorable verdict, this would involve years of delay and carry with it a risk that Plaintiffs may not be able to collect a judgment depending on Meta Materials' financial condition. Given these significant risks, Plaintiffs and Lead Counsel believe that the proposed Settlement provides an excellent result, is in the best interest of the Settlement Class.

ARGUMENT

I. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL.

A. Legal Standard for Judicial Approval of Class Action Settlements.

The Second Circuit recognizes the "strong judicial policy in favor of settlements, particularly in the class action context." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir. 2005); *see also In re IMAX Sec. Litig.*, 283 F.R.D. 178, 188 (S.D.N.Y. 2012).[3] Courts should approve a class action settlement if it is "fair, reasonable, and adequate." *See* Fed. R. Civ. P. 23(e)(2); *see also In re Citigroup Inc. Bond Litig.*, 296 F.R.D. 147, 154 (S.D.N.Y. 2013); *In re Am. Int'l Grp., Inc. Sec. Litig.*, 293 F.R.D. 459, 464 (S.D.N.Y. 2013).

"Review of a proposed class action settlement generally involves a two-step process: preliminary approval and a subsequent 'fairness hearing.'" *In re Initial Pub. Offering Sec. Litig.*, 243 F.R.D. 79, 87 (S.D.N.Y. 2007), *adhered to on reconsideration*, 2007 WL 844710 (S.D.N.Y. Mar. 20, 2007). "In considering preliminary approval, courts make a preliminary evaluation of the fairness of the settlement, prior to notice" and "[o]nce preliminary approval is bestowed, the second step of the process ensues: notice is given to the class members of a hearing, at which time class members and the settling parties may be heard with respect to final court approval." *In re Nasdaq Mkt.-Makers Antitrust Litig.*, 176 F.R.D. 99, 102 (S.D.N.Y. 1997). "Preliminary approval is not tantamount to a finding that [a proposed] settlement is fair and reasonable. . . . Instead, at this stage, we need only decide whether the terms of the Proposed Settlement are at least sufficiently fair, reasonable and adequate to justify notice to those affected and an opportunity to be heard." *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 2014 WL 6851096, at *2 (S.D.N.Y. Dec. 2, 2014). Additionally, "courts should give proper deference to the private

[3] Unless otherwise noted, all emphasis is added, and internal quotations and citations are omitted throughout.

consensual decision of the parties," and should bear in mind "the unique ability of class and defense counsel to assess the potential risks and rewards of litigation." *Waterford Twp. Police & Fire Ret. Sys. v. Smithtown Bancorp, Inc.*, No. 10-CV-864 (SLT) (RER), 2015 U.S. Dist. LEXIS 73276, at *18 (E.D.N.Y. Apr. 17, 2015).

Rule 23(e)(1) provides that preliminary approval should be granted where "the parties show[] that the Court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(1). Pursuant to Rule 23(e)(2), courts assessing settlement approval consider whether:

> (A) The class representatives and class counsel have adequately represented the class;
> (B) The proposal was negotiated at arm's length;
> (C) The relief provided for the class is adequate, taking into account:
> (i) The costs, risks, and delay of trial and appeal;
> (ii) The effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) The terms of any proposed award of attorneys' fees, including timing of payment; and
> (iv) Any agreement required to be identified under Rule 23(e)(3);
> (D) The proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). These factors "add to, rather than displace, the *Grinnell* factors." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 29 (E.D.N.Y. 2019). Courts in the Second Circuit have long considered the *Grinnell* factors, to evaluate "whether a class action settlement is fair, reasonable, and adequate under Rule 23":

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

Christine Asia Co. v. Yun Ma, 2019 WL 5257534, at *8-9 (S.D.N.Y. Oct. 16, 2019) (citing *Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974)). The Second Circuit has not prescribed any set order of consideration, but at least one district court has suggested that courts first "consider[] the Rule 23(e)(2) factors, and then consider[] additional *Grinnell* factors not otherwise addressed by the Rule 23(e)(2) factors." *See Payment Card*, 330 F.R.D. at 29.

Either way, the court should not "engage in a complete analysis at the preliminary approval stage . . . as other courts in this Circuit have held, 'it is not necessary to exhaustively consider the factors applicable to final approval'" when considering preliminary approval. *Id.* at 30 n.24 (quoting *In re Platinum & Palladium Commodities Litig.*, 2014 WL 3500655, at *12 (S.D.N.Y. July 15, 2014)). Indeed, certain factors—such as the reaction of the class to the settlement—will not have sufficient data to thoroughly consider until the final approval stage. *Id.*

As set forth below, the proposed Settlement satisfies both prongs under Rule 23(e)(1) and meets the criteria for final approval expressly enumerated in Rule 23(e)(2), as well as those articulated in *Grinnell*.

B. The Settlement Satisfies the Approval Requirements Under Rule 23(e)(2) and *Grinnell.*

1. Plaintiffs and Lead Counsel Adequately Represented the Class.

Plaintiffs and Lead Counsel more than satisfy the "adequate representation" requirement of Rule 23(e)(2)(A), which focuses primarily on the "alignment of interests between class members." *See Wal-Mart Stores, Inc.*, 396 F.3d at 106-07. Here, Plaintiffs' interests were fully aligned with the interests of absent Settlement Class Members. Plaintiffs' claims (like those of the Settlement Class) concern publicly traded securities of Meta Materials, and are based on the same facts and legal theory over the same Class Period. And, because Plaintiffs and Lead Counsel "share

the common goal of maximizing recovery" for the Settlement Class, "there is no conflict of interest[.]" *See In re Polaroid ERISA Litig.*, 240 F.R.D. 65, 77 (S.D.N.Y. 2006).

Moreover, Plaintiffs and Lead Counsel have vigorously litigated this case since their appointment by the Court. *See* Lead Counsel Decl. at ¶¶10-28. Among other things, Lead Counsel conducted a thorough and wide-ranging investigation concerning the allegedly fraudulent misrepresentations made by Defendants, which included: (i) a review and analysis of publicly available information, including Meta Materials' SEC filings, (ii) a review and analysis of reports issued by third party analysts and industry experts concerning the Company and/or its competitors; (iii) investigative interviews, by way of third party investigators, with former employees of the Company; and (iv) consultation with experts on market efficiency, loss causation, and damages. *See id.* Lead Counsel then prepared and filed: (i) the Consolidated Complaint; (ii) Plaintiffs' opposition to Defendants' motion to dismiss; (iii) Plaintiffs' motion to vacate the judgment and requested leave to amend; (iv) Plaintiffs' proposed amended complaint; and (v) Plaintiffs' reply in further support of their motion to vacate judgment and amend. *See id*.

Plaintiffs and Lead Counsel also vigorously pursued settlement discussions. After the Parties agreed on a mediator, Lead Counsel drafted a mediation statement, prepared for, and attended, a full-day mediation session, and participated in further negotiations in the following weeks. *See id.* at ¶¶29-37. Indeed, Lead Counsel, who is experienced in prosecuting complex class actions, had a clear view of the strengths and risks of the Action, and was equipped to make an informed decision regarding the reasonableness of a potential settlement. The result of these efforts is an impressive settlement of $3,000,000 in cash for the benefit of the Settlement Class. Accordingly, Plaintiffs and Lead Counsel have adequately represented the Settlement Class, which weighs in favor of approval.

2. The Settlement Is the Product of Good Faith, Arm's-Length Negotiations.

A settlement is procedurally fair when it is "achieved through arms-length negotiations by counsel with the experience and ability to effectively represent the class's interests." *Rodriguez v. CPI Aerostructures, Inc.*, 2021 WL 9032223, at *4 (E.D.N.Y. Nov. 10, 2021); *see also* Fed. R. Civ. P. 23(e)(2)(B). In such circumstances, "'great weight' is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation." *In re PaineWebber Ltd. Partnerships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y.), *aff'd* 117 F.3d 721 (2d Cir. 1997). There is a "presumption of fairness when a class settlement has been reached after arm's-length negotiations between experienced, capable counsel." *Rodriguez*, 2021 WL 9032223, at *4.

As previously discussed, the Parties engaged Jed D. Melnick, Esq., a nationally recognized mediator, and attended a full-day mediation session, at which the Parties did not reach a settlement. *See* Lead Counsel Decl. at ¶32. Following post-mediation negotiations, the Parties ultimately agreed to resolve the Action based on a "mediator's proposal" to settle for $3,000,000. *Id.* at ¶33. Mr. Melnick's involvement strongly supports the conclusion that negotiations were conducted at arm's length and without collusion. "The [P]arties' involvement in mediation in this case helps to ensure that the proceedings were free of collusion and undue pressure." *Rodriguez*, 2021 WL 9032223, at *4 (citing *D'Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001)).

Accordingly, this factor favors preliminary approval.

3. The Settlement Is an Excellent Result for the Class.

The proposed Settlement provides an excellent result and immediate recovery for the Class, and is fair, reasonable, and adequate considering "the costs, risks, and delay of trial and appeal" and other relevant factors. Fed. R. Civ. P. 23(e)(2)(C). The Settlement must be judged "not in

comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case." *In re Agent Orange Prod. Liab. Litig.*, 597 F. Supp. 740, 762 (E.D.N.Y. 1984), *aff'd sub nom. In re Agent Orange Prod. Liab. Litig.*, MDL No. 381, 818 F.2d 145 (2d Cir. 1987).

Here, the Settlement provides a cash payment of $3,000,000 for the benefit of the Class. This is an excellent result, especially given the significant risks of continued litigation. After consulting with an econometric expert, Plaintiffs and Lead Counsel estimate that the maximum aggregated damages possible, upon a successful verdict of all claims, was approximately $34.4 million. *See* Lead Counsel Decl. at ¶39. Consequently, the recovery under the proposed Settlement equals 8.7% of the total recoverable damages. This amount compares favorably to other securities fraud class actions with similar damages. For cases with damages ranging from $25 million to $74 million the median settlement as a percentage is 7.4%. *Id.* at ¶40. Therefore, the recovery falls in line with past recoveries in similar cases. *See In re China Sunergy Sec. Litig.*, 2011 WL 1899715, at *5 (S.D.N.Y. May 13, 2011) ("the average settlement amounts in securities fraud class actions where investors sustained losses over the past decade . . . have ranged from 3% to 7% of the class members' estimated losses"); *In re Merrill Lynch & Co., Inc. Rsch. Reps. Sec. Litig.*, 2007 WL 313474, at *10 (S.D.N.Y. Feb. 1, 2007) (a recovery of approximately 6.25% was "at the higher end of the range of reasonableness of recovery in class action[] securities litigations").

a. The costs, risks and delay of trial and appeal support approval.

In assessing a settlement, courts consider "not whether the settlement represents the best possible recovery, but how the settlement relates to the strengths and weaknesses of the case." *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at *9 (S.D.N.Y. May 9, 2014), *aff'd sub nom. Arbuthnot v. Pierson*, 607 F. App'x 73 (2d Cir. 2015). A court need only determine whether the Settlement falls within a range of reasonableness that "recognizes the uncertainties of law and

fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion." *Pantelyat v. Bank of America, N.A.*, 2019 WL 402854, at *7 (S.D.N.Y. Jan. 31, 2019).

Plaintiffs and Lead Counsel faced several significant risks. First and foremost, Plaintiffs needed to succeed in their motion to vacate the judgment and leave to amend. Lead Counsel Decl. at ¶48. Second to that, although Plaintiffs and Lead Counsel believe the allegations of wrongdoing against Defendants are strong, they acknowledge that Defendants have put forth substantial arguments concerning falsity, materiality, and scienter. *See id*. at ¶¶51-56. Defendants also would have challenged Plaintiffs' loss causation and damages theory. *See id.* at ¶¶58-60. Undoubtedly, successfully prosecuting this Action through trial, like any securities action, would be both complex and risky. *See, e.g., Christine Asia*, 2019 WL 5257534, at *10 ("In evaluating the settlement of a securities class action, federal courts, including this Court, have long recognized that such litigation is notably difficult and notoriously uncertain."); *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550, at *15 (S.D.N.Y. Nov. 8, 2010) (recognizing that complex securities class actions are "notably difficult and notoriously uncertain"). Moreover, there can be no assurance that a jury would find Defendants made misrepresentations, acted with scienter, or that those misrepresentations were the cause of investor losses. Indeed, a recent securities class action trial ended in a defense verdict, leaving the class with nothing, despite the Court previously finding, at summary judgment, that the defendant made a material misrepresentation and did so with scienter. *See In re Tesla Inc. Securities Litigation*, No. 18-cv-4865 (N.D. Cal. 2023).

Even assuming Plaintiffs were successful at vacating the judgment and their amended claims survived a motion to dismiss and summary judgment, a jury trial would have required a substantial amount of factual and expert testimony. *See, e.g., In re Metlife Demutualization Litig.*,

689 F. Supp. 2d 297, 332 (E.D.N.Y. 2010) ("The proof on many disputed issues – which involve complex financial concepts – would likely have included a battle of experts, leaving the trier of fact with difficult questions to resolve."); *In re Am. Bank Note Holographics, Inc. Sec. Litig.*, 127 F. Supp. 2d 418, 426-27 (S.D.N.Y. 2001) ("In such a battle, Plaintiffs' Counsel recognize the possibility that a jury could be swayed by experts for Defendants."). And whatever the outcome at trial, it is virtually certain that an appeal would follow. This continued litigation would have posed considerable expense to the Parties, and would have delayed any potential recovery, if one was even achieved.

Moreover, prevailing at trial would not necessarily result in a larger recovery. The jury could award a smaller number of damages, or the verdict could be appealed. *See, e.g., Robbins v. Koger Properties, Inc.*, 116 F.3d 1441 (11th Cir. 1997) (reversing jury verdict of $81 million for plaintiffs against an accounting firm and entering judgment for defendant); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning securities fraud class action jury verdict for plaintiffs in a case tried in 1988 on the basis of a Supreme Court opinion handed down in 1994). And even if Plaintiffs were able to achieve a favorable verdict, this would only come after years of delay. For example, in two PSLRA cases that went to trial, plaintiffs did not move for preliminary approval until approximately *seven years* after their respective juries rendered verdicts in their favor. *See In re Vivendi Universal, S.A. Sec. Litig.*, No. 02-cv-5571 SAS (S.D.N.Y. Apr. 21, 2017), ECF No. 1313 (preliminary approval motion filed after appeal and approximately 7.5 years after the jury verdict); *see also Lawrence E. Jaffe Pension Plan v. Household Int'l, Inc.*, No. 02 C 5893 (N.D. Ill. Jun. 20, 2016), ECF No. 2212 (preliminary approval motion filed approximately 7 years after the jury verdict and after appeal, which reversed verdict in part and ordered a limited new trial).

Further, Meta Materials is subject to substantial risk of insolvency and the delisting of its stock from the Nasdaq, which creates additional risks associated with continued litigation. As of September 30, 2023, Meta Materials reported less than $9.2 million in cash and cash equivalents (despite having raised over $200 million in proceeds over the previous two years). *See* Lead Counsel Decl. at ¶¶61-62. At the same time, Meta Materials reported a net loss of more than $8.7 million. *Id.* Meta Materials' stock price closed at $0.06 per share on January 16, 2024, compared to $1.17 per share at the end of the Class Period. *Id.* Further litigation could serve to consume what little resources remain rather than going to the Settlement Class. *See Burns v. FalconStor Software, Inc.*, 2013 WL 12432583, at *8 (E.D.N.Y. Oct. 9, 2013) (granting preliminary approval while defendants' motion to dismiss was still pending because further litigation "would likely consume tremendous time and resources").

b. The other Rule 23(e)(2)(C) factors support approval.

Rule 23(e)(2)(C) states that adequacy should be assessed in light of "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims[,]" "the terms of any proposed award of attorney's fees, including timing of payment[,]" and "any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C)(ii)-(iv). Each of these factors supports approval here.

First, the Settlement calls for an experienced Claims Administrator to process claims and distribute the Net Settlement Fund to Class Members according to the Plan of Allocation using procedures that are well-established and have proven effective in securities fraud litigation. Lead Counsel selected Strategic Claims Services to serve as Claims Administrator (subject to Court approval) after a competitive bidding process. *See* Lead Counsel Decl. at ¶41. Under the guidance of Lead Counsel, Strategic Claims Services will process claims and provide Claimants with a reasonable opportunity to cure deficiencies in their claims. *See* Declaration of Paul Mulholland,

¶11. The Claims Administrator will audit the claims received and evaluate the proposed distribution according to the Plan of Allocation, and Lead Counsel will move the Court for an order of distribution permitting checks to be mailed to eligible claimants. *See id.* at ¶12.

Second, as disclosed in the Notice, Lead Counsel, who have not been paid to date for their efforts in this Action, will apply for a fee award not to exceed one-third of the Settlement Fund. Such a fee is considered reasonable for the work performed and the results obtained and is consistent with awards in similar complex class action cases. *See, e.g.*, *In re PPDAI Grp. Inc. Sec. Litig.*, 2022 WL 198491, at *17 (E.D.N.Y. Jan. 21, 2022) (approving a one-third of a $9 million settlement).[4]

Third, Rule 23(e)(2)(C)(iv) requires the disclosure of any agreement between the Parties in connection with the Settlement. On December 20, 2023, the Parties executed the settlement term sheet and on January 19, 2024, they entered into the Stipulation and the confidential Supplemental Agreement regarding requests for exclusion (the "Supplemental Agreement"). The Supplemental Agreement provides that Meta Materials has the option to terminate the Settlement in the event that requests for exclusion from the Settlement Class exceed a certain agreed-upon threshold. As is standard in securities class actions, the Supplemental Agreement is being kept confidential in order to avoid incentivizing the formation of a group of opt-outs for the sole purpose of leveraging a larger individual settlement to the detriment of the Settlement Class. *See* 7 Newberg on Class

[4] *Enriquez v. Nabriva Therapeutics plc*, 1:19-cv-04183, ECF No. 78 (S.D.N.Y. May 14, 2021) (approving fee award that was one-third of a $3 million settlement); *Pearlman v. Cablevision Sys. Corp.*, 2019 WL 3974358, at *3 (E.D.N.Y. Aug. 20, 2019) ("[I]t is very common to see 33% contingency fees in cases with funds of less than $10 million, and 30% contingency fees in cases with funds between $10 million and $50 million."); *In re BioScrip, Inc. Sec. Litig.*, 273 F. Supp. 3d 474, 497 (S.D.N.Y. 2017), *aff'd sub nom. Fresno Cty. Employees' Ret. Ass'n v. Isaacson/Weaver Fam. Tr.*, 925 F.3d 63 (2d Cir. 2019) (approving 33 1/3% settlement and stating "courts routinely award a percentage amounting to approximately 1/3"); *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 991 F. Supp. 2d 437, 445 (E.D.N.Y. 2014) ("it is very common to see 33% contingency fees in cases with funds of less than $10 million"); *Hayes v. Harmony Gold Min. Co.*, 2011 WL 6019219, at *1 (S.D.N.Y. Dec. 2, 2011), aff'd, 509 F. App'x 21 (2d Cir. 2013) (noting that attorneys' fee of one-third of the $9 million settlement amount was fair, reasonable and adequate).

Actions § 22:59 (5th ed.) Such an agreement "is standard in securities class action settlements and has no negative impact on the fairness of the Settlement." *See, e.g.*, *Christine Asia*, 2019 WL 5257534, at *15; *In re Carrier iQ, Inc., Consumer Privacy Litig*., 2016 WL 4474366, at *5 (N.D. Cal. Aug. 25, 2016) (observing that such "opt-out deals are not uncommon as they are designed to ensure that an objector cannot try to hijack a settlement in his or her own self-interest"). Pursuant to its terms, the Supplemental Agreement may be submitted to the Court *in camera* or under seal. The Supplemental Agreement, Stipulation, and MOU are the only agreements between the Parties concerning the Settlement.

4. The Settlement Treats All Class Members Equitably.

The Settlement easily satisfies the Rule 23(e)(2)(D) criteria that the Settlement treat class members equitably relative to one another. A plan of allocation, "particularly if recommended by experienced and competent class counsel," should be approved so long as it is "fair and adequate" and "ha[s] a reasonable, rational basis." *Christine Asia*, 2019 WL 5257534, at *15. Under the proposed Plan of Allocation, each Authorized Claimant will receive a *pro rata* share of the Net Settlement Fund, which shall be the Authorized Claimant's Recognized Loss divided by the total of Recognized Losses of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. *See* Lead Counsel Decl. at ¶¶66-67. As described in the Notice, the Plan of Allocation has a rational basis and was formulated by Lead Counsel, with the assistance of Plaintiffs' damages expert, ensuring its fairness and reliability. *See id.* The Plan of Allocation also clearly identifies the circumstances by which Class Members may participate in the distribution of the Net Settlement Fund. *See id.* As such, the Plan of Allocation is consistent with the alleged theories of damages under the Securities Act and Exchange Act and is substantially similar to other plans approved and successfully implemented in securities class actions in this Circuit. *See, e.g.*, *In re Citigroup, Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 386-87 (S.D.N.Y. 2013); *In re Marsh ERISA*

Litig., 265 F.R.D. 128, 145-46 (S.D.N.Y. 2010). Thus, the proposed Settlement treats all Class Members equitably and the Plan of Allocation is fair and adequate and has a reasonable and rational basis, weighing in favor of approval. *See, e.g.*, *In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 135 (S.D.N.Y. 2008) ("A plan of allocation that calls for the *pro rata* distribution of settlement proceeds on the basis of investment loss is presumptively reasonable.").

C. The Remaining *Grinnell* Factors Support Approval.

The additional factors articulated in *Grinnell* include: the stage of the proceedings and the amount of discovery completed; the ability of the defendants to withstand a greater judgment; and the range of reasonableness of the settlement fund in light of the best possible recovery and the risks of litigation.[5] While, "a court need not find that every factor militates in favor of a finding of fairness; rather, a court consider[s] the totality of these factors in light of the particular circumstances," each supports approval here. *In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 134 (S.D.N.Y. 2008).

First, the stage of the proceedings favors approval. This factor assesses "whether counsel had an adequate appreciation of the merits of the case before negotiating." *Massiah v. MetroPlus Health Plan, Inc.*, 2012 WL 5874655, at *4 (E.D.N.Y. Nov. 20, 2012). Here, Lead Counsel investigated the claims, consulted with experts, filed a 114-page Consolidated Complaint, prepared for and filed an opposition to Defendants' motion to dismiss, prepared for and attended oral argument on Defendants' motion to dismiss, prepared and fully briefed a motion to vacate the judgment and amend the pleading, prepared and filed a proposed amended complaint, and engaged in extensive mediation efforts overseen by an experienced mediator. *See* Lead Counsel Decl. at ¶¶10-33. These efforts place Lead Counsel in the position to effectively evaluate the merits of the

[5] One remaining *Grinnell* factor, the reaction of the Settlement Class, cannot meaningfully be assessed until Notice is disseminated, and thus will be addressed at a later stage.

Action and the strengths and weaknesses Plaintiffs would face if the litigation were to proceed. *See Rodriguez*, 2021 WL 9032223, at *5 ("[w]hile formal discovery has not occurred in this case . . . Plaintiffs filed an exhaustive amended complaint in this case and defendants responded with a motion to dismiss, apprising plaintiffs of the defendants' position. Moreover, Lead Plaintiff and his counsel engaged in extensive negotiations with the defendants with the aid of a mediator.").[6]

Second, no class has yet been certified, and even assuming class certification is achieved, the Court could revisit certification at any time. Thus, absent settlement, there would always be a meaningful risk that this case or parts thereof might not be maintained on a class-wide basis through trial. *Rodriguez*, 2021 WL 9032223, at *6 (quoting *Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 186 (W.D.N.Y. 2005)) ("the risk that the case might not be certified is not illusory").

Third, the risk that Plaintiffs could be unable to collect on a judgment substantially larger than the Settlement Amount also "weighs heavily in favor of approving the settlement." *Advanced Battery Techs.*, 298 F.R.D. at 179. That is especially true where, as here, the corporate defendant's financial strength is extremely unstable and its market share uncertain, which could reduce any funds available to pay a judgment. Therefore, "risk of collection weighs in favor of final approval, because the settlement decreases the risk of collection." *Massiah*, 2012 WL 5874655, at *5.

Finally, the Settlement is within the range typically found reasonable relative to the maximum prospective recovery. Reasonableness must be judged "in light of the strengths and weaknesses of plaintiffs' case" not "the best of all possible worlds." *In re Agent Orange*, 597 F. Supp. at 762.

[6] *See also Burns*, 2013 WL 12432583, at *8 (finding that information gained through the mediation and settlement process found to be sufficient in a case without any discovery); *In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 177 (S.D.N.Y. 2014) (finding that even where "no merits discovery occurred in this case to date," lead counsel was "knowledgeable with respect to possible outcomes and risks in this matter and, thus, able to recommend the Settlement"); *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 458 (S.D.N.Y. 2004) ("Formal discovery is not a prerequisite; the question is whether the parties had adequate information about their claims.").

II. THE COURT SHOULD APPROVE THE PROPOSED PLAN OF NOTICE.

Rule 23(c)(2) directs that the notice be "the best notice that is practicable under the circumstances" (Fed. R. Civ. P. 23(c)(2)(B)) and Rule 23(e) directs "notice in a reasonable manner" (Fed. R. Civ. P. 23(e)(1)(B)). Pursuant to the PSLRA, the notice must also include an explanation of the plaintiff's recovery. *In re Take Two Interactive Sec. Litig.*, 2010 WL 11613684, at *12–13 (S.D.N.Y. June 29, 2010) (quoting 15 U.S.C. §78u-4(a)(7)). The notice must also "fairly apprise[] the prospective members of the class of the terms of the proposed settlement and of the options that [are] open to them in connection with the proceedings." *Melito v. Experian Mktg. Sols., Inc.*, 923 F.3d 85, 95 (2d Cir. 2019).

Plaintiffs' proposed plan of notice satisfies these standards. As specified by Rule 23(c)(3) and 15 U.S.C. § 78u4(a)(7), the Notice describes the proposed Settlement and sets forth, among other things: (1) the nature, history, and status of the litigation; (2) the definition of the certified Class and who is excluded; (3) the reasons for settling; (4) the amount of the Settlement Fund; (5) the Class's claims and issues raised in this Action; (6) the Parties' disagreement over damages and liability; (7) the maximum amount of attorneys' fees and expenses that Lead Counsel may seek; (8) the maximum amount that may be requested as a reimbursement award to Plaintiffs; and (9) the plan for allocating the Settlement proceeds to the Class. *See generally*, Notice. The Notice also describes the process for seeking exclusion from the Class, or for objecting to the Settlement, Plan of Allocation, or requests for awards of fees and expenses. *Id*. The proposed Summary Notice also provides essential information about the Action and the Settlement and directs Class Members to alternative sources for additional information. *See* Stip., Ex. A-3. Likewise, the proposed Postcard Notice provides necessary information about the Settlement and how to participate. *See* Stip., Ex. A-4. In addition to the mailed and published notice, the Stipulation provides for the establishment

of a website devoted to posting Settlement-related information, and a toll-free telephone number to answer Settlement-related inquires.

Accordingly, the proposed plan of notice meets all the requirements of due process, the PSLRA, and Rule 23. *See e.g., In re Schering-Plough Corp. Sec. Litig.*, 2009 WL 5218066, at *1, 6 (D. N.J. Dec. 31, 2009) (finding that a settlement notice with a mailing to all class members who could be identified with reasonable effort and publication of a summary notice and over the PR Newswire, satisfied the requirements of Rule 23 and due process).

III. PROPOSED SCHEDULE OF SETTLEMENT EVENTS

In conjunction with the Preliminary Approval Order, the Parties respectfully propose the following schedule for Settlement-related events:

Event	Proposed Due Date
Deadline to mail Postcard Notice and post Notice and Claim Form on Settlement website	20 calendar days after entry of Preliminary Approval Order
Deadline to publish Summary Notice	30 calendar days after entry of Preliminary Approval Order
Deadline to file papers in support of final approval and seek fees and expenses	35 calendar days before the Settlement Fairness Hearing
Deadline to object or request exclusion	21 calendar days before the Settlement Fairness Hearing
Deadline for submitting a Proof of Claim	Postmarked no later than 90 calendar days after the Notice Date
Deadline to file response to any objections, or reply in further support of final approval or fees and expenses	7 calendar days before the Settlement Fairness Hearing
Affidavit or declaration of Notice, and list of timely and untimely exclusion requests	7 calendar days before the Settlement Fairness Hearing
Settlement Fairness Hearing	Approximately 100-105 days after entry of the Preliminary Approval Order

IV. THE CLASS SHOULD BE CERTIFIED FOR SETTLEMENT PURPOSES.

In preliminarily approving the proposed Settlement, this Court must consider whether to conditionally certify the Settlement Class for settlement purposes. *Amchem Prods., Inc., v.*

Windsor, 521 U.S. 591, 620 (1997); Manual for Complex Litigation (Fourth) § 21.632. The Second Circuit has long acknowledged the propriety of certifying a class solely for settlement purposes. *See Weinberger v. Kendrick*, 698 F.2d 61, 73 (2d Cir. 1982). "The type of certification approval that courts provide with a preliminary settlement approval is accorded under a more relaxed standard" than in the typical certification process. 4 Newberg on Class Actions § 13:18 (5th ed. 2012). The Court need not conduct a rigorous analysis at this stage to determine whether to certify a settlement class and should reserve this analysis for the final approval hearing. *Karvaly v. eBay, Inc.*, 245 F.R.D. 71, 86 (E.D.N.Y. 2007). Further, in certifying the Settlement Class, the Court need not determine whether the action, if tried, would present intractable management problems, "for the proposal is that there be no trial." *Amchem*, 521 U.S. at 620; *see also* Fed. R. Civ. P. 23(b)(3)(D).

Here, the Parties have stipulated to the certification of the Settlement Class for settlement purposes only. Plaintiffs submit that class certification is appropriate because the four prerequisites of Rule 23(a) (numerosity, commonality, typicality, adequacy of representation) are met. *See Amchem*, 521 U.S. at 613. Also, common issues of law or fact predominate over individual issues, making the class action a superior vehicle to fairly and efficiently adjudicate the Class's claims. *See* Fed. R. Civ. P. 23(b)(3). Plaintiffs, therefore, respectfully request that the Court certify the Settlement Class using the definition agreed to in the Stipulation.

A. The Settlement Class Meets the Requirements under Rule 23(a).

Rule 23(a)(1) requires that the proposed class be so numerous that joinder of all members is impracticable. In the Second Circuit, "[n]umerosity is presumed for classes larger than forty members." *Pennsylvania Pub. Sch. Employees' Ret. Sys. v. Morgan Stanley & Co.*, 772 F.3d 111, 120 (2d Cir. 2014). "In securities fraud class actions relating to publicly owned and nationally listed corporations, the numerosity requirement may be satisfied by a showing that a large number

of shares were outstanding and traded during the relevant period." *Pearlstein v. BlackBerry Ltd.*, 2021 WL 253453, at *7 (S.D.N.Y. Jan. 26, 2021); *see also Rodriguez*, 2021 WL 9032223, at *8. Here, during the Class Period, Torchlight and/or Meta Materials' stock was actively traded on NASDAQ. ECF No. 46, ¶¶19, 241. Thus, while Plaintiffs "do[] not know the 'exact' number of class members, [they] estimate[] that there are "thousands" of investors residing in geographically disparate areas that would be included in the class, thus rendering joinder impracticable." *Rodriguez*, 2021 WL 9032223, at *8. Consequently, numerosity is satisfied.

Second, "questions of law or fact common to the class" exist. Fed. R. Civ. P. 23(a)(2). "In securities fraud cases, where putative class members have been injured by similar material misrepresentations and omissions, the commonality requirement is satisfied." *In re Pfizer Inc. Sec. Litig.*, 282 F.R.D. 38, 44 (S.D.N.Y. 2012); *see also Gordon v. Vanda Pharms. Inc.*, 2022 WL 4296092, at *7 (E.D.N.Y. Sept. 15, 2022). Here, Plaintiffs allege that Defendants engaged in conduct involving a common nucleus of operative facts by mispresenting or omitting material information artificially inflating the price of Meta Materials securities, resulting in sustained damages when the truth is revealed. ECF No. 46, ¶244. Other courts have found similar questions satisfy commonality. *See, e.g.*, *Rodriguez*, 2021 WL 9032223, at *8 (collecting cases).

Next, Rule 23(a)(3) requires "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). "This is satisfied, where, as here, the claims of [ ] [P]laintiffs arise from the same course of conduct that gives rise to claims of the other class members, … are based on the same legal theory, and where the class members have allegedly been injured by the same course of conduct as [Plaintiffs]." *Gordon*, 2022 WL 4296092, at *7. Thus, typicality is satisfied.

Lastly, Rule 23(a)(4) requires that the interests of the class be adequately represented. First, "class counsel [must be] qualified, experienced and able to conduct the litigation" and "[s]econd, the named plaintiffs' interests must not be antagonistic to the interest of other members of the class." *Rodriguez*, 2021 WL 9032223, at *9. Plaintiffs interests do not conflict with the class "given that the [c]lass was injured by the same allegedly materially false and misleading statements as [ ] Plaintiff[s]." *Id.* Likewise, Plaintiffs retained highly experienced securities litigation firms to prosecute the Action, regularly communicated with counsel, and put the class in a strong position throughout this litigation, and in negotiating the Settlement. Moreover, Lead Counsel is qualified and experienced in securities class actions, and has demonstrated its ability to prosecute the Action.

B. The Settlement Class Meets the Requirements of Rule 23(b).

Rule 23(b)(3) requires proof that common issues predominate, and that a class action is the superior method of adjudication. As the Supreme Court noted, "[p]redominance is a test readily met in certain cases alleging consumer or securities fraud or violations of the antitrust laws." *Amchem*, 521 U.S. at 625. "Moreover, common issues, such as liability, may be certified even where other issues, such as damages, do not lend themselves to classwide proof." *Rodriguez*, 2021 WL 9032223, at *11. Here, "[r]esolution of [P]laintiff[s'] allegations—including questions of liability, causation, and damages—are susceptible to generalized proof and, further, such generalized inquiries predominate over any issues specific to individual class members." *Gordon*, 2022 WL 4296092, at *8; *see also Micholle v. Ophthotech Corp.*, 2022 WL 1158684, at *3 (S.D.N.Y. Mar. 14, 2022) ("Predominance is met here because the members of the Settlement Class were subject to the same alleged misrepresentations and omissions of Defendants and the claim is susceptible to common evidence and proof").

Finally, Courts have long recognized that the class action is not only a superior method, but possibly the only feasible method to fairly and efficiently adjudicate a controversy involving

a significant number of purchasers of securities injured by securities law violations. *See Seijas v. Republic of Argentina*, 606 F.3d 53, 58 (2d Cir.2010) ("the class action device is frequently superior to individual actions."). Considerations in assessing superiority, include: (1) the interests of class members in individually controlling the prosecution of separate actions; (2) whether other litigation has already commenced; (3) the desirability of concentrating claims in one forum; and (4) the difficulties likely to be encountered in the management of a class action. *Amchem*, 521 U.S. at 616. Here, there are no other parallel actions, and because many investors suffered losses too small to justify individual litigation, class adjudication is the only realistic basis for recourse. *Gordon*, 2022 WL 4296092, at *9 (citing *GSE Bonds*, 414 F. Supp. 3d at 702). Moreover, because "[t]here are likely thousands of class members nationwide . . . consolidating their claims is in the interests of efficiency and judicial economy." *Gordon*, 2022 WL 4296092, at *9; *see also In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 702 (S.D.N.Y. 2019) ("[C]oncentrating the case in one forum will help improve fairness and efficiency in adjudication of the claims of plaintiffs, who are widely dispersed."). Finally, Plaintiffs do not foresee any difficulty in effecting a class-wide settlement.

C. Lead Counsel Satisfies Rule 23(g).

Lastly, Rule 23(g) requires the appointment of class counsel that can fairly and adequately represent the interests of the Class. Fed. R. Civ. P. 23(g)(1)(A). Here, Lead Counsel spent significant effort investigating relevant facts asserted in this Action. Lead Counsel is also highly experienced in securities litigation. *See* Lead Counsel Decl., Ex. B (firm resume). Lead Counsel has extensive knowledge of the applicable law governing this Action. Finally, Lead Counsel has expended significant resources in prosecuting this Action, including but not limited to the resources necessary to successfully engage in mediation. Thus, Lead Counsel's extensive efforts

and in-depth knowledge of the law governing this Action weigh strongly in favor of appointment under Rule 23(g).

CONCLUSION

For the forgoing reasons, Plaintiffs respectfully request that the Court grant their motion in its entirety.

//

DATED: January 19, 2024

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:21-cv-07203-CBA-JRC **DECLARATION OF ADAM M. APTON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

I, Adam M. Apton, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a member of the Bar of the State of New York, and am admitted to appear before this Court. I am a partner of the law firm of Levi & Korsinsky, LLP ("Levi & Korsinsky"), counsel for Lead Plaintiffs Kaoutar Kajjame, Philip Granite, and Ricardo Joseph (collectively, "Plaintiffs"), and Lead Counsel for the Class.[1] I have been actively involved in all aspects of the prosecution and resolution of the Action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein based upon my supervision and participation in all material aspects of the Action, and if called as a witness, could and would testify competently thereto.

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement and Approval of Notice to the Settlement Class (the "Motion").

[1] All capitalized terms used herein that are not otherwise defined have the meanings provided in the Stipulation and Agreement of Settlement dated January 19, 2024 (the "Stipulation").

I. PRELIMINARY STATEMENT

3. The proposed Settlement now before the Court provides for the resolution of all claims in the Action, and related claims, in exchange for a cash payment of $3,000,000. As detailed herein, Plaintiffs and Lead Counsel respectfully submit that the Settlement represents a very favorable result for the Settlement Class in light of the significant risks of continuing to litigate the Action.

4. Plaintiffs and Lead Counsel have vigorously litigated this case since their appointment by the Court on July 15, 2022, securing the proposed Settlement in less than two years since its inception on January 3, 2022. The Settlement was achieved only after Lead Counsel, *inter alia*, as detailed herein: (i) conducted a thorough and wide-ranging investigation concerning the allegedly fraudulent misrepresentations made by Defendants, which included a review and analysis of publicly available information and interviews conducted with former employees; (ii) consulted with experts on market efficiency, loss causation, and damages; (iii) prepared and filed a detailed consolidated complaint (ECF No. 46); (iv) conducted legal research and otherwise prepared for Defendants' motion to dismiss; (v) prepared and filed a detailed opposition to Defendants' motion to dismiss (ECF No. 55); (vi) prepared for and attended oral argument of Defendants' motion to dismiss; (vii) prepared and filed thorough motion to vacate judgment and request for leave to amend; (viii) conducted further factual and legal research in preparation of filing proposed amended complaint; (ix) prepared and filed a detailed proposed amended complaint; (x) prepared and filed a detailed reply in further support of Plaintiffs' motion to vacate judgement and amend complaint; and (xi) engaged in extensive mediation efforts overseen by Jed D. Melnick, Esq., which included the preparation of mediation briefs, a full-day mediation session, and subsequent negotiations.

5. Plaintiffs and Lead Counsel believe that the Settlement is in the best interests of the Settlement Class. Due to their efforts, Plaintiffs and Lead Counsel are well-informed about the strengths and weaknesses of the claims and defenses in the Action. As discussed in detail below, the Settlement was achieved in the face of vigorous opposition by Defendants who would have continued to raise numerous challenging defenses. For example, Defendants maintain serious contentions regarding Plaintiffs' allegations of scienter, falsity of the alleged misstatements, and loss causation. Additionally, Defendants would likely argue that damages are not significant. Issues relating to damages would likely have come down to an inherently unpredictable and hotly disputed "battle of the experts," with Defendants' experts opining, among other things, that Plaintiffs' model overstates damages and does not account for other factors that may have caused the price of Meta Materials' securities to decline. In the absence of a settlement, there is a very real risk that the Class could recover nothing or an amount significantly less than the negotiated Settlement.

6. Further, the Settlement forecloses risks associated with attempting to collect a favorable judgment. As discussed in further detail below, on September 29, 2023, the Court granted Defendants' motion to dismiss (ECF No. 59), dismissing the Action with prejudice on October 3, 2023 (ECF No. 60). While Plaintiffs moved to vacate the dismissal with prejudice and requested leave to amend the pleadings (ECF No. 62), there is no guarantee that the Court will approve the relief requested. And if it is not approved, Plaintiffs would need to appeal this judgment, with no guarantee to win on appeal.

7. In addition, Meta Materials' financial condition has been and continues to be volatile, raising concern as to whether Plaintiffs could face significant obstacles collecting a judgment if they were to succeed at trial, appeals, and any claims process. Indeed, Meta Materials

continues to face operational challenges, thereby underscoring the importance of achieving a resolution now instead of at some unknown point in the future.

8. With respect to the proposed Plan of Allocation for the Settlement proceeds, as discussed below, the proposed plan was developed with the assistance of Plaintiffs' damages expert and claims administrator, and provides for the distribution of the Net Settlement Fund to Settlement Class Members who submit Claim Forms that are approved for payment on a *pro rata* basis based on their losses attributable to the alleged securities law violations.

9. Plaintiffs believe the proposed Settlement represents a victory for the Settlement Class. Therefore, Plaintiffs seek to notify Class members of the proposed Settlement so to evaluate and determine whether to exclude themselves from the Settlement Class, object to the proposed Settlement, or submit a Proof of Claim Form.

II. PROCEDURAL HISTORY

A. Commencement of the Action, Consolidation, and the Appointment of Lead Plaintiff and Lead Counsel

10. On January 3, 2022, this Action commenced with the filing of a class action complaint by investor John B. Maltagliati, in the United States District Court for the Eastern District of New York. ECF No. 1. The case was entitled *Maltagliati v. Meta Materials Inc., et al.*, Civil No. 1:21-cv-07203-CBA-JRC ("*Maltagliati* Action").

11. On January 26, 2022, a substantially similar action was filed by investor, Kenneth Scott McMillan, in the United States District Court for the Eastern District of New York, entitled *McMillan v. Meta Materials Inc., et al.*, Civil No. 1:22-cv-00463-CBA-JRC ("*McMillan* Action").

12. Pursuant to Section 21D(a)(3) of the Exchange Act, 15 U.S.C. §78u-4(a)(3)(B), as amended by the PSLRA, on March 4, 2022, members of the purported class moved for consolidation of the *Maltagliati* and *McMillan* Actions, appointment as lead plaintiff and approval

of their selection of lead counsel for the purported class: (i) Kaoutar Kajjame, Philip Granite, Ricardo Joseph (collectively, the "Meta Materials Investor Group") (ECF No. 19); (ii) Steven B. Barbetti and Ernesto S. Escusa III (ECF No. 22); (iii) Lewis Wu (ECF No. 25); (iv) Venkateswara Ramireddy (ECF No. 28); and (v) Steven Raymond (ECF No. 30).

13. Following the filing of the five lead plaintiff motions, all competing movants beside the Meta Materials Investor Group and Mr. Ramireddy withdrew their motions. *See* ECF Nos. 31, 34, and 36.

14. On April 11, 2022, the Court held a hearing on a hearing on the remaining lead plaintiff motions filed by the Meta Materials Investor Group and Mr. Ramireddy and directed the parties to meet and confer in an effort to resolve their pending motions.

15. On June 28, 2022, the Meta Materials Investor Group and Mr. Ramireddy agreed by way of Stipulation for the Meta Materials Investor Group to serve as Lead Plaintiff and its counsel, Levi & Korsinsky, LLP, to serve as Lead Counsel.

16. On July 15, 2022, the Court issued an Order approving the stipulation, consolidating the *Maltagliati* and *McMillan* Actions, appointing the Meta Materials Investor Grouop as Lead Plaintiffs, and approving their selection of Levi & Korsinsky, LLP as Lead Counsel for the proposed class. ECF No. 43.

17. On July 20, 2022, the Meta Materials Investor Group and Defendants stipulated that: (1) a consolidated complaint would be filed by August 29, 2022; (2) Defendants may file a motion to dismiss by October 13, 2022; (3) Plaintiffs would file an opposition to any motion to dismiss filed by November 15, 2022; and (4) Defendants would file a reply by December 15, 2022. ECF No. 45.

18. On July 21, 2022, the Court issued an order granting in part the parties' stipulation, establishing a deadline to file a consolidated complaint by August 29, 2022, and accepting the proposed briefing schedule for any motion to dismiss filed by October 13, 2022. Pursuant to Judge Amon's individual rules, the parties were instructed to comply with the bundling rule and no motion papers were to be filed until the motion is fully briefed.

B. The Consolidated Complaint

19. On August 29, 2022, Plaintiffs filed the Consolidated Complaint on behalf of a class consisting of all persons and entities who purchased or acquired: (a) Meta Materials's publicly traded securities between September 21, 2020 and June 24, 2022 at approximately 12:59 pm EDT, inclusive; and/or (b) Meta Materials's publicly traded securities pursuant and/or traceable to the Registration Statement issued in connection with the business combination between Torchlight and Meta Materials. ECF No. 46. The Consolidated Complaint asserts Defendants violated Sections 10(b), 14(a), and 20(a) of the Securities Exchange Act of 1934, SEC Rule 10b-5 promulgated thereunder, and Sections 11 and 15 of the Securities Act of 1933. The Consolidated Complaint alleges that Defendants violated the federal securities laws by issuing materially false and misleading statements, and/or omitting material information concerning: (i) the status of Meta Materials' products in terms of development, commercialization, and scalability; and (ii) Meta Materials' business relationships with Lockheed Martin and Airbus.

20. The Consolidated Complaint was the result of significant effort and investigation conducted by Plaintiffs' Counsel which included, among other things, the review and analysis of: (i) the review and analysis of documents filed publicly by the Company with the SEC; (ii) the review and analysis of press releases, news articles, and other public statements issued by or concerning the Company and Defendants; (iii) the review and analysis of reports issued by third party analysts and industry experts concerning the Company and/or its competitors; (iv) conducted

interviews, by way of third party investigators, with former employees of the Company; and (v) consulted with damages experts.

C. Defendants' Motion to Dismiss

21. On October 13, 2022, Defendants moved to dismiss Plaintiffs' Consolidated Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b). ECF Nos. 51, 52.

22. Plaintiffs opposed Defendants' motion on November 29, 2022 (ECF No. 55), and Defendants replied in further support of their motion on January 12, 2023 (ECF No. 54).

23. On February 27, 2023, the Court held oral argument on the motion. ECF No. 57.

24. On September 29, 2023, the Court issued an order granting Defendants' motion to dismiss. ECF No. 59. The Clerk entered Judgment in favor of Defendants dismissing the Action with prejudice on October 3, 2023. ECF No. 60.

D. Plaintiffs' Motion to Vacate Dismissal with Prejudice and Requested Leave to Amend the Pleadings

25. On October 27, 2023, Plaintiffs moved to vacate the dismissal with prejudice and requested leave to amend the pleadings. ECF No. 62. Plaintiffs premised their motion on an extensive body of Second Circuit precedent holding that plaintiffs in securities fraud actions should be given an opportunity for leave to amend after a dismissal on the pleadings.

26. Plaintiffs also argued that new evidence obtained from confidential witnesses remedied several critical issues that led the Court to dismiss the Action. Specifically, Plaintiffs argued the new evidence related directly to Defendants' representations concerning its "NanoWeb technology" products, which they claimed in Meta Materials' proxy statement and elsewhere were ready for commercialization and scaled manufacturing. In truth, these products were not ready for commercialization and in fact the company had not determined how to manufacture these products at scale. The confidential witnesses who provided this information previously worked for Meta

Materials as the Company's Chief Technology Officer and Director of Advanced Materials. Given their high-level positions within the Company, these two confidential witnesses communicated regularly and directly with Defendant Palikaras and Meta Materials' Board of Directors.

27. The Court acknowledged receipt of Plaintiffs' motion on October 30, 2023, and instructed Defendants to respond by November 20, 2023.

28. Defendants responded in opposition to Plaintiffs' motion on November 13, 2023 (ECF No. 63), and Plaintiffs replied in further support of their motion on November 27, 2023 (ECF No. 66).

III. SETTLEMENT NEGOTIATIONS

29. After Plaintiffs moved to vacate the Court's dismissal with prejudice and requested leave to amend the pleadings, the Parties discussed the possibility of mediation.

30. The Parties then retained Jed D. Melnick, Esq., with JAMS ADR, a well-respected and highly experienced mediator, to assist them in negotiating a potential resolution of the Action, and to oversee the mediation scheduled for December 14, 2023.

31. On December 8, 2023, in advance of the mediation, the Parties exchanged mediation statements, which addressed issues of both liability and damages and discussed the Parties' respective views of the claims and alleged damages.

32. On December 14, 2023, the Parties participated in a full-day mediation session before Mr. Melnick. While the mediation was initially unsuccessful, the Parties continued to engage in settlement negotiations thereafter.

33. On December 19, 2023, Plaintiffs and Defendants each agreed to settle the Action for $3 million in response to a "mediator's proposal" provided by Mr. Melnick.

34. On December 20, 2023, the Parties jointly notified the Court that the Parties had reached a tentative settlement, and Plaintiffs intended to file the necessary motion papers for

preliminary approval on or before January 19, 2024. ECF No. 68. In light of the settlement-in-principle, the Parties jointly requested that, in the interim, all pending motions be kept on the docket and that the case be administratively stayed. *Id.*

35. That same day, the Parties executed a memorandum of understanding, agreeing to settle the Action for $3 million subject to the execution of a formal, final settlement agreement.

36. On December 21, 2023, the Court issued an order granting the Parties request for an administrative stay and instructed Plaintiffs to file the necessary motion papers for preliminary approval of the class settlement by January 19, 2024.

37. The Parties then negotiated the terms of the Stipulation of Settlement, which the Parties executed on January 19, 2024.

38. As provided for in the Stipulation, in exchange for payment of the Settlement Amount, the Action will be dismissed with prejudice and Plaintiffs and the Settlement Class will forever release all Released Plaintiffs' Claims against the Defendants' Releasees. Released Plaintiffs' Claims are all claims, demands, rights, liabilities, and causes of action of every nature and description, whether known or Unknown Claims, asserted or unasserted, mature or not mature, contingent or absolute, liquidated or unliquidated, accrued or unaccrued, whether arising under federal, state, statutory, regulatory, common or foreign law concerning, based on, arising out of, or in connection with (i) the purchase, sale, or ownership of Torchlight and/or Meta Materials securities between September 21, 2020 and June 24, 2022, both dates inclusive; and (ii) all claims alleged or that could have been alleged in the Federal and State Actions, including but not limited to any acts or omissions relating to disclosures, public filings, registration statements, press releases, presentations, or other statements made by the Settling Defendants. *See* Stipulation at ¶1.23. Also, upon the Effective Date of the Settlement, Defendants will forever release all

Released Defendants' Claims against the Plaintiffs' Releasees. Released Defendants' Claims are all claims and causes of action of every nature and description, whether known or Unknown Claims, asserted or unasserted, whether arising under federal, state, common or foreign law arising from the institution, prosecution, or settlement of the claims against Defendants, except claims to enforce the Settlement. *See* Stipulation at ¶1.22.

39. The Settlement is fair, adequate and reasonable. In exchange for the above releases, the Settlement Class will receive $3 million. This represents approximately 8.7% of the Settlement Class's overall damages, which Plaintiffs' damages expert estimated was $34.4 million. This estimate is premised on the assumption that the December 14, 2021 corrective disclosure arising from the publication of Kerrisdale Capital's research report. Corrective disclosures before the Kerrisdale Capital were too far removed from the alleged fraud to be reasonably included in the overall damages assessment. Similarly, corrective disclosures after the Kerrisdale Capital report failed to introduce any new information to the market, as the Court noted during the hearing on Defendants' motion to dismiss. *See* Transcript dated February 27, 2023, p. 20.

40. The amount of the recovery supports the conclusion that the Settlement is fair, reasonable, and adequate. Cornerstone Research, a leading economics consulting firm, publishes a report each year analyzing securities class action settlements. In its most recent report titled *Securities Class Action Settlements—2022 Review and Analysis*, Cornerstone Research provided median settlements as a percentage of total class-wide damages in securities fraud cases in 2020. A copy of the Cornerstone Research report is attached hereto as **Exhibit A**. Notably, for cases with damages ranging from $25 million to $74 million the median settlement as a percentage is 7.4%. *Id.* at 6 (Figure 5). Based on the remaining allegations in this Action, Plaintiffs' experts calculated class-wide damages to be approximately $34.4 million, meaning the recovery under the proposed

Settlement equals 8.7% of the total recoverable damages. Therefore, the recovery falls in line with past recoveries in similar cases.

IV. PLAINTIFFS' PROPOSAL TO NOTIFY MEMBERS OF THE PROPOSED SETTLEMENT CLASS OF THE PROPOSED SETTLEMENT

41. Plaintiffs have retained Strategic Claims Services ("SCS" or the "Claims Administrator") as the proposed Claims Administrator to supervise and administer the notice procedure as well as the processing of claims. Plaintiffs retained SCS only after requesting proposals from four reputable and experienced claims administrators in the field of class action securities litigation administrations. Counsel for Plaintiffs reviewed the proposals received in response and selected SCS to serve as claims administrator subject to court approval. If the Court approves, Plaintiffs will instruct the Claims Administrator to disseminate copies of the Postcard Notice by mail, to publish the Summary Notice, and to post the Notice and Claim Form on the Settlement website. The accompanying declaration from SCS further explains its procedures for completing the notice program, if appointed as the Claims Administrator.

42. The Postcard Notice, attached as Exhibit A-4 to the Stipulation, will provide potential Class Members with information about the terms of the Settlement and contains, among other things: (i) a description of the Action and the Settlement; (ii) the terms of the proposed Plan of Allocation; (iii) an explanation of Class Members' right to participate in the Settlement; (iv) an explanation of Class Members' rights to object to the Settlement, the Plan of Allocation, and/or the fee and expense motion, or exclude themselves from the Settlement Class; and (v) the manner for submitting a Claim Form in order to be eligible for a payment from the net proceeds of the Settlement. The Postcard Notice also informs Class Members of Lead Counsel's intention to apply for an award of attorneys' fees in an amount not to exceed one-third of the Settlement Amount,

plus accrued interest, and for payment of litigation expenses in an amount not to exceed $60,000, plus accrued interest.

43. If the [Proposed] Preliminary Approval Order (attached to the stipulation as Exhibit A) is entered in the form submitted herewith, the Claims Administrator will commence mailing the Postcard Notice, within twenty (20) calendar days after the Court signs the [Proposed] Preliminary Approval Order (the "Notice Date"), by first-class mail to all Settlement Class Members who can be identified with reasonable effort, and will cause the Notice and Claim Form to be posted on the Settlement website at www.MetaMaterialsSecuritiesSettlement.com. In addition, not later than ten (10) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Notice to be published once over a national newswire service.

44. The Stipulation states that Meta Materials shall provide, or cause to be provided, to Lead Counsel, or the Claims Administrator, within ten (10) business days after the Court enters the [Proposed] Preliminary Approval Order, at no cost to the Settlement Fund, a list, in electronic form, of record holders of Meta Materials Securities during the Class Period obtained from Meta Materials' present or former transfer agent (consisting of names and addresses, as well as e-mail addresses if available), to the extent that such information is reasonably available.

45. Further, the [Proposed] Preliminary Approval Order provides that nominees who purchased or otherwise acquired Meta Materials Securities for beneficial owners who are Settlement Class Members shall send copies of the Notice Packet to such Class Members or provide a list of such Class Members, with contact information, to the Claims Administrator, which will then send copies of the Notice Packet to such Class Members.

46. Plaintiffs and Lead Counsel believe that the proposed notice procedure, which is common in securities class actions, meets the requirements of Federal Rule of Civil Procedure 23

and due process, provides the best notice practicable under the circumstances, and constitutes due and sufficient notice to all persons or entities entitled thereto.

V. RISKS FACED BY PLAINTIFFS IN THE ACTION

47. The proposed Settlement eliminates significant risks posed by continuing litigation, including the potential risk that Plaintiffs and the Settlement Class would recover nothing or an amount significantly less than the $3 million negotiated here, and the risks presented by Meta Materials' current financial condition. Further, while Plaintiffs believe that the claims asserted against Defendants are meritorious, they recognize that there are significant hurdles to overcome to establish falsity and materiality of the alleged misstatements and that Defendants acted with scienter. Plaintiffs are faced with considerable risks and obstacles to achieving a greater recovery, were the case to continue. Plaintiffs and Lead Counsel carefully considered these challenges during the months leading up to mediation and were mindful of such risks during settlement discussions with Defendants. In addition, even if Plaintiffs were able to overcome the risks to establishing falsity and scienter, they faced very serious risks in proving loss causation.

A. Risks Related to Dismissal with Prejudice

48. The Action has already been dismissed at the pleadings stage in favor of Defendants as to all claims, and a judgment was entered against Plaintiffs with prejudice. While Plaintiffs have filed a motion to vacate the judgment, premised on an extensive body of Second Circuit precedent holding that plaintiffs in securities fraud actions should be given an opportunity for leave to amend after a dismissal on the pleadings, and requested leave to amend, premised on the addition of several new allegations supporting Plaintiffs' theory of liability and addressing deficiencies identified by the Court, there is significant risk that Plaintiffs and the Settlement Class could recover nothing if the Court denies their motion, and Plaintiffs are equally unsuccessful on appeal.

49. In the event the Court grants Plaintiffs' motion or, in the alternative, Plaintiffs are successful on appeal, Plaintiffs and the Settlement Class still face numerous risks concerning Defendants' liability, as explained in detail below.

B. Risks Concerning Liability

1. Risks in Proving Material Misstatements.

50. If the case were to continue, Defendants would likely maintain that the alleged misstatements or omissions were not materially false and misleading.

51. The Court previously concluded that none of the purported misstatements or omissions were materially false or misleading, finding many of them to be non-actionable puffery or protected forward-looking statements or opinions. Plaintiffs' proposed amended complaint addresses the Court's concerns by focusing on Defendants' present-tense representations related to Meta Materials "now moving toward commercializing products" and having "scalable manufacturing methods." Plaintiffs support their claims of falsity with new allegations from FE2 and FE3 confirming that the Company's development of its NanoWeb products was effectively frozen in time from 2016, when Meta Materials acquired Rolith who had created the NanoWeb technology, until the spring of 2022, when Meta Materials finally built the "roll-to-roll" machinery for the "pilot line" that was necessary to scale-up manufacturing. Although these allegations arguably contradict Defendants' present-tense representations, they were not part of the operative complaint and therefore were entirely dependent upon the success of Plaintiffs' motion for leave to amend.

52. Plaintiffs also claim that these misrepresentations were material as evidenced by analyst reporting, issued shortly after Defendants made the alleged misstatements and omissions, focused on the NanoWeb technology and praising the Company for having already developed the design technologies that enable scalable manufacturing. However, Defendants have and would

likely continue to take the position that cautionary language contained in Meta Materials' proxy statement insulates them from liability regardless of any analysts' interpretation or reaction. In addition, Defendants argue that Meta Materials disclosed the true development status of the NanoWeb products and thus did not make any materially false or misleading statements. Indeed, Defendants take the position that the alleged facts attributed to FE2 and FE3 cannot resuscitate Plaintiffs' claims because these new allegations are consistent with Meta Materials' public statements.

53. For these reasons, Plaintiffs and the Settlement Class face a substantial risk that, the Court, at the pleading stage (again) or on summary judgment, or a jury at trial, could conclude that the alleged misstatements were not materially false or misleading.

2. Risks Concerning Scienter

54. If the case were to continue, Defendants would strenuously maintain that they did not act with scienter, which is generally the most difficult element of a securities fraud claim for a plaintiff to plead or prove. In this case, Defendants have and would likely continue to raise numerous scienter arguments that could pose very significant hurdles to pleading and proving they acted with an intent to commit securities fraud or with severe recklessness.

55. Defendants previously took the position and the Court agreed that Plaintiffs' allegations of motive and opportunity were too generalized and common, and their allegations of conscious misbehavior or recklessness fail to show that Defendants knew of any purportedly concealed fact. While Plaintiffs' proposed amended complaint incorporates new allegations to address these deficiencies, including *inter alia*: (i) allegations from confidential witnesses who had direct and repeated conversations with certain Individual Defendants concerning facts alleged to have been concealed from the public; (ii) the financial benefits Defendant Palikaras received as a result of the merger; (iii) the termination of Defendant Palikaras for cause following the

announcement of the "Wells Notices;" and (iv) the SEC's decision to commence enforcement proceedings against the Company and Palikaras for committing fraud in connection with the merger, Defendants maintain that Plaintiffs have failed to sufficiently plead scienter.

56. Specifically, Defendants argue Plaintiffs' new confidential witness allegations do not support a strong inference of scienter because: (i) as to Defendants Brda or McCabe scienter, FE2 and FE3 are not alleged to have ever communicated with these defendants; (ii) FE2 left the Company before the start of the Class Period; (iii) FE2 and FE3 are not alleged to have communicated with Defendant Palikaras about any relevant subjects other than the Company's NanoWeb development; and (iv) the information attributed to FE2 and FE3 about the status of NanoWeb development and production capabilities, as well as the need for additional funding, were publicly disclosed. Second, Defendants argue Plaintiffs' new allegations regarding Palikaras' motive are substantially similar to allegations rejected by the Court as to Defendants Brda and McCabe, and that Plaintiffs' claim that Meta Materials needed to raise capital through stock offerings is a motive possessed by every publicly traded company. In addition, Defendants argue that Plaintiffs have failed to allege that the matters under investigation by the SEC or the subject of the Wells Notices concern the matters alleged in this Action. While Plaintiffs argue that the reasonable inference is that they concern the same issues, Defendants assert that Plaintiffs do not plead such a connection with the requisite particularity.

57. For all these reasons, there was a very significant risk that the Court, at the pleading stage (again) or on summary judgment, or a jury at trial, could conclude that Defendants did not act with scienter.

C. Risks Related to Loss Causation and Damages

58. Even if Plaintiffs overcame the above risks and successfully established liability, Defendants would likely argue that there are no recoverable damages or that damages are minimal.

59. First, Defendants did and would have attacked Plaintiffs' theory of damages, arguing that the alleged corrective disclosures were unrelated to the alleged misrepresentations or otherwise did not result in statistically significant price declines. For example, while Plaintiffs initially alleged that the decline in Meta Materials' stock price that occurred on December 14, 2020 was related to the alleged fraud, Defendants would have argued that the decline was caused by nothing other than the announcement that they signed the business combination agreement and therefore did not reveal any fraud or other misconduct to the market. Likewise, the declines that occurred on March 3, 2021 and November 15, 2021 in connection with disclosures concerning adverse SEC action also were unrelated to the fraud or otherwise touch upon the development status of Meta Materials' products. Thus, any declines caused by these announcements could not be regarded as recoverable damages. Defendants made similar arguments, and the Court appeared to agree, with respect to disclosures occurring after the Kerrisdale Capital report on December 14, 2021. Given the contents of the report, no investor could have been misled after its publication. Thus, Plaintiffs' ability to recover damages in this Action rests largely on whether and to what extent they could prove economic loss in connection with the alleged corrective disclosure on December 14, 2021, *i.e.*, the publication of the Kerrisdale Capital report, which itself arguable failed to generate a statistically significant decline in Meta Materials' stock price.

60. Of course, even a reduced damages estimate assumes liability proved, which, as explained above, is far from certain. Indeed, to recover any damages at trial, Plaintiffs would have to prevail at many stages in the litigation—namely, vacating the judgment, a second motion to dismiss, a motion for summary judgment, class certification, and trial—and, even if Plaintiffs prevailed at those stages, appeals would likely follow. At each of these stages, there would be

significant risks attendant to the continued prosecution of the Action, and there is no guarantee that further litigation would have resulted in a higher recovery, or any recovery at all.

D. Risks Related to Meta Materials' Financial Condition

61. In addition to the numerous litigation risks discussed above, Meta Materials' financial condition has been and continues to be volatile, raising concern as to whether Plaintiffs could face significant obstacles collecting a judgment if they were to succeed at trial, appeals, and any claims process. As of September 30, 2023, Meta Materials reported less than $9.2 million in cash and cash equivalents (despite having raised over $200 million in proceeds over the previous two years). At the same time, Meta Materials reported a net loss of more than $8.7 million. Meta Materials' stock price closed at $0.06 per share on January 16, 2024, compared to $1.17 per share at the end of the Class Period. Moreover, applicable insurance coverage is limited and would have continued to be depleted by defense costs if Plaintiffs continued to prosecute the Action.

62. On November 30, 2023, approximately two weeks before the mediation, Meta Materials announced receiving a notification letter from Nasdaq on November 27, 2023, informing the Company that, as of November 24, 2023, Meta Materials' common stock had a closing bid price of $0.10 or less for ten consecutive trading days and that, consistent with Nasdaq Listing Rule 5810(c)(3)(A)(iii), the Nasdaq Staff had determined to delist the Company's common stock from The Nasdaq Capital Market. While the Company's request for a hearing before the Nasdaq Hearings Panel, to appeal the Staff's delisting determination, was granted and scheduled to occur on March 21, 2024, there is no assurance that a favorable decision will be obtained at the hearing. The Company's common stock continues to trade on The Nasdaq Capital Market pending conclusion of the hearing process.

VI. THE PLAN OF ALLOCATION

63. Pursuant to the [Proposed] Preliminary Approval Order, and as set forth in the Notice (attached to the Stipulation as Exhibit A-1), all Class Members who wish to participate in the distribution of the Net Settlement Fund must submit a valid Claim Form, including all required information, that is postmarked no later than 120 days after entry of the [Proposed] Preliminary Approval Order. As provided in the Notice, after deduction of Court-awarded attorneys' fees and expenses, Notice and Administration Costs, and Taxes and Tax Expenses, the balance of the Settlement Fund will be distributed according to the Plan of Allocation, if approved by the Court.

64. The proposed Plan of Allocation, which is set forth in full in the Notice (Stipulation, Exhibit A-1, was designed to achieve an equitable and rational distribution of the Net Settlement Fund, but it is not a damages analysis that would be submitted at trial. Lead Counsel developed the Plan of Allocation in consultation with Plaintiffs' consulting damages expert and claims administrator and believes that the plan provides a fair and reasonable method for equitably distributing the Net Settlement Fund among Authorized Claimants that accurately reflects the strengths, weaknesses, and probable outcomes of the Action.

65. In developing the Plan of Allocation, Plaintiffs' consulting damages expert calculated, with respect to the Exchange Act claims, the estimated amount of artificial inflation in the prices of Meta Materials Securities that allegedly was proximately caused by Defendants' false and misleading statements and omissions. In calculating the estimated artificial inflation allegedly caused by those misrepresentations and omissions, Plaintiffs' expert considered price changes in Meta Materials Securities in reaction to public disclosures that allegedly corrected the respective alleged misrepresentations and omissions.

66. Under the Plan of Allocation, a "Recognized Loss Amount" will be calculated for each purchase of Meta Materials Securities during the Class Period consistent with the measure of

damages under the Exchange Act. The "Recognized Loss Amount" reflects the decline in the price of Meta Materials' stock price following the publication of the Kerrisdale Capital report. Thus, for all shareholders who held securities on that day, *i.e.*, December 14, 2021, they will be compensated for the losses they incurred as a result. In Lead Counsel's opinion, this corrective disclosure was the most likely corrective disclosure to survive the pleading stage and summary judgment and, therefore, is the only corrective disclosure being incorporated into the Plan of Allocation.

67. The Claims Administrator, under Lead Counsel's direction, will determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's total Recognized Claim compared to the aggregate Recognized Claims of all Authorized Claimants. Calculation of Recognized Claims will depend upon several factors, including when the Authorized Claimant purchased Meta Materials Securities during the Class Period, whether the Authorized Claimant purchased Meta Materials Securities pursuant to the Registration Statement, and whether the securities were sold and, if so, when.

68. Once the Claims Administrator has processed all submitted claims, notified claimants of deficiencies or ineligibility, processed responses, and made claim determinations, the Claims Administrator will distribute the Net Settlement Fund. After an initial distribution of the Net Settlement Fund, if there is any balance remaining in the Net Settlement Fund after six (6) months from the date of initial distribution, Lead Counsel will, if cost effective, re-distribute the balance among Authorized Claimants who have cashed their checks. These re-distributions will be repeated until the balance in the Net Settlement Fund is no longer feasible to distribute. Any balance that still remains in the Net Settlement Fund after re-distribution(s), which is not cost effective to reallocate, after payment of any outstanding Notice and Administration Costs or Taxes

and Tax Expenses, will be contributed to a 501(c)(3) non-profit organization(s) unaffiliated with the Parties or their counsel, and approved by the Court.

69. In sum, the proposed Plan of Allocation, developed in consultation with Plaintiffs' consulting damages expert, is designed to fairly and rationally allocate the Net Settlement Fund among Authorized Claimants. Accordingly, Plaintiffs and Lead Counsel believe the proposed Plan of Allocation is fair, reasonable, and adequate, and in the best interest of the Settlement Class.

VII. LEAD COUNSEL

70. Levi & Korsinsky LLP is a nationally recognized securities litigation firm. Its attorneys are highly experienced in this area of the law and have proven themselves time and again to be successful investor advocates. Their knowledge and experience benefited Plaintiffs in this case, as evidenced by the recovery they achieved.

71. Attached hereto as **Exhibit B** is a true and correct copy of Levi & Korsinsky LLP's firm resume and contains additional information about the firm's experience.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of January 2024.

/s/ Adam M. Apton
Adam M. Apton

EXHIBIT “A”

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

Securities Class Action Settlements

2022 Review and Analysis

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Figures and Appendices

Analyses in this report are based on 2,116 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2022. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

2022 Highlights

In 2022, the number of settled cases reached its highest level in 15 years, increasing 21% relative to 2021. The median settlement amount, median "simplified tiered damages," and median total assets of the defendant issuer also rose dramatically.[1]

- In 2022, the number of securities class action settlements increased to 105 with a total settlement value of over $3.8 billion, compared to 87 settlements in 2021 with a total value of $1.9 billion. (page 3)
- The median settlement amount of $13.0 million represents an increase of 46% from 2021, while the average settlement amount ($36.2 million) increased by 63%. (page 4)
- The $3.8 billion total settlement dollars were 97% higher than the prior year. (page 3)
- There were eight mega settlements (equal to or greater than $100 million), ranging from $100 million to $809.5 million. (page 3)
- The increase in the proportion of "midsize" settlement amounts ($10 million to $50 million) was accompanied by a decrease in the proportion of cases that settled for less than $10 million. (page 4)
- Median "simplified tiered damages" increased more than 125% and reached a record high.[2] (page 5)
- Median "disclosure dollar losses"[3] grew by more than 160%, also reaching an all-time high. (page 5)
- Compared to defendant firms involved in cases that settled in 2021, defendant firms involved in 2022 settlements were 97% larger, as measured by median total assets. (page 5)
- The historically low rate of settled cases involving a corresponding action by the U.S. Securities and Exchange Commission (SEC) observed in 2021 persisted in 2022, remaining below 9%. (page 11)

Figure 1: Settlement Statistics

(Dollars in millions)

	2017–2021	2021	2022
Number of Settlements	395	87	105
Total Amount	$16,714.3	$1,932.4	$3,805.5
Minimum	$0.3	$0.7	$0.7
Median	$10.2	$8.9	$13.0
Average	$42.3	$22.2	$36.2
Maximum	$3,496.8	$202.5	$809.5

Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented.

Author Commentary

Findings

The year 2022 was a record year for settlement activity. The number of securities class action settlements in 2022 increased sharply from 2021 and reached levels not observed since 2007. This sharp increase was accompanied by dramatic growth in case settlement amounts, "simplified tiered damages" (our rough proxy for potential shareholder losses), and the size of issuer defendant firms.

The historically high number of settlements in 2022 can be explained by the elevated number of case filings in 2018–2020, when over 70% of these settled cases were filed.

The median settlement amount is the highest since 2018. This was likely driven by the record-high level of "simplified tiered damages," an estimate of potential shareholder losses that our research finds is the single most important factor in explaining settlement amounts.

The all-time-high median "simplified tiered damages" reflects a number of factors such as larger issuer defendants (measured by the company's total assets) and larger disclosure dollar losses (a measure of the change in the issuer defendant's market capitalization following the class-ending alleged corrective disclosure). Institutional investors are more likely to serve as lead plaintiffs in larger cases, i.e., cases with relatively high "simplified tiered damages." Consistent with this observation, institutional investor involvement as lead plaintiffs for 2022 settled cases was higher than the prior year and the 2017–2021 average. Larger cases also tend to take longer to settle, and accordingly, we observe an increase in the median time to settlement in 2022 relative to prior years.

2022 was an interesting year as settlement activity reached historically high levels across several dimensions, including the number and size of settlements, and a record-high for our proxy for potential shareholder losses.

Dr. Laarni T. Bulan
Principal, Cornerstone Research

In contrast to the historic highs, settlements in relation to our proxy for potential shareholder losses declined sharply. In particular, both the median and average settlement as a percentage of "simplified tiered damages" in 2022 fell to their lowest levels among post–Reform Act years. These low levels are consistent with a low presence in 2022 of factors often associated with higher settlement amounts, such as the presence of an SEC action, criminal charges, or accounting irregularities.[4]

Securities class action settlements in 2022 involved substantially larger cases with larger issuer defendant firms. Overall, these cases took longer to resolve and reached more advanced litigation stages before settlement than in prior years.

Dr. Laura E. Simmons
Senior Advisor, Cornerstone Research

Looking Ahead

In light of the reduced level in the number of securities class action case filings in 2021–2022, we may begin to see a slowdown or flattening out in settlement activity in the upcoming years,[5] absent a decrease in dismissal rates.

Given that SEC enforcement actions have tended to increase subsequent to when a new SEC Chair is sworn in (which last occurred in 2021), we may also begin to see a reversal in the frequency of corresponding SEC actions among settled cases in the near term. For additional details, see Cornerstone Research's *SEC Enforcement Activity: Public Company and Subsidiaries—FY 2022 Update*.

As discussed in Cornerstone Research's *Securities Class Action Filings—2022 Year in Review*, certain issues have emerged as focus areas in securities class actions. In particular, 26% of all core federal filings in 2020–2022 were related to special purpose acquisition company (SPAC), COVID-19, or cryptocurrency matters. While very few of these types of cases have settled to date, we expect increased settlement activity for these cases in the future.

—Laarni T. Bulan and Laura E. Simmons

Total Settlement Dollars

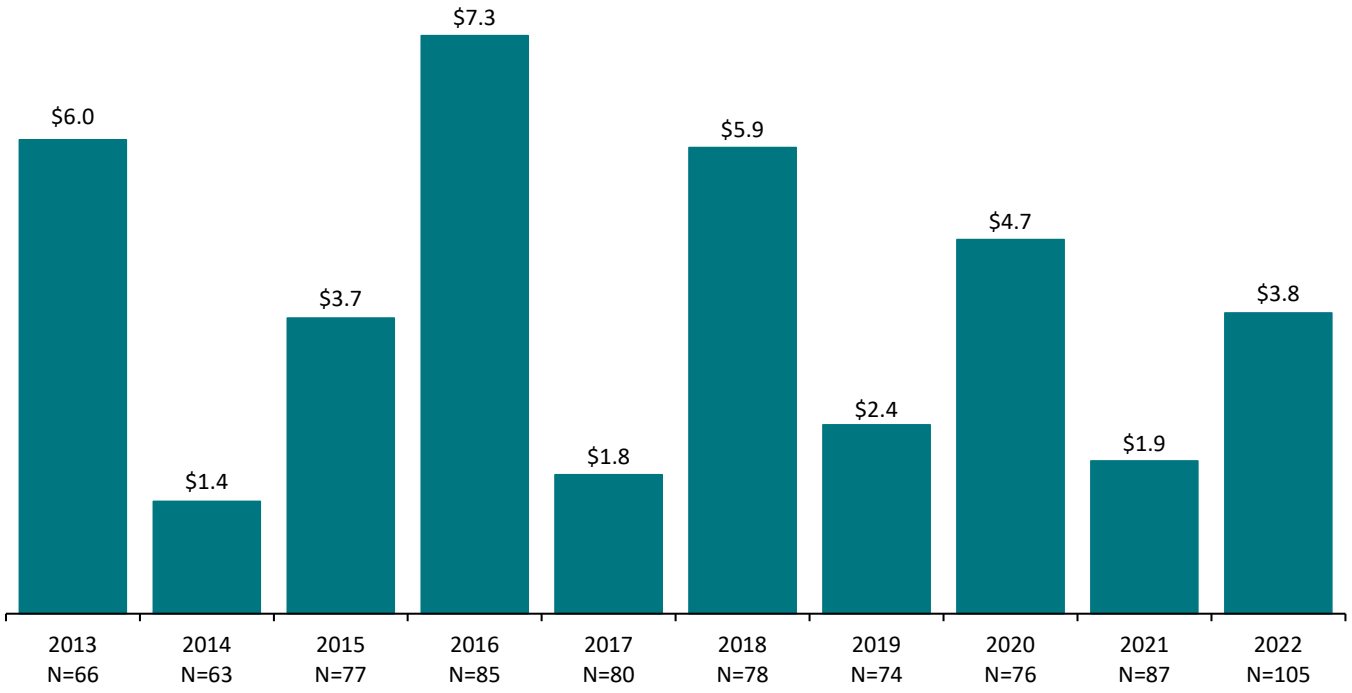
As has been observed in prior years, the presence or absence of just a few very large settlements can have a substantial effect on total settlement dollars for a given year.

- The number of settlements in 2022 (105 cases) continued the upward trend since 2019 and represented a 38% increase from the prior nine-year average (76 cases).
- An increase in the number of mega settlements (i.e., settlements equal to or greater than $100 million) contributed to total settlement dollars nearly doubling in 2022 compared to the prior year.
- There were eight mega settlements in 2022, ranging from $100 million to $809.5 million. Eight such settlements is the highest number since 2016.
- A decline in the proportion of very small settlements further contributed to the growth in total settlement dollars. Only 23% of settlements in 2022 were for less than $5 million, compared to 33% of cases settled in the prior nine years.

The number of settlements in 2022 was the highest number since 2007.

Figure 2: Total Settlement Dollars
2013–2022

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented. "N" refers to the number of cases.

Settlement Size

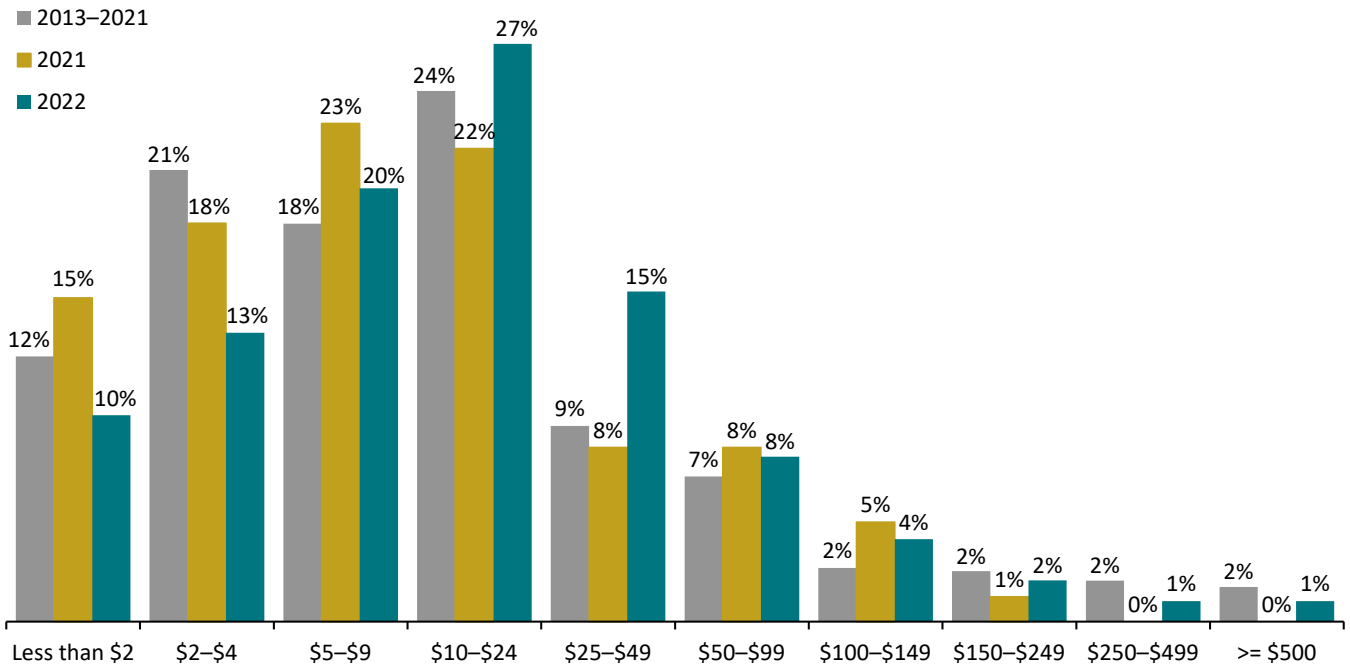
- The median settlement amount in 2022 was $13.0 million, a 46% increase from 2021 and a 34% increase from the prior nine-year median. Median values provide the midpoint in a series of observations and are less affected than averages by outlier data.
- The average settlement amount in 2022 was $36.2 million, a 63% increase from 2021. *(See Appendix 1 for an analysis of settlements by percentiles.)*
- In 2022, 42% of cases settled for between $10 million and $50 million, compared to only 30% in 2021 and 34% in 2013–2021.

The median settlement amount in 2022 was the highest since 2018.

- The increase in the proportion of these "midsize" settlement amounts ($10 million to $50 million) was accompanied by a decrease in the proportion of cases that settled for less than $10 million—43% in 2022 compared to 56% in 2021 and 51% in the prior nine years.

Figure 3: Distribution of Settlements
2013–2022

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented.

Type of Claim

Rule 10b-5 Claims and "Simplified Tiered Damages"

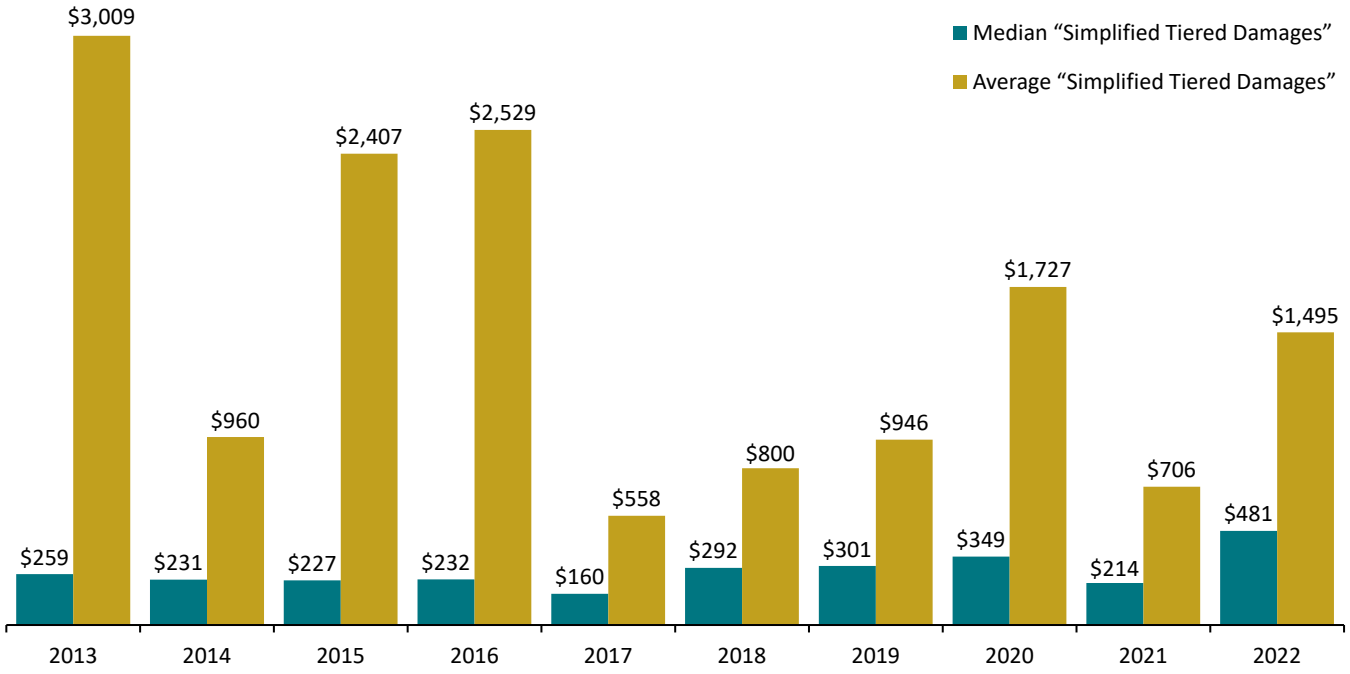
"Simplified tiered damages" uses simplifying assumptions to estimate per-share damages and trading behavior for cases involving Rule 10b-5 claims. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.[6]

Cornerstone Research's analysis finds this measure to be the most important factor in estimating settlement amounts.[7] However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

- Similar to settlement amounts, the median "simplified tiered damages" in 2022 increased 125% compared to 2021 and was over 100% higher than the median of settled cases for the prior nine years.
- In 2022, nearly half of settlements with Rule 10b-5 claims involved "simplified tiered damages" over $500 million, an all-time high.
- Higher "simplified tiered damages" are typically associated with larger issuer defendants. Consistent with this, the median total assets of issuer defendants in 2022 settled cases was 97% higher than the median total assets for 2021 settled cases.
- Higher "simplified tiered damages" are also generally associated with larger disclosure dollar losses. In 2022, the median DDL grew by more than 160% compared to 2021, reaching an all-time high.

Median "simplified tiered damages" reached an all-time high in 2022.

Figure 4: Median and Average "Simplified Tiered Damages" in Rule 10b-5 Cases
2013–2022
(Dollars in millions)

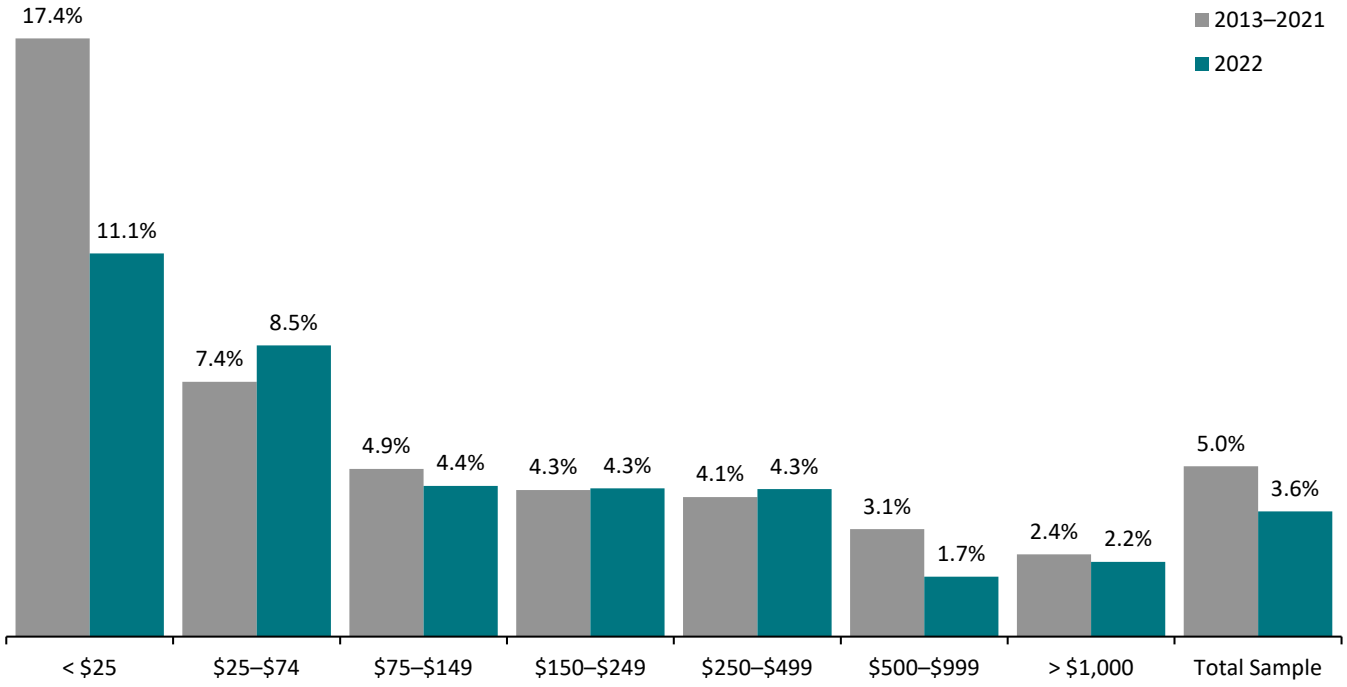


Note: "Simplified tiered damages" are adjusted for inflation based on class period end dates for common stock only; 2022 dollar equivalent figures are presented. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

- Only 4% of settlements in 2022 had "simplified tiered damages" less than $25 million, the lowest observed to date.
- Cases with smaller "simplified tiered damages" are more likely to be associated with issuers that had been delisted from a major exchange and/or declared bankruptcy prior to settlement. In 2022, the percentage of such issuers for settled cases was at an all-time low (11%).
- The 2022 median and average settlement as a percentage of "simplified tiered damages" of 3.6% and 5.4%, respectively, are all-time lows. *(See Appendix 5 for additional information on median and average settlements as a percentage of "simplified tiered damages.")*

Figure 5: Median Settlement as a Percentage of "Simplified Tiered Damages" by Damages Ranges in Rule 10b-5 Cases 2013–2022

(Dollars in millions)



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

'33 Act Claims and "Simplified Statutory Damages"

For Securities Act of 1933 ('33 Act) claim cases—those involving only Section 11 and/or Section 12(a)(2) claims—potential shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as "simplified statutory damages." Only the offered shares are assumed to be eligible for damages.[8]

- In 2022, there were nine settlements for cases with only '33 Act claims, in line with the average from 2017 to 2020 and well below the historically high number of 16 settlements observed in 2021.
- The median settlement as a percentage of simplified statutory damages in 2022 and 2021 were 4.7% and 4.4%, respectively—the lowest levels since 2002. *(See Appendix 6 for additional information on median and average settlements as a percentage of "simplified statutory damages.")*
- The average settlement amount for cases with only '33 Act claims was $7.3 million in 2022, compared to $14.9 million during 2013-2021.

In 2022, the median settlement amount for cases with only '33 Act claims was $7.0 million, the lowest since 2013.

Figure 6: Settlements by Nature of Claims
2013–2022
(Dollars in millions)

	Number of Settlements	Median Settlement	Median "Simplified Statutory Damages"	Median Settlement as a Percentage of "Simplified Statutory Damages"
Section 11 and/or Section 12(a)(2) Only	82	$9.2	$145.2	8.7%

	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	123	$15.4	$355.7	6.3%
Rule 10b-5 Only	581	$9.0	$250.1	4.5%

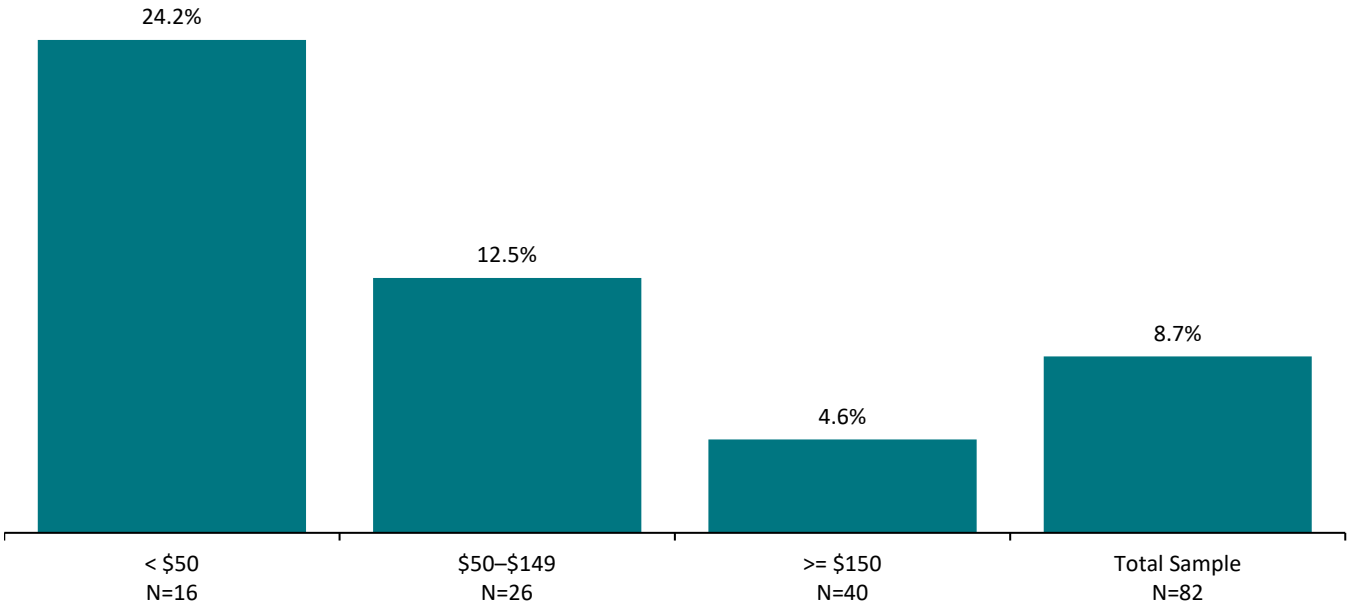
Note: Settlement dollars and damages are adjusted for inflation; 2022 dollar equivalent figures are presented.

- Settlements as a percentage of the simplified proxies for potential shareholder losses used in this report are typically smaller for cases that have larger estimated damages. As with cases with Rule 10b-5 claims, this finding holds for cases with only '33 Act claims.
- In the past decade, over 85% of the settled '33 Act claim cases involved an underwriter (or underwriters) as a named codefendant.
- Over 80% of '33 Act claim cases that settled in 2013–2022 involved an initial public offering (IPO).

Consistent with the lower median settlement amount among '33 Act claim cases, the median "simplified statutory damages" in 2022 declined by 61% from the median in 2021 and was the lowest since 2016.

Figure 7: Median Settlement as a Percentage of "Simplified Statutory Damages" by Damages Ranges in '33 Act Claim Cases 2013–2022

(Dollars in millions)



Jurisdictions of Settlements of '33 Act Claim Cases

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
State Court	1	0	2	4	5	4	4	7	6	6
Federal Court	7	2	2	6	3	4	5	1	10	3

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

Analysis of Settlement Characteristics

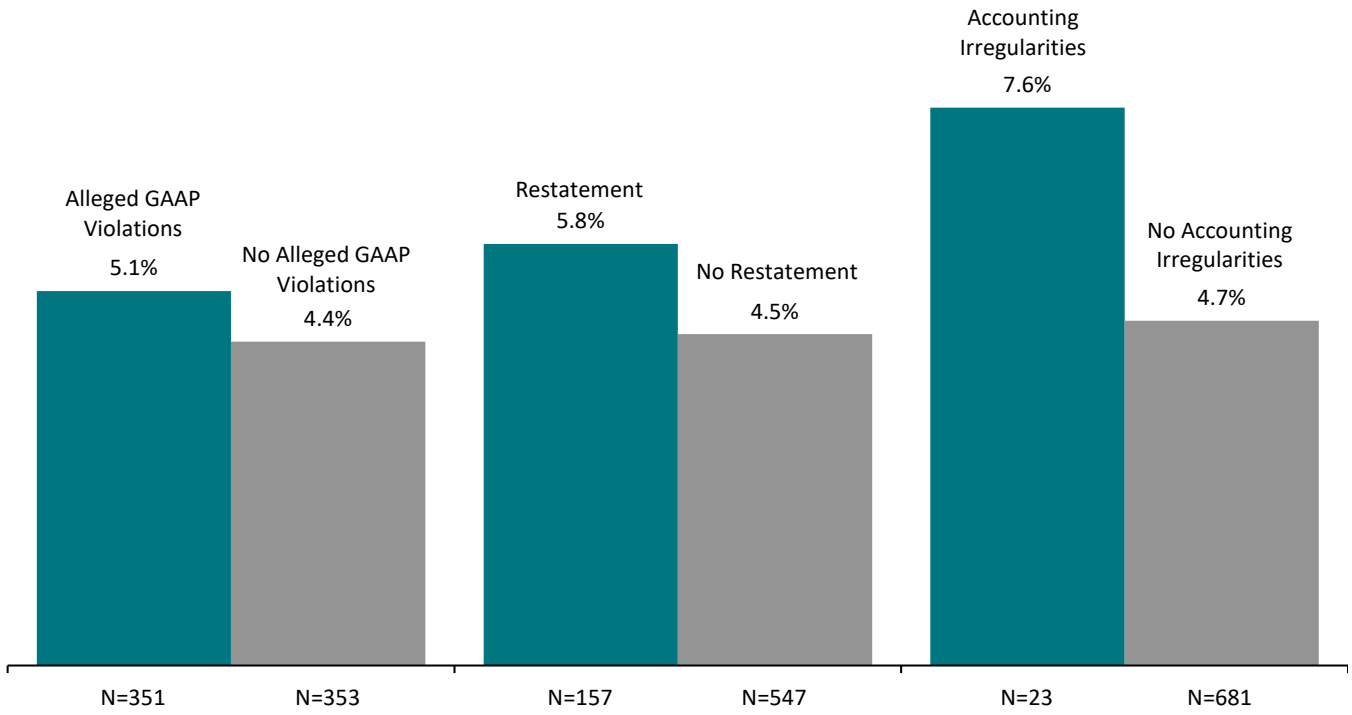
GAAP Violations

This analysis examines allegations of GAAP violations in settlements of securities class actions involving Rule 10b-5 claims, including two sub-categories of GAAP violations—financial statement restatements and accounting irregularities.[9] For further details regarding settlements of accounting cases, see Cornerstone Research's annual report on *Accounting Class Action Filings and Settlements*.[10]

- For the first time since 2017, the median settlement amount for cases involving GAAP allegations was larger than that for non-GAAP cases. Notably, in 2022 the median settlement amount for GAAP cases was more than double that of non-GAAP cases.
- As noted in prior years, settlements as a percentage of "simplified tiered damages" for cases involving GAAP allegations are typically higher than for non-GAAP cases. This result has continued despite a relatively low number of cases involving a financial restatement. For example, only 11% of settlements in 2022 involved a restatement of financial statements.
- Auditor codefendants were involved in only 3% of settled cases, consistent with 2021 but substantially lower than the average from 2013 to 2021.
- The infrequency of cases alleging accounting irregularities continued in 2022 at less than 2% of settled cases.

The proportion of settled cases in 2022 with Rule 10b-5 claims alleging GAAP violations remained at a historically low level.

Figure 8: Median Settlement as a Percentage of "Simplified Tiered Damages" and Allegations of GAAP Violations
2013–2022



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

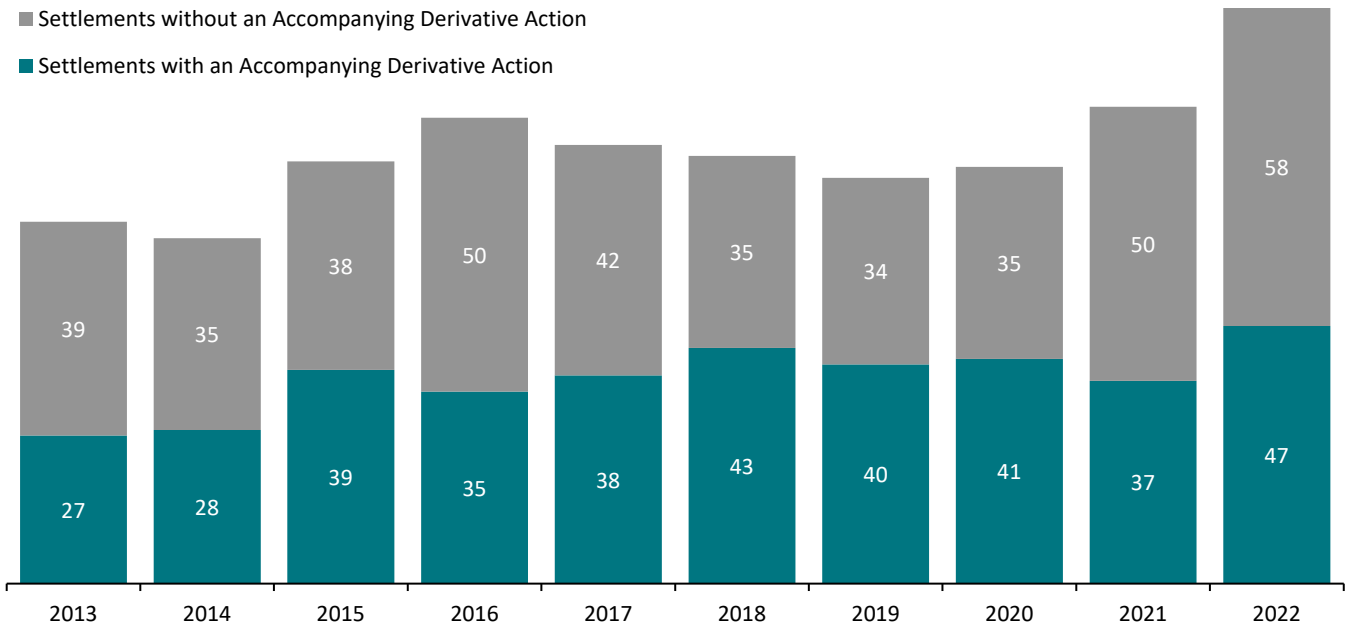
Derivative Actions

- Securities class actions often involve accompanying (or parallel) derivative actions with similar claims, and such cases have historically settled for higher amounts than securities class actions without corresponding derivative matters.[11]
- In 2022, the median settlement amount for cases with an accompanying derivative action was approximately 28% higher than for cases without ($14.1 million versus $11.0 million, respectively).
- For cases settled during 2018–2022, 38% of parallel derivative suits were filed in Delaware. California and New York were the next most common venues for such actions, representing 22% and 15% of such settlements, respectively.

Although the proportion of cases involving accompanying derivative actions in 2022 was higher compared to 2021, it was below the average for 2018–2021.

- It is commonly understood that most parallel derivative suits do not settle for monetary amounts (other than plaintiffs' attorney fees). However, the likelihood of a monetary settlement among parallel derivative actions is higher when the securities class action settlement is large, as shown in Cornerstone Research's *Parallel Derivative Action Settlement Outcomes*.[12]

Figure 9: Frequency of Derivative Actions
2013–2022



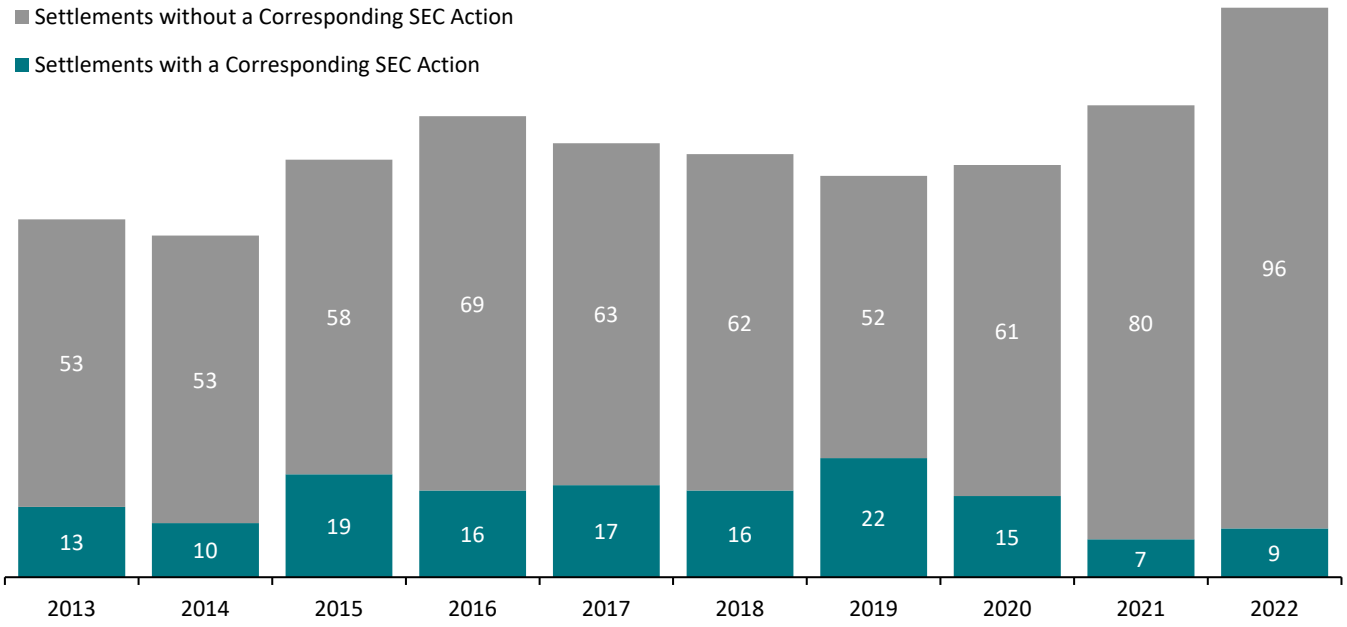
Corresponding SEC Actions

- Historically, cases with an accompanying SEC action have typically been associated with substantially higher settlement amounts.[13] However, this pattern did not hold in 2022.
- The median settlement amount in 2022 for cases that involved a corresponding SEC action was less than 5% higher than the median for cases without such an action. In contrast, in 2021, the median settlement amount for cases with an accompanying SEC action was more than double that for cases without such an action.

Settled cases involving SEC actions in 2022 were considerably smaller than cases without accompanying SEC actions.

- Both "simplified tiered damages" and DDL were lower in 2022 for cases with a corresponding SEC action when compared to those without, at 72% and 83% lower, respectively.
- Settled cases in 2022 with a corresponding SEC action were nearly 10% quicker to reach settlement, on average, compared to cases without such an action. In contrast, in 2021, cases with corresponding SEC actions took over 20% longer to reach a settlement than cases without corresponding SEC actions.
- The number of settled cases in 2022 involving either a corresponding SEC action or criminal charge remained below 13%, compared to an average of 24% for the years 2013–2021.

Figure 10: Frequency of SEC Actions
2013–2022



Institutional Investors

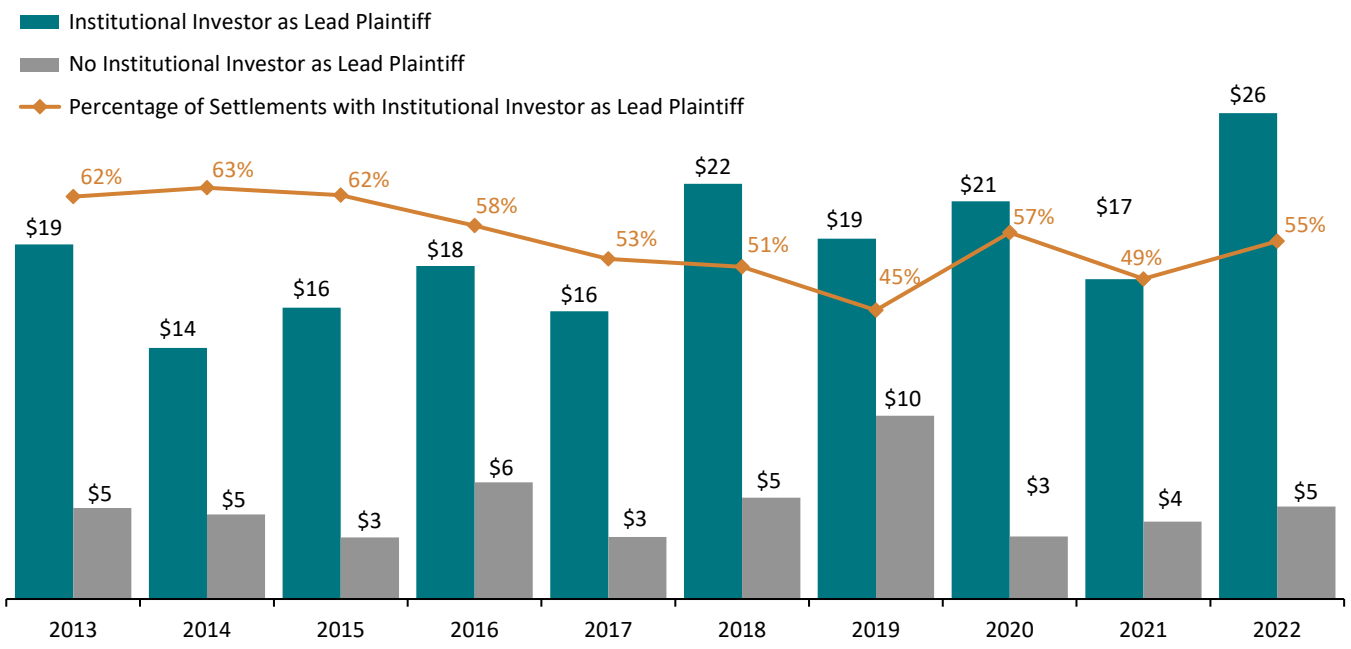
As discussed in prior reports, increasing institutional participation as lead plaintiffs in securities litigation was a focus of the Reform Act.[14] Indeed, in years following passage of the Reform Act, institutional investor involvement as lead plaintiffs did increase, particularly in larger cases, that is, cases with higher "simplified tiered damages."

- In 2022, for cases involving an institutional investor as lead plaintiff, median "simplified tiered damages" and median total assets were five times and eight times higher, respectively, than the median values for cases without an institutional investor as a lead plaintiff.
- Since passage of the Reform Act, public pension plans have been the most frequent type of institutional lead plaintiff.
- In 2022, a public pension plan served as lead plaintiff in two-thirds of cases with an institutional lead plaintiff. Moreover, in six of the seven mega settlement cases in 2022 involving an institutional lead plaintiff, the institutional investor was a public pension plan.
- Institutional participation as lead plaintiff continues to be associated with particular plaintiff counsel. For example, an institutional investor served as a lead plaintiff in 2022 in over 85% of settled cases in which Robbins Geller Rudman & Dowd LLP and/or Bernstein Litowitz Berger & Grossmann LLP served as lead plaintiff counsel. In contrast, institutional investors served as lead plaintiffs in 21% of cases in which The Rosen Law Firm, Pomerantz LLP, or Glancy Prongay & Murray LLP served as lead plaintiff counsel.

Of the eight mega settlement cases in 2022, seven included an institutional lead plaintiff.

Figure 11: Median Settlement Amounts and Institutional Investors
2013–2022

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented.

Time to Settlement and Case Complexity

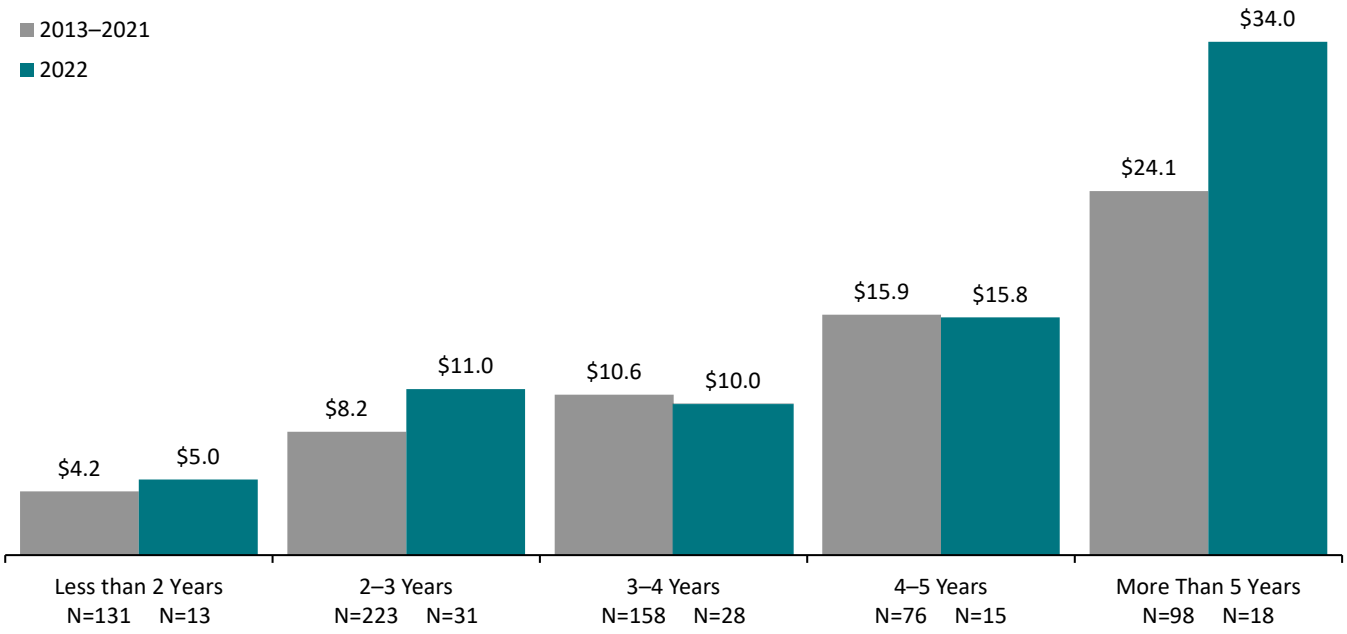
- Overall, the median time from filing to settlement hearing date in 2022 was longer—3.2 years for 2022 settlements, compared to 2.9 years for 2013–2021 settlements.
- Cases involving an institutional lead plaintiff continued to take longer to settle. In particular, settlements in 2022 with institutional lead plaintiffs took 33% longer to settle than cases not involving an institutional lead plaintiff.

Only 42% of cases in 2022 reached a settlement hearing date within three years of filing, the lowest percentage in the prior nine years.

- Larger cases (as measured by higher "simplified tiered damages") often take longer to resolve. Consistent with this, in 2022, the median time to settlement for cases that settled for at least $100 million was over 5.5 years—an all-time high for such cases.

Figure 12: Median Settlement by Duration from Filing Date to Settlement Hearing Date
2013–2022

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented. "N" refers to the number of cases.

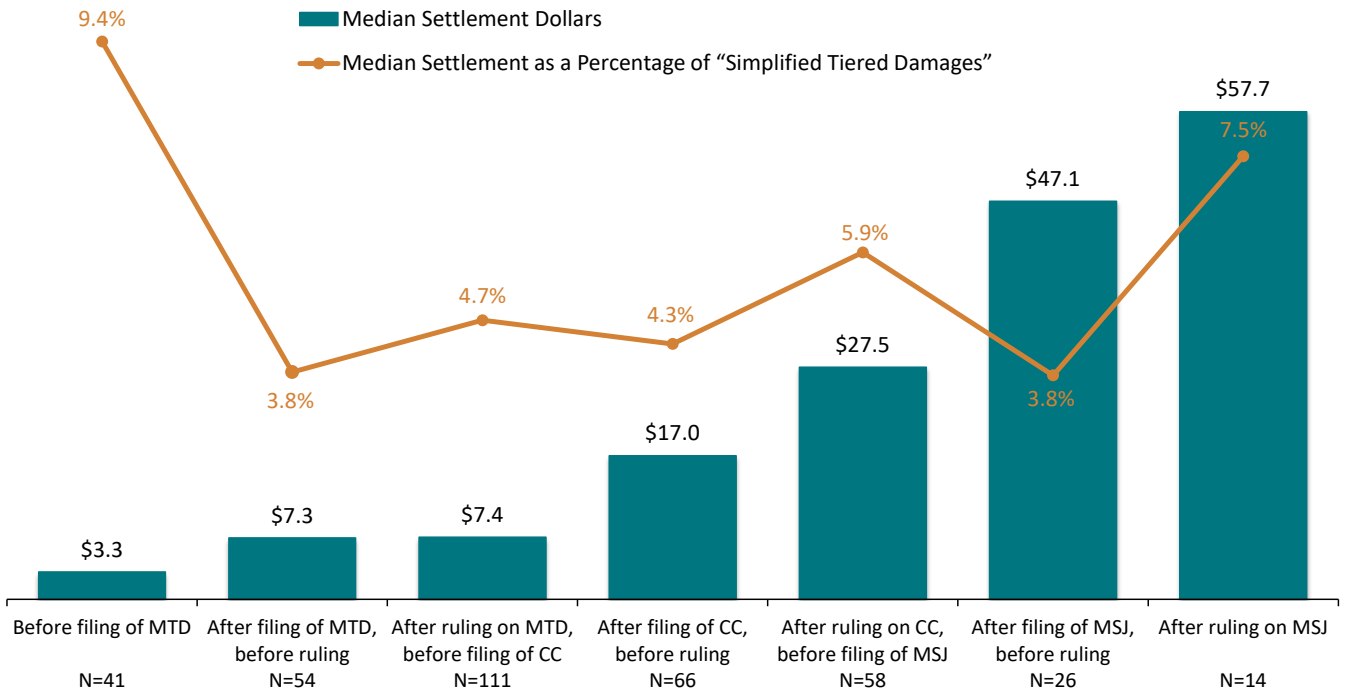
Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),[15] this report analyzes settlements in relation to the stage in the litigation process at the time of settlement.

- Cases settling at later stages continue to be larger in terms of total assets and "simplified tiered damages."
- In particular, the median issuer defendant total assets for 2022 cases that settled after the ruling on a motion for class certification was over four times the median for cases that settled prior to such a motion being ruled on.
- In 2022, cases where a motion for class certification was filed were nearly three times as likely to have either Robbins Geller Rudman & Dowd LLP and/or Bernstein Litowitz Berger & Grossmann LLP as lead plaintiff counsel than The Rosen Law Firm, Pomerantz LLP, or Glancy Prongay & Murray LLP.
- Cases settling at later stages often included an institutional investor lead plaintiff. For example, in 2022, an institutional investor served as lead plaintiff 69% of the time for cases that settled after the filing of a motion for class certification (slightly higher than the percentage over the prior four years), compared to 44% for cases that settled prior to the filing of a motion for class certification (38% in the prior four years)
- Overall, compared to settlements in 2021, a larger proportion of cases in 2022 did not reach settlement until after a motion for class certification was filed. In addition, 14% of 2022 settled cases were resolved after a summary judgment motion, compared to less than 9% for 2018–2021 settlements.

Figure 13: Median Settlement Dollars and Resolution Stage at Time of Settlement
2018–2022

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented. "N" refers to the number of cases. MTD refers to "motion to dismiss," CC refers to "class certification," and MSJ refers to "motion for summary judgment." This analysis is limited to cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

Cornerstone Research's Settlement Analysis

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

Determinants of Settlement Outcomes

Based on the research sample of cases that settled from January 2006 through December 2022, important determinants of settlement amounts include the following:

- "Simplified tiered damages"
- Maximum Dollar Loss (MDL)—the dollar-value change in the defendant firm's market capitalization from its class period peak to the trading day immediately following the end of the class period.
- Most recently reported total assets of the issuer defendant firm
- Number of entries on the lead case docket
- Whether there were accounting allegations
- Whether there was a corresponding SEC action against the issuer, other defendants, or related parties
- Whether there were criminal charges against the issuer, other defendants, or related parties with similar allegations to those included in the underlying class action complaint
- Whether there was an accompanying derivative action
- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether an institution was a lead plaintiff
- Whether securities other than common stock/ADR/ADS, were included in the alleged class

Cornerstone Research analyses show that settlements were higher when "simplified tiered damages," MDL, issuer defendant asset size, or the number of docket entries was larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

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

Settlements were lower if the issuer was distressed.

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

Research Sample

- The database compiled for this report is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. The sample contains only cases alleging fraudulent inflation in the price of a corporation's common stock.
- Cases with alleged classes of only bondholders, preferred stockholders, etc., cases alleging fraudulent depression in price, and mergers and acquisitions cases are excluded. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 2,116 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2022. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).[16]
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.[17] Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.[18]

Data Sources

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

Endnotes

1 Reported dollar figures and corresponding comparisons are adjusted for inflation; 2022 dollar equivalent figures are analyzed.

2 "Simplified tiered damages" are calculated for cases that settled in 2006 or later, following the U.S. Supreme Court's 2005 landmark decision in *Dura Pharmaceuticals Inc. v. Broudo*, 544 U.S. 336. "Simplified tiered damages" is based on the stock-price drops on alleged corrective disclosure dates as described in the settlement plan of allocation.

3 Disclosure Dollar Loss or DDL is the dollar-value change in the defendant firm's market capitalization between the end of the class period and the trading day immediately following the end of the class period.

4 Accounting irregularities reflect those cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.

5 *Securities Class Action Filings—2022 Year in Review*, Cornerstone Research (2023).

6 The "simplified tiered damages" approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the "true value" of the stock during the alleged class period (or "value line"). This proxy for damages utilizes an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant's common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may differ substantially from damages estimates developed in conjunction with case-specific economic analysis.

7 Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons, *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017).

8 The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to "simplified tiered damages," the estimation of "simplified statutory damages" makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity.

9 The two sub-categories of accounting issues analyzed in Figure 8 of this report are (1) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (2) accounting irregularities.

10 *Accounting Class Action Filings and Settlements—2022 Review and Analysis*, Cornerstone Research (2023), forthcoming in spring 2023.

11 To be considered an accompanying or parallel derivative action, the derivative action must have underlying allegations that are similar or related to the underlying allegations of the securities class action and either be active or settling at the same time as the securities class action.

12 *Parallel Derivative Action Settlement Outcomes*, Cornerstone Research (2022).

13 As noted previously, it could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on www.sec.gov involving the issuer defendant or other named defendants with allegations similar to those in the underlying class action complaint.

14 See, for example, *Securities Class Action Settlements—2006 Review and Analysis*, Cornerstone Research (2007) and Michael A. Perino, "Have Institutional Fiduciaries Improved Securities Class Actions? A Review of the Empirical Literature on the PSLRA's Lead Plaintiff Provision," St. John's Legal Studies Research Paper No. 12-0021 (2013).

15 Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice. The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at https://sla.law.stanford.edu/.

16 Available on a subscription basis. For further details see https://www.issgovernance.com/securities-class-action-services/.

17 Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.

18 This categorization is based on the timing of the settlement hearing date. If a new partial settlement equals or exceeds 50% of the then-current settlement fund amount, the entirety of the settlement amount is re-categorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50% of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

Appendices

Appendix 1: Settlement Percentiles

(Dollars in millions)

Year	*Average*	10th	25th	*Median*	75th	90th
2013	*$90.8*	$2.4	$3.8	*$8.2*	$27.9	$103.6
2014	*$22.5*	$2.1	$3.5	*$7.4*	$16.3	$61.8
2015	*$48.6*	$1.6	$2.7	*$8.0*	$20.1	$116.1
2016	*$86.1*	$2.3	$5.1	*$10.4*	$40.2	$178.0
2017	*$22.0*	$1.8	$3.1	*$6.3*	$18.2	$42.3
2018	*$75.6*	$1.8	$4.2	*$13.1*	$28.8	$57.3
2019	*$32.3*	$1.7	$6.4	*$12.6*	$22.9	$57.2
2020	*$62.3*	$1.6	$3.6	*$11.1*	$22.9	$60.3
2021	*$22.2*	$1.9	$3.4	*$8.9*	$19.3	$63.3
2022	*$36.2*	$2.0	$5.0	*$13.0*	$33.0	$71.8

Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented.

Appendix 2: Settlements by Select Industry Sectors
2013–2022

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Financial	92	$14.8	$293.3	5.0%
Healthcare	20	$14.2	$189.4	6.4%
Pharmaceuticals	119	$7.6	$237.6	3.8%
Retail	50	$13.2	$294.2	4.8%
Technology	103	$9.3	$315.9	4.6%
Telecommunication	26	$10.5	$311.0	4.4%

Note: Settlement dollars and "simplified tiered damages" are adjusted for inflation; 2022 dollar equivalent figures are presented. "Simplified tiered damages" are calculated only for cases involving Rule 10b-5 claims (whether alone or in addition to other claims).

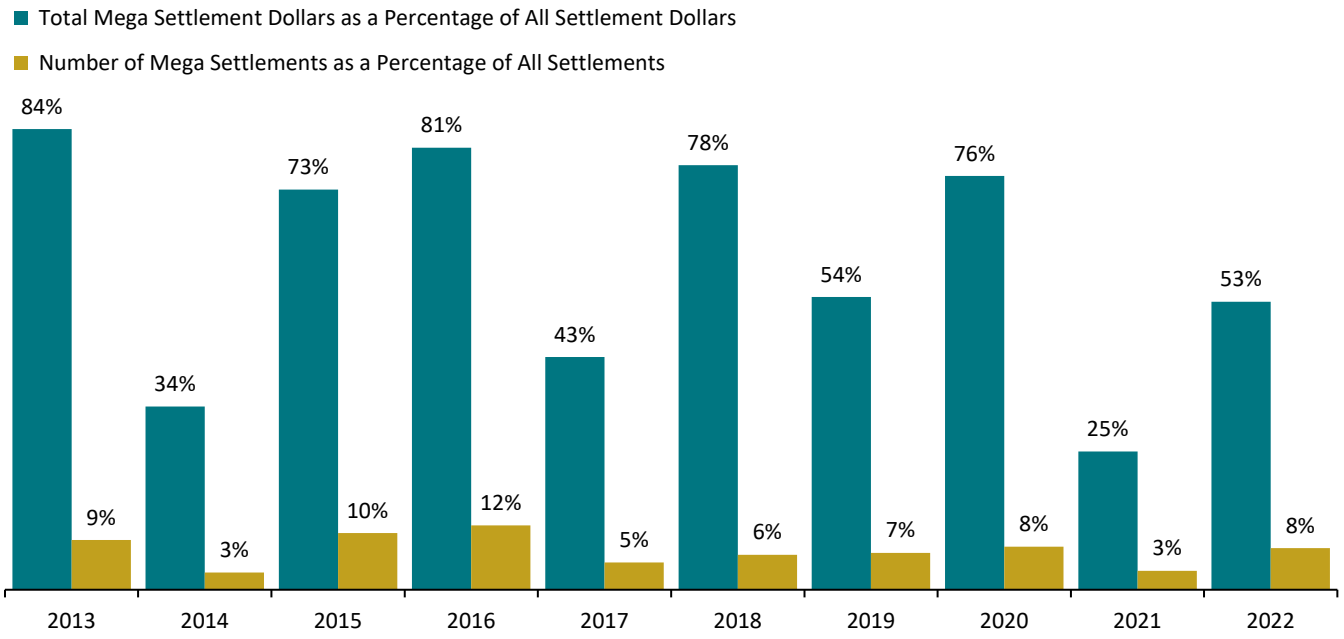
Appendix 3: Settlements by Federal Circuit Court
2013–2022

(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of "Simplified Tiered Damages"
First	21	$12.4	3.0%
Second	202	$9.0	5.0%
Third	81	$7.5	4.9%
Fourth	26	$22.9	3.8%
Fifth	38	$10.7	4.9%
Sixth	32	$13.5	7.4%
Seventh	37	$15.5	3.6%
Eighth	14	$46.4	5.1%
Ninth	191	$7.6	4.6%
Tenth	17	$10.2	5.8%
Eleventh	37	$11.9	4.9%
DC	5	$33.7	2.4%

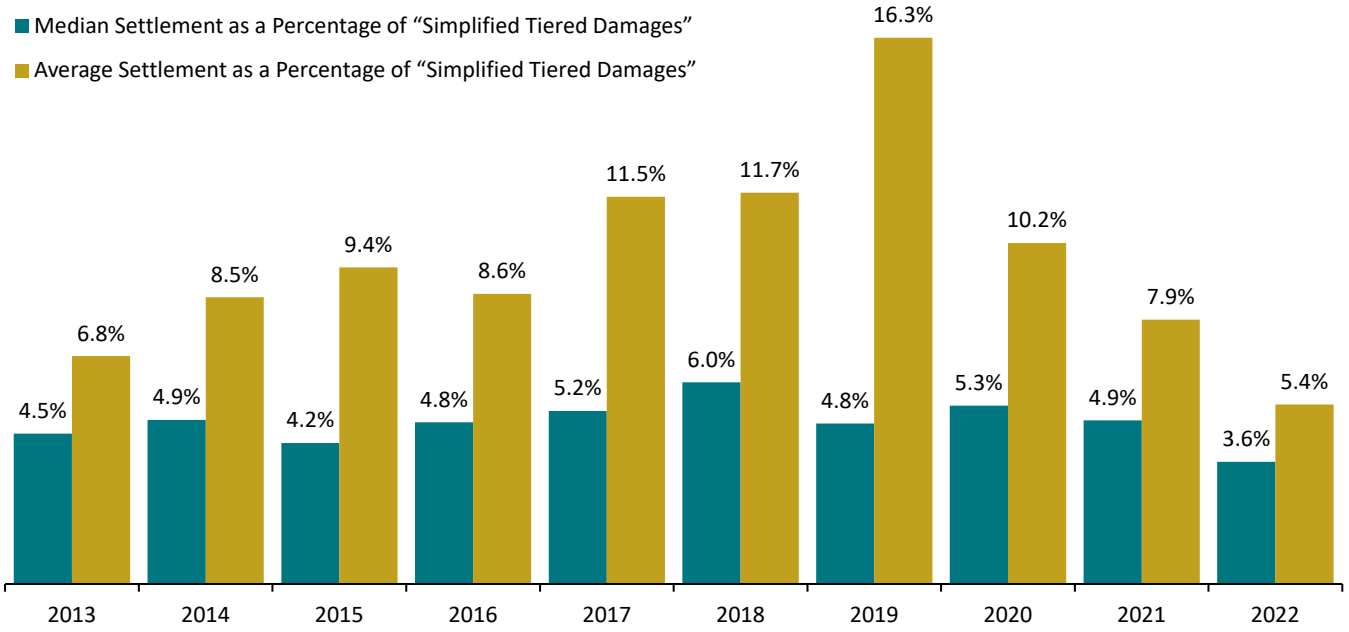
Note: Settlement dollars are adjusted for inflation; 2022 dollar equivalent figures are presented. Settlements as a percentage of "simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims (whether alone or in addition to other claims).

Appendix 4: Mega Settlements
2013–2022



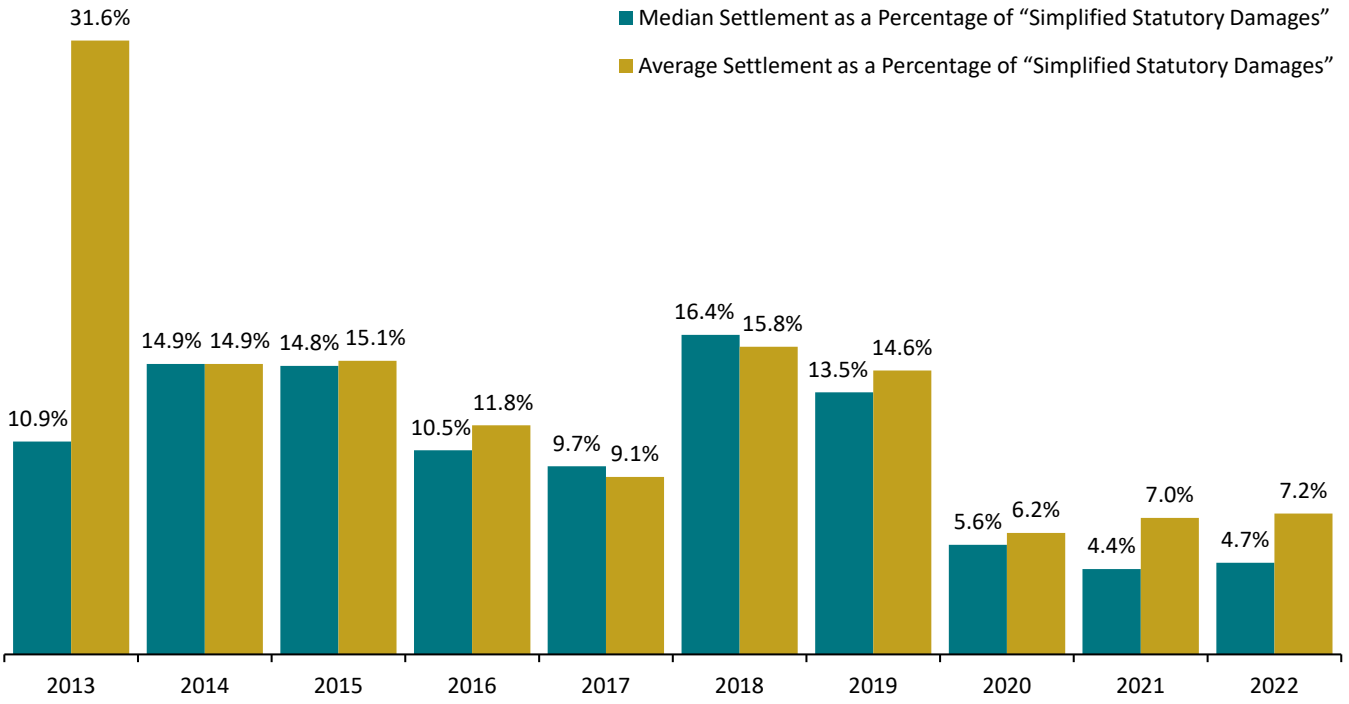
Note: Mega settlements are defined as total settlement funds equal to or greater than $100 million.

Appendix 5: Median and Average Settlements as a Percentage of "Simplified Tiered Damages"
2013–2022



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

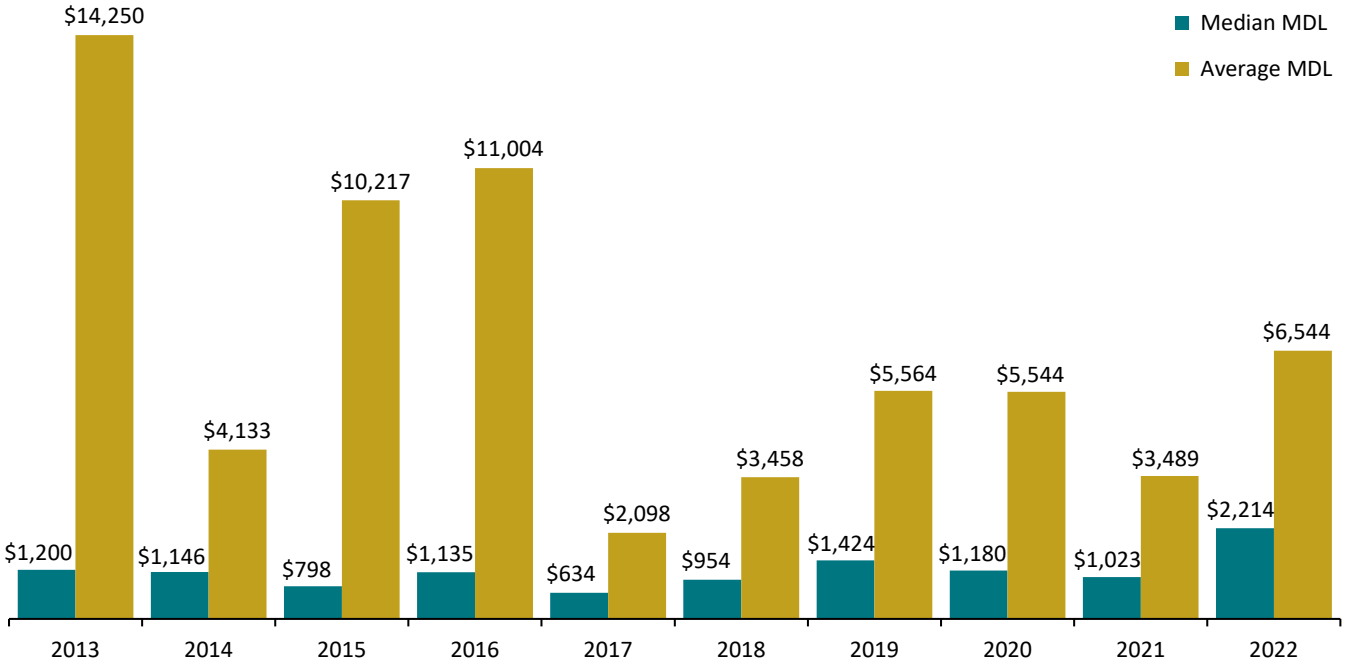
Appendix 6: Median and Average Settlements as a Percentage of "Simplified Statutory Damages"
2013–2022



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

Appendix 7: Median and Average Maximum Dollar Loss (MDL)
2013–2022

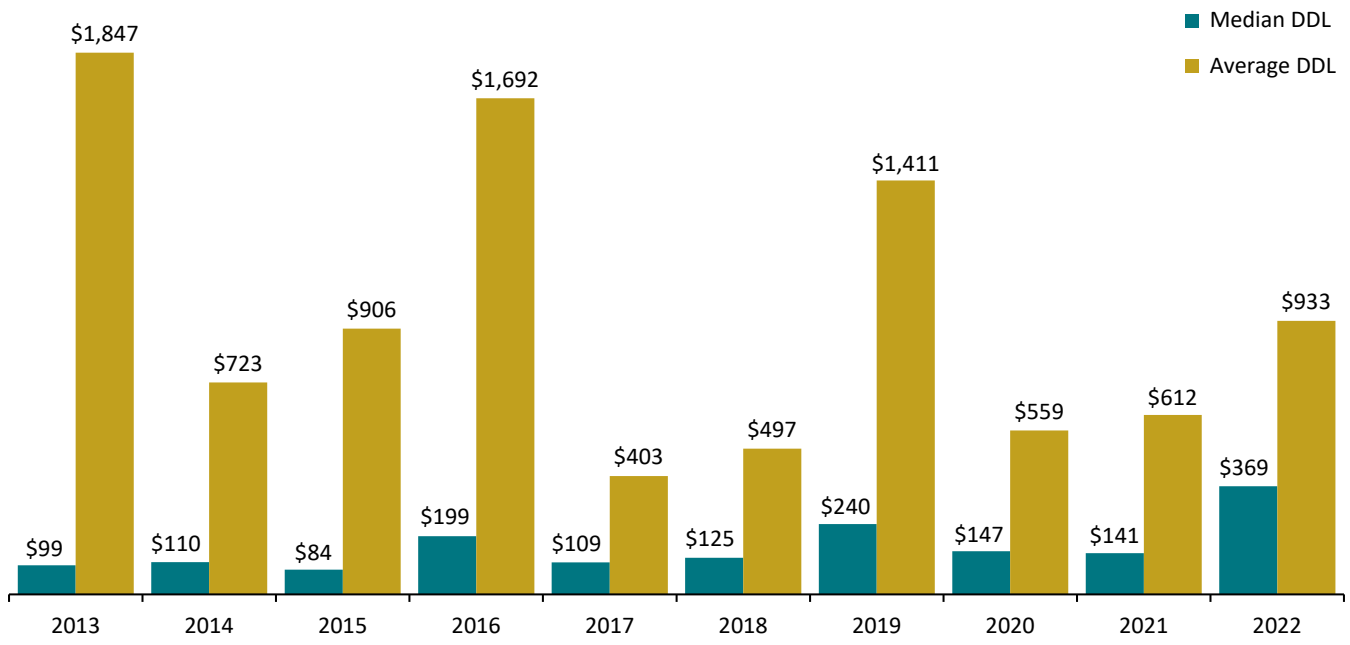
(Dollars in millions)



Note: MDL is adjusted for inflation based on class period end dates; 2022 dollar equivalents are presented. MDL is the dollar value change in the defendant firm's market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period. This analysis excludes cases alleging '33 Act claims only.

Appendix 8: Median and Average Disclosure Dollar Loss (DDL)
2013–2022

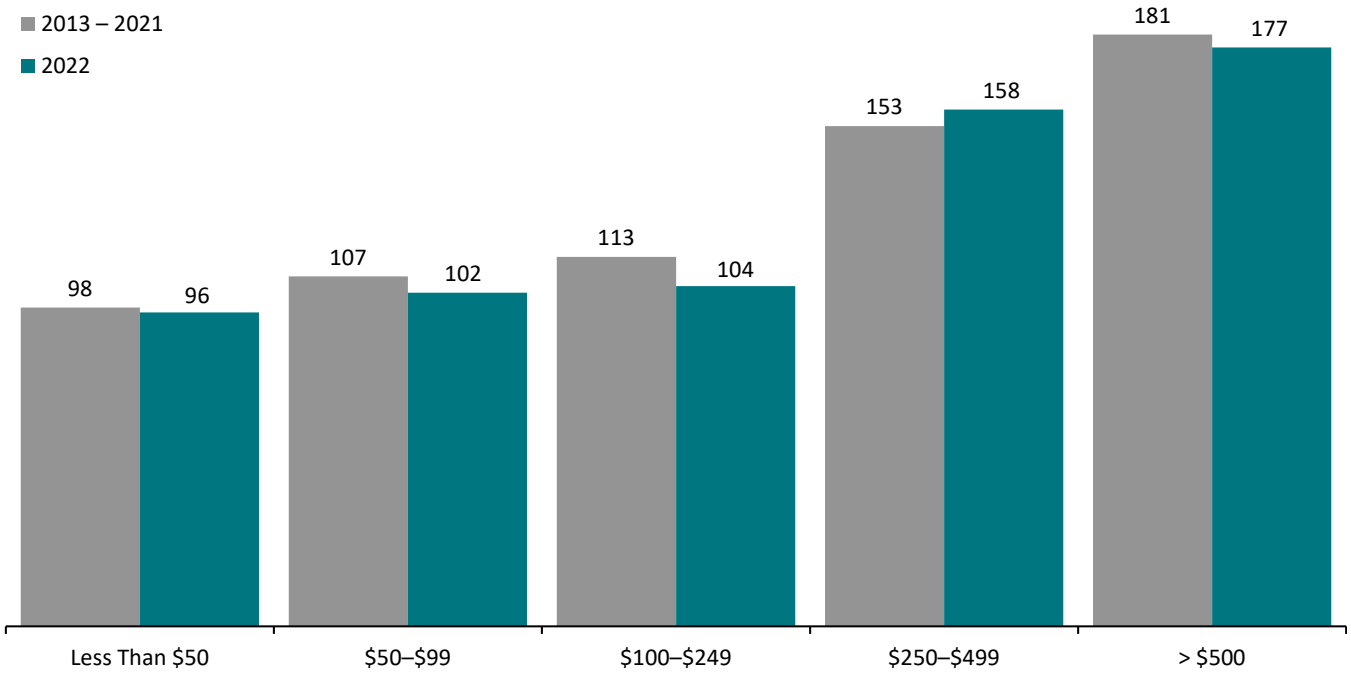
(Dollars in millions)



Note: DDL is adjusted for inflation based on class period end dates; 2022 dollar equivalents are presented. DDL is the dollar-value change in the defendant firm's market capitalization between the end of the class period and the trading day immediately following the end of the class period. This analysis excludes cases alleging '33 Act claims only.

Appendix 9: Median Docket Entries by "Simplified Tiered Damages" Range
2013–2022

(Dollars in millions)



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

About the Authors

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

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

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

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

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

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

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

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Levi & Korsinsky, LLP

Merger Alerts

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About The Firm

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

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

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

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

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

Practice Areas

Levi & Korsinsky

- Securities Fraud Class Actions
- Derivative, Corporate Governance & Executive Compensation
- Mergers & Acquisitions
- Consumer Litigation

Securities Class Action

Over the last four years, Levi & Korsinsky has been lead, or co-lead counsel in 35 separate settlements that have resulted in nearly $200 million in recoveries for shareholders. During that time, Levi & Korsinsky has consistently ranked in the Top 10 in terms of number of settlements achieved for shareholders each year, according to reports published by ISS. In Lex Machina's Securities Litigation Report, Levi & Korsinsky ranked as one of the Top 5 Securities Firms for the period from 2018 to 2020. Law360 dubbed the Firm one of the "busiest securities firms" in what is "on track to be one of the busiest years for federal securities litigation" in 2018. In 2019, Lawdragon Magazine ranked multiple members of Levi & Korsinsky among the 500 Leading Plaintiff Financial Lawyers in America. Our firm has been appointed Lead Counsel in a significant number of class actions filed in both federal and state courts across the country.

In **In re Tesla Inc. Securities Litigation**, No. 3:18-cv-4865-EMC (N.D. Cal.), the firm represents a certified class of Tesla investors who sustained damages when Elon Musk tweeted "Am considering taking Tesla private at $420. Funding secured," on August 7, 2018. In a monumental win for the class, our attorneys successfully obtained partial summary judgment against Mr. Musk on the issues of falsity and scienter, meaning that trial will primarily focus on damages, which are presently estimated to be well in excess of $2 billion.

In **In re U.S. Steel Consolidated Cases**, No. 2:17-579-CB (W.D. Pa.), the firm represents a certified class of U.S. Steel investors who sustained damages in connection with the company's false and materially misleading statements about its Carnegie Way initiative.

In two related actions, **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (the "Stock Case") and **John P. Norton, on Behalf of the Norton Family Living Trust UAD 11/15/2002 v. Nutanix, Inc., et. al.**, No. 3:21-cv-04080-WHO (the "Options Case") Levi & Korsinsky achieved a settlement providing for the payment of $71 million to eligible class members. Lead Plaintiff of the Stock Case, California Ironworkers Field Pension Trust, and Lead Plaintiff of the Options Case, John P. Norton, alleged violations of §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 based on false and misleading misstatements that the company made that allegedly concealed from shareholders its rapidly declining sales pipeline, revenue, and billings.

Securities Class Action

As Lead Counsel in **In re Avon Products Inc. Securities Litigation**, No. 1:19-cv-1420-MKV (S.D.N.Y.), having been commenced in the U.S. District Court for the Southern District of New York, the Firm achieved a $14.5 million cash settlement to successfully end claims alleged by a class of investors that the beauty company loosened its recruiting standards in its critical market in Brazil, eventually causing the company's stock price to crater. The case raised important issues concerning the use of confidential witnesses located abroad in support of scienter allegations and the scope of the attorney work product doctrine with respect to what discovery could be sought of confidential sources who are located in foreign countries.

In **Rougier v. Applied Optoelectronics, Inc.**, No. 4:17-cv-2399-GHC-CAB (S.D. Tex.), the Firm served as sole Lead Counsel, prevailed against Defendants' Motion to Dismiss, and achieved class certification before the Parties reached a settlement. The Court granted final approval of a $15.5 million settlement on November 24, 2020.

> **"Plaintiffs' selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions across the country."**
>
> The Honorable Christina Bryan in Rougier v. Applied Optoelectronics, Inc., No. 4:17-cv-02399-GHC-CAB (S.D. Tex. Nov. 13, 2019)

In **In Re Helios and Matheson Analytics, Inc. Sec. Litig.**, No. 1:18-cv-6965-JGK (S.D.N.Y.), the Firm served as sole Lead Counsel. Although the company had filed a voluntary Bankruptcy petition for liquidation and had numerous creditors (including private parties and various state and federal regulatory agencies), the Firm was able to reach a settlement. The settlement was obtained at a time when a motion to dismiss filed by the defendants was still pending and a risk to the Class. In its role as Lead Counsel, the Firm achieved a settlement of $8.25 million on behalf of the class. The Court granted final approval of the settlement on May 13, 2021.

Securities Class Action

In **In re Restoration Robotics, Inc. Sec. Litig.**, No. 5:18-cv-3712-EJD (N.D. Cal.), the Firm was sole Lead Counsel and acheived a settlement of $4,175,000 for shareholders.

In **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018 (N.Y. Sup.) the Firm was Co-Lead Counsel and acheived a settlement of $7,025,000 for shareholders.

In **Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.), the Firm is Co-Lead Counsel representing a certified class of USX investors and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

> **"I find the firm to be well-qualified to serve as Lead Counsel."**
>
> The Honorable Andrew L. Carter, Jr. In Snyder v. Baozun Inc., No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)

Securities Class Action

Appointed Lead or Co-Lead Counsel in the following securities class actions:

- **Gurevitch v. KeyCorp et al.,**

1:23-cv-01520-DCN (N.D. Ohio December 26, 2023)

- **Lowe v. Tandem Diabetes Care, Inc. et al.,**

3:23-cv-01657-H-BLM (S.D. Cal. December 5, 2023)

- **Perez v. Target Corporation et al.,**

0:23-cv-00769-PJS-TNL (D. Minn. November 13, 2023)

- **Thant v. Rain Oncology Inc. et al.,**

5:23-cv-03518-EJD (N.D. Cal. November 1, 2023)

- **Villanueva v. Proterra Inc. et al.,**

No. 5:23-cv-03519-BLF (N.D. Cal. October 23, 2023)

- **Martin v. BioXcel Therapeutics, Inc. et al.,**

No. 3:23-cv-00915-SVN (U.S.D.C Ct. October 4, 2023)

- **Scott Petersen V. Stem, Inc,**

No. 23-cv-02329-MMC (C.N.D.C. August 22, 2023)

- **Solomon v. Peloton Interactive, Inc. et al.,**

No. 1:23-cv-04279-MKB-JRC (E.D.N.Y. September 7, 2023)

- **Thant et al. v. Veru, Inc., et al.,**

No. 1:22-cv-23960-KMW (S.D. Fla. July 27, 2023)

> In appointing the Firm Lead Counsel, the Honorable Analisa Torres noted our "extensive experience" in securities litigation.
>
> White Pine Invs. v. CVR Ref., LP, No. 1:20-CV-2863-AT (S.D.N.Y. Jan. 5, 2021)

- **Zhang V. Gaotu Techedu Inc., et al.,**

No. 1:22-cv-07966-PKC-CLP (E.D.N.Y. July 16, 2023)

- **Miguel Jaramillo v. Dish Network Corporation, et al.,**

No. 1:23-cv-00734-GPG-SKC (U.S.D.C. Colorado July 16, 2023)

- **Howard M. Rensin, Trustee Of The Rensin Joint Trust v. United States Cellular Corporation, et al.,**

No. 1:23-cv-02764-MMR (N.D. Ill. July 11, 2023)

- **Holland et al., v. Rite Aid Corporation, et al.,**

No. 23-cv-589 (N.D. Ohio June 22, 2023)

- **Rhonda Baylor v. Honda Motor Co., Ltd., et al.,**

No. 2:23-cv-00794-GW-AGR (C.D. Cal. May 8, 2023)

- **Sophia Olsson v. PLDT Inc. et al.,**

No. 2:23-cv-00885-CJC-MAA (C.D. Cal. April 26, 2023)

- **Sean Ryan v. FIGS, Inc. et al.,**

No. 2:22-cv-07939-ODW (C.D. Cal. February 14, 2023)

Practice Areas

Securities Class Action

- **Schoen v. Eiger Biopharmaceuticals, Inc., et al.,**

No. 3:22-cv-6985-RS (N.D. Cal. February 3, 2023)

- **Jamia Fernandes v. Centessa Pharmaceuticals plc, et al.,**

No. 1:22-cv-08805-GHW-SLC (S.D.N.Y. December 12, 2022)

- **Gilbert v. Azure Power Global Limited, et al.,**

No. 1:22-cv-07432-GHW (S.D.N.Y. December 8, 2022

- **Pugley v. Fulgent Genetics, Inc. et al.,**

No. 2:22-cv-06764-CAS-KLS (C.D. Cal. November 30, 2022)

- **Michalski v. Weber Inc., et al.,**

No. 1:22-cv-03966-EEB (N.D. Ill. November 29, 2022)

- **Edge v. Tupperware Brands Corporation, et al.,**

No. 6:22-cv-1518-RBD-LHP (M.D. Fla. September 16, 2022)

- **Carpenter v. Oscar Health, Inc., et al.,**

No. 1:22-cv-03885-VSB-VF (S.D.N.Y. September 27, 2022)

- **In re Nano-X Imagining Ltd. Securities Litigation,**

No. 1:20-cv-04355-WFK-MMH (E.D.N.Y. August 30, 2022)

> "I find the firm to be well-qualified to serve as Lead Counsel."
>
> The Honorable Andrew L. Carter, Jr. In Snyder v. Baozun Inc., No. 1:19-CV-11290 (S.D.N.Y. Sept. 8, 2020)

- **Patterson v. Cabaletto Bio, Inc., et al.,**

No. 2:22-cv-00737-JMY (E.D. Pa. August 10, 2022)

- **Rose v. Butterfly Network, Inc., et al.,**

No. 2:22-cv-00854-MEF-JBC (D.N.J. August 8, 2022)

- **Winter v. Stronghold Digital Mining, Inc., et al.,**

No. 1:22-cv-03088-RA (S.D.N.Y. August 4, 2022)

- **Poirer v. Bakkt Holdings, Inc.,**

No. 1:22-cv-02283-EK-PK (E.D.N.Y. August 3, 2022)

- **In re Meta Materials Inc. Securities Litigation,**

No. 1:21-cv-07203-CBA-JRC (E.D.N.Y. July 15, 2022)

- **Deputy v. Akebia Therapeutics, Inc. et al.,**

No. 1:22-cv-01411-AMD-VMS (E.D.N.Y. June 28, 2022)

- **In re Grab Holdings Limited Securities Litigation,**

No. 1:22-cv-02189-JLR (S.D.N.Y. June 7, 2022)

- **Jiang v. Bluecity Holdings Limited et al.,**

No. 1:21-cv-04044-FB-CLP (E.D.N.Y. December 22, 2021)

Securities Class Action

- **In re AppHarvest Securities Litigation,**

No. 1:21-cv-07985-LJL (S.D.N.Y. December 13, 2021)

- **In re Coinbase Global, Inc. Securities Litigation,**

No. 3:21-cv-05634-TLT (N.D. Cal. November 5, 2021)

- **Miller v. Rekor Systems, Inc. et al.,**

No. 1:21-cv-01604-GLR (D. Md. September 16, 2021)

- **Zaker v. Ebang International Holdings Inc. et al.,**

No. 1:21-cv-03060-KPF (S.D.N.Y. July 21, 2021)

- **Valdes v. Kandi Technologies Group, Inc. et al.,**

No. 2:20-cv-06042-LDH-AYS (E.D.N.Y. April 20, 2021)

- **John P. Norton, On Behalf Of The Norton Family Living Trust UAD 11/15/2002 V. Nutanix, Inc. Et Al,**

No. 3:21-cv-04080-WHO (N.D. Cal. September 8, 2021)

- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp., et al.,**

No. 1:20-cv-08062-JMF (D. Nev. Jan. 5, 2021)

- **In re QuantumScape Securities Class Action Litigation,**

No. 3:21-cv-00058-WHO (N.D. Cal. April 20, 2021)

- **In re Minerva Neurosciences, Inc. Sec. Litig.,**

No. 1:20-cv-12176-GAO (D. Mass. March 5, 2021)

> "Class Counsel have demonstrated that they are skilled in this area of the law and therefore adequate to represent the Settlement Class as well."
>
> The Honorable Barry Ted Moskowitz in In re Regulus Therapeutics Inc. Sec. Litig., No. 3:17-CV-182-BTM-RBB (S.D. Cal. Oct. 30, 2020)

- **White Pine Investments v. CVR Refining, LP, et al.,**

No. 1:20-cv-02863-AT (S.D.N.Y Jan. 5, 2021)

- **Yaroni v. Pintec Technology Holdings Limited, et al.,**

No. 1:20-cv-08062-JMF (S.D.N.Y. Dec. 15, 2020)

- **Nickerson v. American Electric Power Company, Inc., et al.,**

No. 2:20-cv-04243-SDM-EPD (S.D. Ohio Nov. 24, 2020)

- **Ellison v. Tufin Software Technologies Ltd., et al.,**

No. 1:20-cv-05646-GHW (S.D.N.Y. Oct. 19, 2020)

- **Hartel v. The GEO Group, Inc., et al.,**

No. 9:20-cv-81063-RS-SMM (S.D. Fla. Oct. 1, 2020)

- **Posey v. Brookdale Senior Living, Inc., et al.,**

No. 3:20-cv-00543-AAT (M.D. Tenn. Sept. 14, 2020)

Securities Class Action

- **Snyder v. Baozun Inc.,**

No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)

- **Mehdi v. Karyopharm Therapeutics Inc.,**

No. 1:19-cv-11972-NMG (D. Mass. Apr. 29, 2020)• **Brown v. Opera Ltd.,**

No. 1:20-cv-00674-JGK (S.D.N.Y. Apr. 17, 2020)

- **In re Dropbox Sec. Litig.,**

No. 5:19-cv-06348-BLF-SVK (N.D. Cal. Jan. 16, 2020)

- **In re Yunji Inc. Sec. Litig.,**

No. 1:19-cv-6403-LDH-RML (E.D.N.Y. Feb. 3, 2020)

- **Zhang v. Valaris plc,**

No. 1:19-cv-7816-NRB (S.D.N.Y. Dec. 23, 2019)

- **In re Sundial Growers Inc. Sec. Litig.,**

No. 1:19-cv-08913-ALC-SN (S.D.N.Y. Dec. 20, 2019)

- **Costanzo v. DXC Technology Co.,**

No. 5:19-cv-05794-BLF-VKD (N.D. Cal. Nov. 20, 2019)

- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated,**

No. 5:19-cv-1372-LHK-SVK (N.D. Cal. Oct. 7, 2019)

- **Roberts v. Bloom Energy Corp.,**

No. 4:19-cv-02935-HSG (N.D. Cal. Sept. 3, 2019)

> Vice Chancellor Sam Glasscock, III said "it's always a pleasure to have counsel who are articulate and exuberant..." and referred to our approach to merger litigation as "wholesome" and "a model of... plaintiffs' litigation in the merger arena."
>
> Ocieczanek v. Thomas Properties Group, C.A. No. 9029-VCG (Del. Ch. May 15, 2014)

- **Luo v. Sogou Inc.,**

No. 1:19-cv-00230-LJL (S.D.N.Y. Apr. 2, 2019)

- **In re Aphria Inc. Sec. Litig.,**

No. 1:18-cv-11376-GBD-JEW (S.D.N.Y. Mar. 27, 2019)

- **Chew v. MoneyGram International, Inc.,**

No. 1:18-cv-07537-MMP (N.D. Ill. Feb. 12, 2019)

- **Johnson v. Costco Wholesale Corp.,**

No. 2:18-cv-01611-TSZ (W.D. Wash. Jan. 30, 2019)

- **Tung v. Dycom Industries, Inc.,**

No. 9:18-cv-81448-RS-WM (S.D. Fla. Jan. 11, 2019)

- **Guyer v. MGT Capital Investments, Inc.,**

No. 1:18-cv-09228-ER (S.D.N.Y. Jan. 9, 2019)

Practice Areas

Securities Class Action

- **In re Adient plc Sec. Litig.,**

No. 1:18-cv-09116-RA (S.D.N.Y. Dec. 21, 2018)

- **In re Prothena Corp. plc Sec. Litig.,**

No. 1:18-cv-06425-ALC (S.D.N.Y. Oct. 31, 2018)

- **Pierrelouis v. Gogo Inc.,**

No. 1:18-cv-04473-JLA (N.D. Ill. Oct. 10, 2018)

- **Balestra v. Cloud With Me Ltd.,**

No. 2:18-cv-00804-MRH-LPL (W.D. Pa. Oct. 18, 2018)

- **Balestra v. Giga Watt, Inc.,**

No. 2:18-cv-00103-MKD (E.D. Wash. June 28, 2018)

- **Chandler v. Ulta Beauty, Inc.,**

No. 1:18-cv-01577-MMP (N.D. Ill. June 26, 2018)

- **In re Longfin Corp. Sec. Litig.,**

No. 1:18-cv-2933-DLC (S.D.N.Y. June 25, 2018)

- **Chahal v. Credit Suisse Group AG,**

No. 1:18-cv-02268-AT-SN (S.D.N.Y. June 21, 2018)

- **In re Bitconnect Sec. Litig.,**

No. 9:18-cv-80086-DMM-DLB (S.D. Fla. June 19, 2018)

- **In re Aqua Metals Sec. Litig.,**

No. 4:17-cv-07142-HSG (N.D. Cal. May 23, 2018)

- **Davy v. Paragon Coin, Inc.,**

No. 4:18-cv-00671-JSW (N.D. Cal. May 10, 2018)

- **Rensel v. Centra Tech, Inc.,**

No. 1:17-cv-24500-RNS-JB (S.D. Fla. Apr. 11, 2018)

- **Cullinan v. Cemtrex, Inc.**

No. 2:17-cv-01067-SJF-AYS (E.D.N.Y. Mar. 3, 2018)

- **In re Navient Corporation Sec. Litig.,**

No. 1:17-cv-08373-RBK-AMD (D.N.J. Feb. 2, 2018)

- **Huang v. Depomed, Inc.,**

No. 3:17-cv-04830-JST (N.D. Cal. Dec. 8, 2017)

- **In re Regulus Therapeutics Inc. Sec. Litig.,**

No. 3:17-cv-00182-BTM-RBB (S.D. Cal. Oct. 26, 2017)

- **Murphy III v. JBS S.A.,**

No. 1:17-cv-03084-ILG-RER (E.D.N.Y. Oct. 10, 2017)

- **Ohren v. Amyris, Inc.,**

No. 3:17-cv-002210-WHO (N.D. Cal. Aug. 8, 2017)

- **Beezley v. Fenix Parts, Inc.,**

No. 2:17-cv-00233-SRC-CLW (D.N.J. June 28, 2017)

- **M & M Hart Living Trust v. Global Eagle Entertainment, Inc.,**

No. 2:17-cv-01479-PA-MRW (C.D. Cal. June 26, 2017)

Securities Class Action

- **In re Insys Therapeutics, Inc.,**

No. 1:17-cv-1954-PAC (S.D.N.Y. May 31, 2017)

- **Clevlen v. Anthera Pharmaceuticals, Inc.,**

No. 3:17-cv-00715-RS (N.D. Cal. May 18, 2017)

- **In re Agile Therapeutics, Inc. Sec. Litig.,**

No. 3:17-cv-00119-AET-LHG (D.N.J. May 15, 2017)

- **Roper v. SITO Mobile Ltd.,**

No. 2:17-cv-01106-ES-MAH (D.N.J. May 8, 2017)

- **In re Illumina, Inc. Sec. Litig.,**

No. 3:16-cv-03044-JL-MSB (S.D. Cal. Mar. 30, 2017)

- **In re PTC Therapeutics, Inc.,**

No. 2:16-cv-01224-KM-MAH (D.N.J. Nov. 14, 2016)

- **The TransEnterix Investor Group v. TransEnterix, Inc.,**

No. 5:16-cv-00313-JCD (E.D.N.C. Aug. 30, 2016)

- **Gormley v. magicJack Vocaltec Ltd.,**

No. 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)

- **Azar v. Blount Int'l Inc.,**

No. 3:16-cv-00483-MHS (D. Or. July 1, 2016)

- **Plumley v. Sempra Energy,**

No. 3:16-cv-00512-RTB-AGS (S.D. Cal. June 6, 2016)

- **Francisco v. Abengoa, S.A.,**

No. 1:15-cv-06279-ER (S.D.N.Y. May 24, 2016)

- **De Vito v. Liquid Holdings Group, Inc.,**

No. 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)

- **Ford v. Natural Health Trends Corp.,**

No. 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)

- **Levin v. Resource Capital Corp.,**

No. 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)

- **Martin v. Altisource Residential Corp.,**

No. 1:15-cv-00024-AET-GWC (D.V.I. Oct. 7, 2015)

- **Paggos v. Resonant, Inc.,**

No. 2:15-cv-01970-SJO-MRW (C.D. Cal. Aug. 7, 2015)

- **Fragala v. 500.com Ltd.,**

No. 2:15-cv-01463-JFW-CFE (C.D. Cal. July 7, 2015)

- **Stevens v. Quiksilver Inc.,**

No. 8:15-cv-00516-JVS-JCG (C.D. Cal. June 26, 2015)

- **In re Ocean Power Technologies, Inc. Sec. Litig.,**

No. 3:14-cv-3799-FLW-LHG (D.N.J. Mar. 17, 2015)

- **In re Energy Recovery Inc. Sec. Litig.,**

No. 3:15-cv-00265-EMC-LB (N.D. Cal. Jan. 20, 2015)

Practice Areas

Securities Class Action

- **Ford v. TD Ameritrade Holding Corporation, et al.,**
No. 8:14-cv-00396-JFB-SMB (D. Neb. Dec. 2, 2014)
- **In re China Commercial Credit Sec. Litig.,**
No. 1:15-cv-00557-ALC (D.N.J. Oct. 31, 2014)
- **In re Violin Memory, Inc. Sec. Litig.,**
No. 4:13 cv-05486-YGR (N.D. Cal. Feb. 26, 2014)
- **Berry v. KiOR, Inc.,**
No. 4:13-cv-02443-LHR (S.D. Tex. Nov. 25, 2013)
- **In re OCZ Technology Group, Inc. Sec. Litig.,**
No. 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- **In re Digital Domain Media Group, Inc. Sec. Litig.,**
No. 2:12-cv-14333-JEM-FJL (S.D. Fla. Sept. 20, 2012)

Derivative, Corporate Governance & Executive Compensation

As a leader in achieving important corporate governance reforms for the benefit of shareholders, the Firm protects shareholders by enforcing the obligations of corporate fiduciaries. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct, and taking remedial action for the benefit of shareholders. In situations where a company's board responds to a demand by commencing its own investigation, we frequently work with the board's counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We have also successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through longlasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation and recapturing assets for the benefit of companies and their shareholders. We have secured corporate governance changes to ensure that executive compensation is consistent with shareholder-approved compensation plans, company performance, and federal securities laws.

In **Franchi v. Barabe**, No. 2020-0648-KSJM (Del. Ch.), the Firm secured $6.7 million in economic benefits for Selecta Biosciences, Inc. in connection with insiders' participation in a private placement while in possession of material non-public information as well as the adoption of significant governance reforms designed to prevent a recurrence of the alleged misconduct.

"The Firm was lead counsel in the derivative action styled **Police & Retirement System of the City of Detroit et al. v. Robert Greenberg et al.**, C.A No. 2019-0578-MTZ (Del. Ch.). The action resulted in a settlement where Skechers Inc. cancelled approximately $20 million in equity awards issued to Skechers' founder Robert Greenberg and two top officers in 2019 and 2020. Also, under the settlement. Skechers' board of directors must retain a consultant to advise on compensation decisions going forward."

Derivative, Corporate Governance & Executive Compensation

In **In re Google Inc. Class C Shareholder Litigation**, C.A. No. 7469-CS (Del. Ch.), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to existing shareholders harmed by the transaction as well as providing enhanced board scrutiny of the Google founders' ability to transfer stock. Ultimately, Google's shareholders received payments of $522 million.

In **In re Activision, Inc. Shareholder Derivative Litigation**, No. 06-cv-04771-MRP-JTL (C.D. Cal.), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than $24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

> **"...A Model For How [The] Great Legal Profession Should Conduct Itself."**
>
> Justice Timothy S. Driscoll in Grossman v. State Bancorp, Inc., Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

In **Pfeiffer v. Toll** (Toll Brothers Derivative Litigation), No. 4140-VCL (Del. Ch.), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning $16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In **Rux v. Meyer,** No. 11577-CB (Del. Ch.), we challenged the re-purchase by Sirius XM of its stock from its controlling stockholder, Liberty Media, at an inflated, above-market price. After defeating a motion to dismiss and discovery, we obtained a settlement where SiriusXM recovered $8.25 million, a substantial percentage of its over-payment.

"In **In re EZCorp Inc. Consulting Agreement Derivative Litig.**, C.A. No. 9962-VCL (Del. Ch.), we challenged lucrative consulting agreements between EZCorp and its controlling stockholders. After surviving multiple motions to dismiss. We obtained a settlement where EZCorp was repaid $6.45 million it had paid in consulting fees, or approximately 33% of the total at issue and the consulting agreements were discontinued."

Derivative, Corporate Governance & Executive Compensation

In **Scherer v. Lu** (Diodes Incorporated), No. 13-358-GMS (D. Del.), we secured the cancellation of $4.9 million worth of stock options granted to the company's CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fullyinformed vote on the adoption of a new compensation plan at the company's annual meeting.

In **MacCormack v. Groupon, Inc.,** No. 13-940-GMS (D. Del.), we caused the cancellation of $2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In **Edwards v. Benson** (Headwaters Incorporated), No. 13-cv-330 (D. Utah), we caused the cancellation of $3.2 million worth of stock appreciation rights granted to the company's CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In **Pfeiffer v. Begley** (DeVry, Inc.), No. 12-CH-5105 (Ill. Cir. Ct. DuPage Cty.), we secured the cancellation of $2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In **Basch v. Healy** (EnerNOC), No. 13-cv-766 (D. Del.), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In **Kleba v. Dees,** No. 3-1-13 (Tenn. Cir. Ct. Knox Cty.), we recovered approximately $9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.

Derivative, Corporate Governance & Executive Compensation

In **Lopez v. Nudelman** (CTI BioPharma Corp.), No. 14-2-18941-9 SEA (Wash. Super. Ct. King Cty.), we recovered approximately $3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a $2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a $2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)**, No. 10-cv-1063-PD (D. Del.), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

In **In re Cincinnati Bell, Inc., Derivative Litigation**, No. A1105305 (Ohio, Hamilton Cty. C.P.), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In **Woodford v. Mizel** (M.D.C. Holdings, Inc.), No. 1:11-cv-879 (D. Del.), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.

Mergers & Acquisitions

Levi & Korsinsky has achieved an impressive record in obtaining injunctive relief for shareholders, and we are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, consistently striving to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ (Del. Ch.), we served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders.

In **In re Bluegreen Corp. Shareholder Litigation**, No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of $36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

In **In re CNX Gas Corp. Shareholder Litigation**, No. 5377-VCL (Del. Ch.), as Plaintiffs' Executive Committee Counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over $42.7 million for the company's shareholders.

In **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading. Post-closing, we took the case to trial and recovered an additional $35 million for the shareholders.

Mergers & Acquisitions

In **In re Sauer-Danfoss Stockholder Litig.**, No. 8396 (Del. Ch.), as one of plaintiffs' co-lead counsel, we recovered a $10 million common fund settlement in connection with a controlling stockholder merger transaction.

In **In re Yongye International, Inc. Shareholders' Litigation**, No. A-12-670468-B (District Court, Clark County, Nevada), as one of plaintiffs' co-lead counsel, we recovered a $6 million common fund settlement in connection with a management-led buyout of minority stockholders in a China-based company incorporated under Nevada law.

In **In re Great Wolf Resorts, Inc. Shareholder Litigation**, No. 7328-VCN (Del. Ch.), we achieved tremendous results for shareholders, including partial responsibility for a $93 million (57%) increase in merger consideration and the waiver of several "don't-ask-don't-waive" standstill agreements that were restricting certain potential bidders from making a topping bid for the company.
In In re Talecris Biotherapeutics Holdings Shareholder Litigation, C.A. No. 5614-VCL (Del. Ch.), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company's stock and providing shareholders with appraisal rights.

In **In re Minerva Group LP v. Mod-Pac Corp.**, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty.), we obtained a settlement in which defendants increased the price of an insider buyout from $8.40 to $9.25 per share, representing a recovery of $2.4 million for shareholders.

In **Stephen J. Dannis v. J.D. Nichols**, No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty.), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from $7.50 to $9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of $7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS's controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action alleged that Nichols' proposed transaction grossly undervalued NTS's units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel's tenacious efforts the transaction was resurrected and improved.

Mergers & Acquisitions

In **Dias v. Purches**, No. 7199-VCG (Del. Ch.), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders' motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In **In re Complete Genomics, Inc. Shareholder Litigation**, No. 7888-VCL (Del. Ch.), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a "don't-ask-don't-waive" standstill agreement.

In **Forgo v. Health Grades, Inc.**, No. 5716-VCS (Del. Ch.), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required under Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc., No. 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a "Fort Howard" release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In **In re Pamrapo Bancorp Shareholder Litigation**, Docket C-89-09 (N.J. Ch. Hudson Cty.) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty.), we defeated defendants' motion to dismiss shareholders' class action claims for money damages arising from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. We then survived a motion for summary judgment, ultimately securing a settlement recovering $1.95 million for the Class plus the Class's legal fees and expenses up to $1 million (representing an increase in consideration of 15-23% for the members of the Class).

In **In re Integrated Silicon Solution, Inc. Stockholder Litigation**, No. 115CV279142 (Super. Ct. Santa Clara, Cal.), we won an injunction requiring corrective disclosures concerning "don't-ask-don't-waive" standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from $19.25 to $23 per share, a bump of almost 25 percent.

> **"I think you've done a superb job and I really appreciate the way this case was handled."**
>
> Justice Timothy S. Driscoll in Grossman v. State Bancorp, Inc., Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, unfair or deceptive business practices, antitrust violations, and privacy right violations.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enable us to fight for consumers who have been aggrieved by deceptive and unfair business practices and who purchased defective products, including automobiles, appliances, electronic goods, and other consumer products. The Firm also represents consumers in cases involving data breaches and privacy right violations. The Firm's attorneys have received a number of leadership appointments in consumer class action cases, including multidistrict litigation ("MDL"). Recently, Law.com identified the Firm as one of the top firms with MDL leadership appointments in the article titled, "There Are New Faces Leading MDLs. And They Aren't All Men" (July 6, 2020). Representative settled and ongoing cases include:

In **NV Security, Inc. v. Fluke Networks**, No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

In **Re: Apple Inc. Device Performance Litig.**, No. 5:18-md-02827-EJD (N.D. Cal.): Plaintiffs' Executive Committee Counsel in proposed nationwide class action alleging that Apple purposefully throttled iPhone; Apple has agreed to pay up to $310 million in cash (proposed settlement pending).

Consumer Litigation

In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig., No. 3:18-MD-02828 (D. Or.): Co-Lead Interim Class Counsel in proposed nationwide class action alleging that Intel manufactured and sold defective central processing units that allowed unauthorized access to consumer stored confidential information.

In re: ZF-TRW Airbag Control Units Products Liability Litig., No. 2:19-ML-02905-JAK-FFM (C.D. Cal.): Plaintiffs' Steering Committee Counsel in proposed nationwide class action alleging that defendant auto manufacturers sold vehicles with defective airbags.

In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig., No. 2:17-MD-02785 (D. Kan.): Plaintiffs' Executive Committee Counsel in action alleging that Mylan and Pfizer violated antitrust laws and committed other violations relating to the sale of EpiPens. Nationwide class and multistate classes certified.

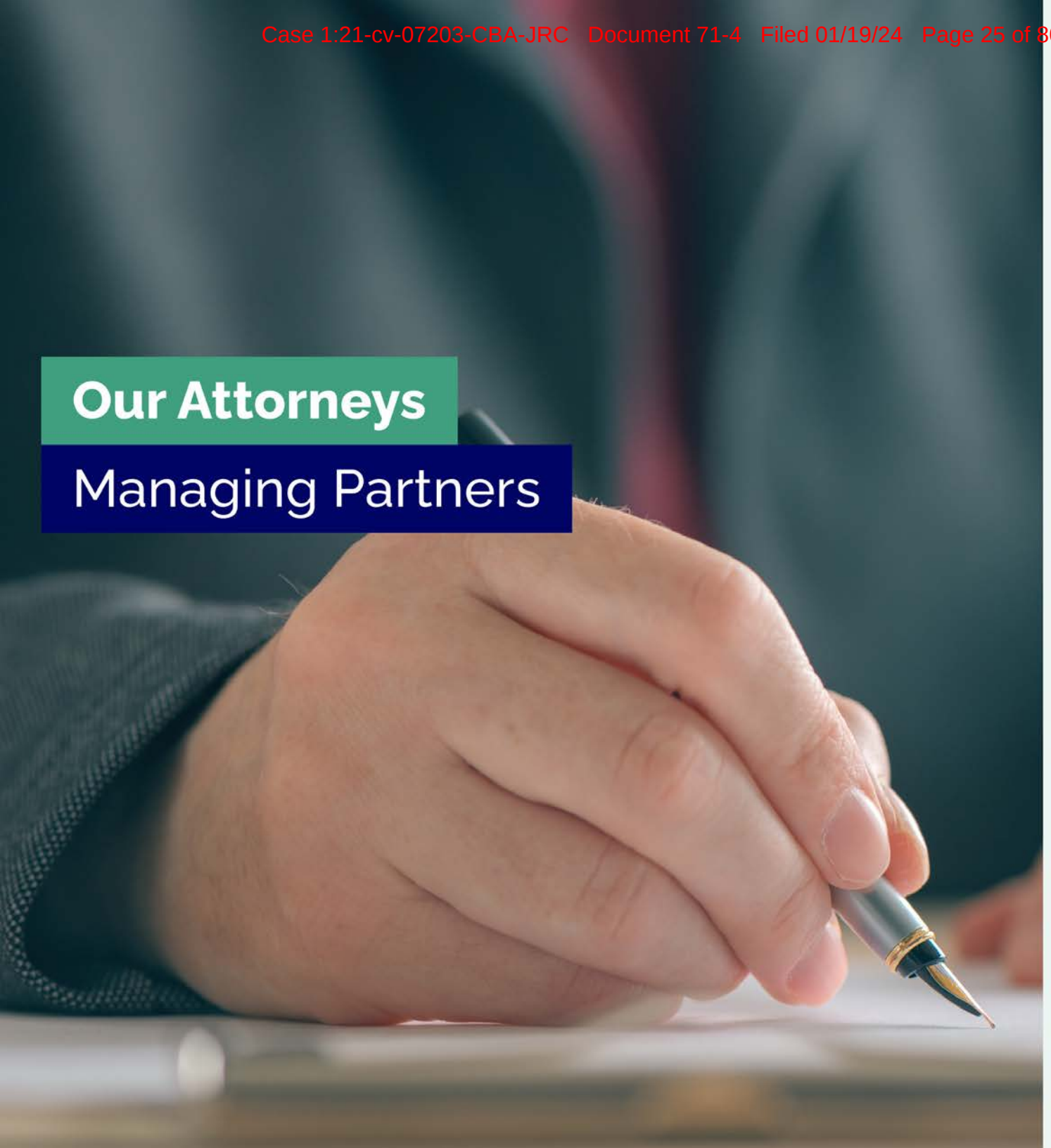
Sung, et al. v. Schurman Retail Group, No. 3:17-cv-02760-LB (N.D. Cal.): Co-Lead Class Counsel in nationwide class action alleging unauthorized disclosure of employee financial information; obtained final approval of nationwide class action settlement providing credit monitoring and identity theft restoration services through 2022 and cash payments of up to $400.

Scott, et al. v. JPMorgan Chase Bank, N.A., No. 1:17-cv-00249-APM (D.D.C.): Co-Lead Class Counsel in nationwide class action settlement of claims alleging improper fees deducted from payments awarded to jurors; 100% direct refund of improper fees collected.

In re: Citrix Data Breach Litig., No. 19-cv-61350-RKA-PMH (S.D. Fla.): Interim Class Counsel in action alleging company failed to implement reasonable security measures to protect employee financial information; common fund settlement of $2.25 million pending.

Bustos v. Vonage America, Inc., No. 2:06-cv-2308-HAA-ES (D.N.J.): Common fund settlement of $1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

Masterson v. Canon U.S.A., No. BC340740 (Cal. Super. Ct. L.A. Cty.): Settlement providing refunds to Canon SD camera purchasers for certain broken LCD repair charges and important changes to the product warranty.



Our Attorneys

Managing Partners

Levi & Korsinsky

- EDUARD KORSINSKY
- JOSEPH E. LEVI

EDUARD KORSINSKY
Managing Partner

Eduard Korsinsky is the Managing Partner and Co-Founder of Levi & Korsinsky, LLP, a national securities firm that has recovered billions of dollars for investors since its formation in 2003. For more than 24 years Mr. Korsinsky has represented investors and institutional shareholders in complex securities matters. He has achieved significant recoveries for stockholders, including a $79 million recovery for investors of E-Trade Financial Corporation and a payment ladder indemnifying investors of Google, Inc. up to $8 billion in losses on a ground-breaking corporate governance case. His firm serves as lead counsel in some of the largest securities matters involving Tesla, US Steel, Kraft Heinz and others. He has been named a New York "Super Lawyer" by Thomson Reuters and is recognized as one of the country's leading practitioners in class action and derivative matters.

Mr. Korsinsky is also a co- founder of CORE Monitoring Systems LLC, a technology platform designed to assist institutional clients more effectively monitor their investment portfolios and maximize recoveries on securities litigation.

Cases he has litigated include:

- **E-Trade Financial Corp. Sec. Litig.,** No. 07-cv-8538 (S.D.N.Y. 2007), $79 million recovery
- **In re Activision, Inc. S'holder Derivative Litig.,** No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered $24 million in excess compensation
- **Corinthian Colleges, Inc., S'holder Derivative Litig.,** No. SACV-06-0777-AHS (C.D. Cal. 2009), obtained repricing of executive stock options providing more than $2 million in benefits to the company
- **Pfeiffer v. Toll,** No. 4140-VCL (Del. Ch. 2010), $16.25 million in insider trading profits recovered
- **In re Net2Phone, Inc. S'holder Litig.,** No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from $1.70 per share to $2.05 per share
- **In re Pamrapo Bancorp S'holder Litig.,** No. C-89-09 (N.J. Ch. Hudson Cty. 2011) & No. HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, secured key rulings on issues of first impression in New Jersey and defeated motion for summary judgment

EDUARD KORSINSKY
Managing Partner

Cases he has litigated include:

- **In re Google Inc. Class C S'holder Litig.,** No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to $8 billion in losses stemming from trading discounts expected to affect the new stock
- **Woodford v. M.D.C. Holdings,** Inc., No. 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation
- **Pfeiffer v. Alpert (Beazer Homes),** No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
- **In re NCS Healthcare, Inc. Sec. Litig.,** No. CA 19786, (Del. Ch. 2002), case settled for approximately $100 million
- **Paraschos v. YBM Magnex Int'l, Inc.,** No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for $85 million Canadian

PUBLICATIONS

- "Board Diversity: The Time for Change is Now, Will Shareholders Step Up?," *National Council on Teacher Retirement. FYI Newsletter* May 2021
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *The Texas Association of Public Employee Retirement Systems (TEXPERS) Investment Insights* April-May Edition (2021)
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *Michigan Association of Public Employee Retirement Systems* (MAPERS) Newsletter (2021)
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *Florida Public Pension Trustees Association* (FPPTA) (2021)
- "NY Securities Rulings Don't Constitute Cyan Backlash", *Law360* (March 8, 2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Building Trades News Newsletter* (2020-2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *The Texas Association of Public Employee Retirement Systems (TEXPERS) Monitor* (2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Michigan Association of Public Employee Retirement Systems (MAPERS) Newsletter* (2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Florida Public Pension Trustees Association (FPPTA)* (2021)
- Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

EDUARD KORSINSKY
Managing Partner

EDUCATION

- New York University School of Law, LL.M. Master of Law(s) Taxation (1997)
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S., Accounting, *summa cum laude* (1992)

AWARDS

500 LEADING PLAINTIFF FINANCIAL LAWYERS LAWDRAGON 2019

500 LEADING PLAINTIFF FINANCIAL LAWYERS LAWDRAGON 2021

RATED BY Super Lawyers Eduard Korsinsky 10 YEARS

RATED BY Super Lawyers Eduard Korsinsky SuperLawyers.com

TOP ATTORNEYS

RATED BY Super Lawyers Eduard Korsinsky SELECTED IN 2023 THOMSON REUTERS

ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)
- United States Court of Appeals for the Sixth Circuit (2013)

JOSEPH E. LEVI
Managing Partner

Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the Firm achieved success on behalf of the former shareholders of Occam Networks in litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy solicitation. **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.). Vigorous litigation efforts continued to trial, resulting in a $35 million recovery for shareholders.

Mr. Levi and the Firm served as lead counsel in **Weigard v. Hicks,** No. 5732-VCS (Del. Ch.), which challenged the acquisition of Health Grades by affiliates of Vestar Capital Partners. Mr. Levi successfully demonstrated to the Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize shareholder value. This ruling was used to reach a favorable settlement where defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applaud[ed]" the litigation team for their preparation and the extraordinary high-quality of the briefing.

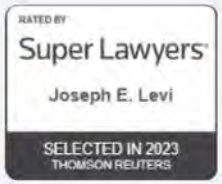
> **"[The court] appreciated very much the quality of the argument..., the obvious preparation that went into it, and the ability of counsel..."**
>
> Vice Chancellor Sam Glasscock, III In Dias V. Purches, No. 7199-VCG (Del. Ch. Apr. 5, 2012)

JOSEPH E. LEVI
Managing Partner

EDUCATION

- Brooklyn Law School, J.D., *magna cum laude* (1995)
- Polytechnic University, B.S., Electrical Engineering, *summa cum laude* (1984); M.S. Systems Engineering (1986)

AWARDS



ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)

Our Attorneys

Partners

Levi & Korsinsky

- ADAM M. APTON
- DONALD J. ENRIGHT
- SHANNON L. HOPKINS
- GREGORY M. NESPOLE
- GREGORY M. POTREPKA
- NICHOLAS I. PORRITT
- MARK S. REICH
- DANIEL TEPPER
- ELIZABETH K. TRIPODI

ADAM M. APTON
Partner

Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters has selected Mr. Apton to the Super Lawyers "Rising Stars" list every year since 2016, a distinction given to only the top 2.5% of lawyers. He has also been awarded membership to the prestigious Lawyers of Distinction for his excellence in the practice of law and named to the "Lawdragon 500 X" list out of thousands of candidates in recognition of his place at the forefront of the legal profession.

Mr. Apton's past representations and successes include:

- **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (trial counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)
- **In re Navient Corp. Securities Litigation**, No. 17-8373 (RBK/AMD) (D.N.J.) (lead counsel in class action against leading provider of student loans for alleged false and misleading statements about compliance with consumer protection laws)
- **In re Prothena Corporation Plc Securities Litigation**, No. 1:18-cv-06425-ALC (S.D.N.Y.) ($15.75 million settlement fund against international drug company for false statements about development of lead biopharmaceutical product)
- **Martin v. Altisource Residential Corporation**, et al., No. 15-00024 (AET) (GWC) (D.V.I.) ($15. 5 million settlement fund against residential mortgage company for false statements about compliance with consumer regulations and corporate governance protocols)
- **Levin v. Resource Capital Corp., et al.**, No. 1:15-cv-07081-LLS (S.D.N.Y.) ($9.5 million settlement in class action over fraudulent statements about toxic mezzanine loan assets)

ADAM M. APTON
Partner

• **Rux v. Meyer (Sirius XM Holdings Inc.)**, No. 11577 (Del. Ch.) (recovery of $8.25 million against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.)

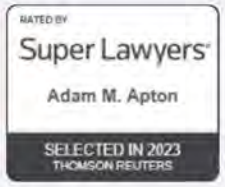
PUBLICATIONS

• "Pleading Section 11 Liability for Secondary Offerings" *American Bar Association: Practice Points* (Jan. 4, 2017)
• "Second Circuit Rules in Indiana Public Retirement System v. SAIC, Inc." *American Bar Association: Practice Points* (Apr. 4, 2016)
• "Second Circuit Applies Omnicare to Statements of Opinion in Sanofi" *American Bar Association: Practice Points* (Mar. 30, 2016)
• "Second Circuit Rules in Action AG v. China North" American Bar Association: Practice Points (Sept. 14, 2015)

EDUCATION

• New York Law School, J.D., *cum laude* (2009), where he served as Articles Editor of the New York Law School Law Review and interned for the New York State Supreme Court, Commercial Division
• University of Minnesota, B.A., Entrepreneurial Management & Psychology, With Distinction (2006)

AWARDS



ADMISSIONS

• New York (2010)
• United States District Court for the Southern District of New York (2010)
• United States District Court for the Eastern District of New York (2010)
• United States Court of Appeals for the Ninth Circuit (2015)
• United States Court of Appeals for the Second Circuit (2016)
• United States Court of Appeals for the Third Circuit (2016)
• California (2017)
• United States District Court for the Northern District of California (2017)
• United States District Court for the Central District of California (2017)
• United States District Court for the Southern District of California (2017)
• New Jersey (2020)
• United States District Court for the District of New Jersey (2020)

DONALD J. ENRIGHT
Partner

During his 26 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder M&A and securities fraud class action litigation. He has been named as one of the leading financial litigators in the nation by Lawdragon, as a Washington, DC "Super Lawyer" by Thomson Reuters, and as one of the city's "Top Lawyers" by Washingtonian magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- **Nathenson v. Zonagen**, Inc., No. 267 F. 3d 400, 413 (5th Cir. 2001)
- **SEC v. Butler**, No. 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- **Belizan v. Hershon**, No. 434 F. 3d 579 (D.C. Cir. 2006)
- **Rensel v. Centra Tech, Inc.**, No. 2021 WL 2659784 (11th Cir. June 29, 2021)

Most recently, in **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ, Mr. Enright served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders.

Similarly, as Co-Lead Counsel in **In re Bluegreen Corp. Shareholder Litigation**, No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a $36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders.

DONALD J. ENRIGHT
Partner

Also, in **In re CNX Gas Corp. Shareholders Litigation**, No. 53377-VCL (Del. Ch. 2010), in which Levi & Korsinsky served upon plaintiffs' Executive Committee, Mr. Enright helped obtain the recovery of a common fund of over $42.7 million for stockholders.

Mr. Enright has also played a leadership role in numerous securities and shareholder class actions from inception to conclusion. Most recently, he has served as lead counsel in several cryptocurrency-related securities class actions. His leadership has produced multi-million-dollar recoveries in shareholder class actions involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.
- Manugistics Group, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won preliminary injunctions or other injunctive relief in the cases of:

- **In re Portec Rail Products, Inc. S'holder Litig.**, No. G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig.**, No. 6950-VCL (Del. Ch. 2011)
- **Dias v. Purches**, No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig.**, No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

DONALD J. ENRIGHT
Partner

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of **In re Great Wolf Resorts, Inc. Shareholder Litigation**, No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a $93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements that were precluding certain potential bidders from making a topping bid for the company.

Similarly, Mr. Enright served as Co-Lead Counsel in the case of **Berger v. Life Sciences Research, Inc.**, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from $7.50 to $8.50 per share, representing additional consideration for shareholders of approximately $11.5 million.

Mr. Enright also served as Co-Lead Counsel in **Minerva Group, LP v. Keane**, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.) and obtained a settlement in which Defendants increased the price of an insider buyout from $8.40 to $9.25 per share.

The courts have consistently recognized and praised the quality of Mr. Enright's work. In **In re Interbank Funding Corp. Securities Litigation** (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case."

Similarly, in **Freeland v. Iridium World Communications**, LTD, (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright had done "an outstanding job" in connection with the recovery of $43.1 million for the shareholder class.

And, in the matter of **Osieczanek v. Thomas Properties Group**, No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Chancery Court of Delaware observed that "it's always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position," and that Mr. Enright's prosecution of a merger case was "wholesome" and served as "a model of . . . plaintiffs' litigation in the merger arena."

DONALD J. ENRIGHT
Partner

PUBLICATIONS

- "SEC Enforcement Actions and Investigations in Private and Public Offerings," Securities: Public and Private Offerings, Second Edition, West Publishing 2007
- "Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?" J. Tax'n & Reg. Fin. Inst. September/October 2007, Page 5

EDUCATION

- George Washington University School of Law, J.D. (1996), where he was a Member Editor of The George Washington University Journal of International Law and Economics from 1994 to 1996
- Drew University, B.A., Political Science and Economics, *cum laude* (1993)

ADMISSIONS

- Maryland (1996)
- New Jersey (1996)
- United States District Court for the District of Maryland (1997)
- United States District Court for the District of New Jersey (1997)
- District of Columbia (1999)
- United States Court of Appeals for the Fourth Circuit (1999)
- United States Court of Appeals for the Fifth Circuit (1999)
- United States District Court for the District of Columbia (1999)
- United States Court of Appeals for the District of Columbia (2004)
- United States Court of Appeals for the Second Circuit (2005)
- United States Court of Appeals for the Third Circuit (2006)
- United States District Court for the District of Colorado (2017)

AWARDS

SHANNON L. HOPKINS
Partner

Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than two decades Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multimillion-dollar settlements on behalf of shareholders, including:

- **E-Trade Financial Corp. S'holder Litig.**, No. 07-cv-8538 (S.D.N.Y. 2007), $79 million recovery for the shareholder class
- **In re U.S. Steel Consolidated Cases**, No. 17-559-CB (W.D. Pa.), $40 million recovery for shareholder class
- **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (the "Stock Case"), $71 million for shareholder class
- **Rougier v. Applied Optoelectronics, Inc.,** No. 17-cv-2399 (S.D. Tex.), $15.5 million recovery for shareholder class
- **In Re Helios and Matheson Analytics, Inc. Sec. Litig.,** No. 18-cv-6965-JGK (S.D.N.Y.), $8.25 Million shareholder recovery
- **In re Restoration Robotics, Inc. Sec. Litig.,** No. 18-cv-03712-EJD (N.D. Cal.), $4.175 million shareholder recovery
- **In Stein v. U.S. Xpress Enterprises, Inc.,** et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.), $4.3 million shareholder recovery
- **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018, $7.025 million recovery for shareholder class

SHANNON L. HOPKINS
Partner

> "Plaintiffs' selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions across the country."
>
> The Honorable Christina Bryan In Rougier V. Applied Optoelectronics, Inc., No. 4:17-CV-02399 (S.D. Tex. Nov. 13, 2019)

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

> In appointing the Firm Lead Counsel, the Honorable Gary Allen Feess noted our "significant prior experience in securities litigation and complex class actions."
>
> Zaghian V. THQ, Inc., No. 2:12-Cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)

SHANNON L. HOPKINS
Partner

PUBLICATIONS

• "Cybercrime Convention: A Positive Beginning to a Long Road Ahead," 2 J. High Tech. L. 101 (2003)

EDUCATION

• Suffolk University Law School, J.D., *magna cum laude* (2003), where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
• Bryant University, B.S.B.A., Accounting and Finance, *cum laude* (1995), where she was elected to the Beta Gamma Sigma Honor Society

AWARDS

ADMISSIONS

• Massachusetts (2003)
• United States District Court for the District of Massachusetts (2004)
• New York (2004)
• United States District Court for the Southern District of New York (2004)
• United States District Court for the Eastern District of New York (2004)
• United States District Court for the District of Colorado (2004)
• United States Court of Appeals for the First Circuit (2008)
• United States Court of Appeals for the Third Circuit (2010)
• Connecticut (2013)
• United States Court of Appeals for the Ninth Circuit (2023)

GREGORY M. NESPOLE
Partner

Gregory Mark Nespole is a Partner of the Firm, having been previously a member of the management committee of one of the oldest firms in New York, as well as chair of that firm's investor protection practice. He specializes in complex class actions, derivative actions, and transactional litigation representing institutional investors such as public and labor pension funds, labor health and welfare benefit funds, and private institutions. Prior to practicing law, Mr. Nespole was a strategist on an arbitrage desk and an associate in a major international investment bank where he worked on structuring private placements and conducting transactional due diligence.

For over twenty years, Mr. Nespole has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million-dollar settlements on behalf of shareholders, including:

- Served as co-chair of a Madoff Related Litigation Task Force that recovered over several hundred million dollars for wronged investors;
- Obtained a $90 million award on behalf of a publicly listed company against a global bank arising out of fraudulently marketed auction rated securities;
- Successfully obtained multi-million-dollar securities litigation recoveries and/or corporate governance reforms from Cablevision, JP Morgan, American Pharmaceutical Partners, Sepracor, and MBIA, among many others.

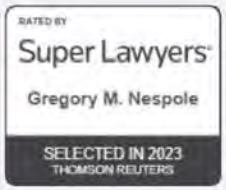
Mr. Nespole is a member of The Federalist Society, the Federal Bar Council, and the FBC's Securities Litigation Committee. Mr. Nespole's peers have elected him a "Super Lawyer" in the class action field annually since 2009. He is active in his community as a youth sports coach.

GREGORY M. NESPOLE
Partner

EDUCATION

- Brooklyn Law School, J.D. (1993)
- Bates College, B.A. (1989)

AWARDS



ADMISSIONS

- New York (1994)
- United States District Court for the Southern District of New York (1994)
- United States District Court for the Eastern District of New York (1994)
- United States Court of Appeals for the Second Circuit (1994)
- United States Court of Appeals for the Fourth Circuit (1994)
- United States Court of Appeals for the Fifth Circuit (1994)
- United States District Court for the Northern District of New York (2018)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2020)

GREGORY M. POTREPKA
Partner

Gregory M. Potrepka is a partner of the Firm in its Connecticut office. Mr. Potrepka's practice specializes in vindicating investor rights, including the interests of shareholders of publicly traded companies. Specifically, Mr. Potrepka has considerable experience prosecuting complex class actions, securities fraud matters, and similar commercial litigation. Mr. Potrepka's role in the Firm's securities litigation practice has significantly contributed to many of the Firm's successes, including the following representative matters:

- **In re Nutanix, Inc. Sec. Litig.,** No. 3:19-01651-WHO (N.D. Cal.); Norton v. Nutanix, Inc., 3:21-cv-04080-WHO (N.D. Cal.) ($71 million recovery)
- **In re U.S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.) ($40 million recovery)
- **Rougier v. Applied Optoelectronics, Inc.,** No. 4:17-cv-2399 (S.D. Tex.) ($15.5 million recovery)
- **In re Helios and Matheson Analytics, Inc. Securities Litigation**, No. 1:18-cv-06965 (S.D.N.Y.) ($8.25 million recovery)
- **In re Aqua Metals Securities Litigation**, No. 17-cv-07142-HSG (N.D. Cal.) ($7 million recovery)

ADMISSIONS

- Connecticut (2015)
- Mashantucket Pequot Tribal Court (2015)
- United States District Court for the District of Connecticut (2016)
- United States District Court for the Southern District of New York (2018)
- United States District Court for the Eastern District of New York (2018)
- United States Court of Appeals for the Third Circuit (2020)
- New York (2023)
- United States District of Colorado (2023)

EDUCATION

- University of Connecticut School of Law, J.D. (2015)
- University of Connecticut Department of Public Policy, M.P.A. (2015)
- University of Connecticut, B.A., Political Science (2010)

AWARD

NICHOLAS I. PORRITT
Partner

Nicholas Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in **In re Google Inc. Class C Shareholder Litigation**, No. 7469-CS (Del. Ch.), which resulted in a payment of $522 million to shareholders and overall benefit of over $3 billion to Google's minority shareholders. He was one of the lead counsel in **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.) that settled during trial resulting in a $35 million payment to the former shareholders of Occam Networks, Inc., one of the largest quasi-appraisal recoveries for shareholders. Amongst other cases, he is currently lead counsel in In re Tesla, Inc. Securities Litigation, No. 3:18-cv-04865-EMC (N.D. Cal.), representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018 as well as lead counsel in Ford v. TD Ameritrade Holding Corp., No. 14-cv-396 (D. Neb.), representing TD Ameritrade customers harmed by its improper routing of their orders. Both cases involve over $1 billion in estimated damages.

Some of Mr. Porritt's recent cases include:

- **In re Tesla, Inc. Sec. Litig.,** No. 2020 WL 1873441 (N.D. Cal.2020)
- **In Re Aphria, Inc. Securities Litigation,** No. 2020 WL 5819548 (S.D.N.Y. 2020)
- **Voulgaris, v. Array Biopharma Inc.,** No. 17CV02789KLMCONSOLID, 2020 WL 8367829 (D. Colo.2020)
- **In Re Aphria, Inc. Securities Litigation,** No. 18 CIV. 11376 (GBD), 2020 WL 5819548 (S.D.N.Y. 2020)
- **In re Clovis Oncology, Inc. Deriv. Litig.,** No. 2019 WL 4850188 (Del. Ch. 2019)
- **Martin v. Altisource Residential Corp.,** No. 2019 WL 2762923 (D.V.I. 2019)
- **In re Navient Corp. Sec. Litig.,** No. 2019 WL 7288881 (D.N.J.2019)
- **In re Bridgestone Inv. Corp.,** No. 789 Fed. App'x 13 (9th Cir. 2019)
- **Klein v. TD Ameritrade Holding Corp.,** No. 327 F.R.D. 283 (D. Neb. 2018)

NICHOLAS I. PORRITT
Partner

Some of Mr. Porritt's recent cases include:

- **Beezley v. Fenix Parts, Inc.,** No. 2018 WL 3454490 (N.D. Ill. 2018)
- **In re PTC Therapeutics Sec. Litig.,** No. 2017 WL 3705801 (D.N.J. 2017)
- **Zaghian v. Farrell,** No. 675 Fed. Appx. 718, (9th Cir. 2017)
- **SEC v. Cuban,** No. 620 F.3d 551 (5th Cir. 2010)
- **Cozzarelli v. Inspire Pharmaceuticals, Inc.,** No. 549 F.3d 618 (4th Cir. 2008)
- **Teachers' Retirement System of Louisiana v. Hunter,** No. 477 F.3d 162 (4th Cir. 2007)
- **In re PTC Therapeutics Sec. Litig.,** No. 2017 WL 3705801 (D.N.J. Aug. 28, 2017)
- **Gormley magicJack VocalTec Ltd.,** No. 220 F. Supp. 3d 510 (S.D.N.Y. 2016)
- **Carlton v. Cannon,** No. 184 F. Supp. 3d 428 (S.D. Tex. 2016)
- **Zola v. TD Ameritrade, Inc.,** No. 172 F. Supp. 3d 1055 (D. Neb. 2016)
- **In re Energy Recovery Sec. Litig.,** No. 2016 WL 324150 (N.D. Cal. Jan. 27, 2016)
- **In re EZCorp Inc. Consulting Agreement Deriv. Litig.,** No. 2016 WL 301245 (Del. Ch. Jan. 25, 2016)
- **In re Violin Memory Sec. Litig.,** No. 2014 WL 5525946 (N.D. Cal. Oct. 31, 2014)
- **Garnitschnig v. Horovitz,** No. 48 F. Supp. 3d 820 (D. Md. 2014)

PUBLICATIONS

• "Current Trends in Securities Litigation: How Companies and Counsel Should Respond," *Inside the Minds. Recent Developments in Securities Law* (Aspatore Press 2010)

EDUCATION

• University of Chicago Law School, J.D., With Honors (1996)
• University of Chicago Law School, LL.M. (1993)
• Victoria University of Wellington, LL.B. (Hons.), With First Class Honors, Senior Scholarship (1990)

AWARDS

RATED BY Super Lawyers Nicholas Porritt SuperLawyers.com

500 LEADING PLAINTIFF FINANCIAL LAWYERS LAWDRAGON 2019

500 LEADING PLAINTIFF FINANCIAL LAWYERS LAWDRAGON 2021

ADMISSIONS

• New York (1997)
• District of Columbia (1998)
• United States District Court for the District of Columbia (1999) • United States District Court for the Southern District of New York (2004)
• United States Court of Appeals for the Fourth Circuit (2004)
• United States Court of Appeals for the District of Columbia Circuit (2006)
• United States Supreme Court (2006)
• United States District Court for the District of Maryland (2007) • United States District Court for the Eastern District of New York (2012)
• United States Court of Appeals for the Second Circuit (2014)
• United States Court of Appeals for the Ninth Circuit (2015)
• United States District Court for the District of Colorado (2015) • United States Court of Appeals for the Tenth Circuit (2016)
• United States Court of Appeals for the Eleventh Circuit (2017) • United States Court of Appeals for the Eighth Circuit (2019)
• United States Court of Appeals for the Third Circuit (2019)

MARK S. REICH
Partner

Mark Samuel Reich is a Partner of the Firm. Mark's practice focuses on consumer class actions, including cases involving privacy and data breach issues, deceptive and unfair trade practices, advertising injury, product defect, and antitrust violations. Mark, who has experience and success outside the consumer arena, also supports the Firm's securities and derivative practices.

Mark is attentive to clients' interests and fosters their activism on behalf of class members. Clients he has worked with consistently and enthusiastically endorse Mark's work:

> **"Mark attentively guided me through each stage of the litigation, prepared me for my deposition, and ensured that I and other wronged consumers were compensated and that purchasers in the future could not be duped by the appliance manufacturer's misleading marketing tactics."**
>
> Katherine Danielkiewicz, Michigan

> **"After my experience working with Mark and his colleague, any hesitancy I may have had in the past about leading or participating in a class action has gone away. Mark expertly countered every roadblock that the corporate defendant tried using to dismiss our case and we ultimately reached a resolution that exceeded my expectations"**
>
> Barry Garfinkle, Pennsylvania

MARK S. REICH
Partner

Before joining Levi & Korsinsky, Mark practiced at the largest class action firm in the country for more than 15 years, including 8 years as a Partner. Prior to becoming a consumer and shareholder advocate, Mark practiced commercial litigation with an international law firm based in New York, where he defended litigations on behalf of a variety of corporate clients.

Mark has represented investors in securities litigation, devoted to protecting the rights of institutional and individual investors who were harmed by corporate misconduct. His case work involved **State Street Yield Plus Fund Litig.** ($6.25 million recovery); **In re Doral Fin. Corp. Sec. Litig., SDNY** ($129 million recovery); **Lockheed Martin Corp. Sec. Litig.** ($19.5 million recovery); **Tile Shop Holdings, Inc.** ($9.5 million settlement); **Curran v. Freshpet Inc.** ($10.1 million settlement); **In re Jakks Pacific, Inc.** ($3,925,000 settlement); **Fidelity Ultra Short Bond Fund Litig.** ($7.5 million recovery); and **Cha v. Kinross Gold Corp.** ($33 million settlement).

> **"Never having been involved in a class action, I was uninformed and apprehensive. Mark and his colleagues not only explained the complexities, but maintained extensive ongoing, communications, involved us fully in all phases of the process; provided appropriate professional counsel and guidance to each participant, and achieved results that satisfied the original goals of the litigation"**
>
> Fred Sharp, New York

> **It was a pleasure being represented by Mark. Above all he was patient throughout the tedious process of litigation. He is a good listener and a good communicator, which enhanced my participation and understanding of the process. He also provided excellent follow up throughout, making the process feel more like a team effort."**
>
> Louise Miljenovic, New Jersey

MARK S. REICH
Partner

At his prior firm, Mark achieved notable success challenging unfair mergers and acquisitions in courts throughout the country. Among the M&A litigation that Mark handled or participated in, his notable cases include: **In re Aramark Corp. S'holders Litig.,** where he attained a $222 million increase in consideration paid to shareholders of Aramark and a substantial reduction to management's voting power – from 37% to 3.5% – in connection with the approval of the going-private transaction; **In re Delphi Fin. Grp. S'holders Litig.,** resulting in a $49 million post-merger settlement for Class A Delphi shareholders; **In re TD Banknorth S'holders Litig.,** where Mark played a significant role in raising the inadequacy of the $3 million initial settlement, which the court rejected as wholly inadequate, and later resulted in a vastly increased $50 million recovery. Mark has also been part of ERISA litigation teams that led to meaningful results, including **In re Gen. Elec. Co. ERISA Litig.,** which resulting in structural changes to company's 401(k) plan valued at over $100 million, benefiting current and future plan participants.

> **"We contacted Mark about our concerns about our oven's failure to perform as advertised. He worked with us to formulate a strategy that ultimately led to a settlement that achieved our and others' goals and specific needs."**
>
> Candace Oliarny, Idaho

> **"My wife and I never having been involved with a law firm or Class Action had no idea what to expect. Within the first few phone meetings with Mark, we became assured as Mark explained in detail how the process worked, Mark is a great communicator. Mr. Reich is a true professional, his integrity through the years he worked with us was impeccable. Working with Mark was a truly positive experience, and have no reservations if we ever had to call on his services again."**
>
> Louise Miljenovic, New Jersey

MARK S. REICH
Partner

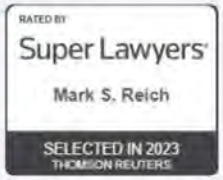
Before joining the Firm, Mark graduated with a Bachelor of Arts degree from Queens College in New York. He earned his Juris Doctor degree from Brooklyn Law School, where he served on the Moot Court Honor Society and The Journal of Law and Policy.

Mark regularly practices in federal and state courts throughout the country and is a member of the bar in New York. He has been recognized for his legal work by being named a New York Metro Super Lawyer by Super Lawyers Magazine every year since 2013. Mark is active in his local community and has been distinguished for his neighborhood support with a Certificate of Recognition by the Town of Hempstead.

EDUCATION

- Brooklyn Law School, J.D. (2000)
- Queens College, B.A., Psychology and Journalism (1997)

AWARDS



ADMISSIONS

- New York (2001)
- United States District Court for the Southern District of New York (2001)
- United States District Court for the Eastern District of New York (2001)
- United States District Court for the Northern District of New York (2005)
- United States District Court for the Eastern District of Michigan (2017)

DANIEL TEPPER
Partner

Daniel Tepper is a Partner of the Firm with extensive experience in shareholder derivative suits, class actions and complex commercial litigation. Before he joined Levi & Korsinsky, Mr. Tepper was a partner in one of the oldest law firms in New York. He is an active member of the CPLR Committee of the New York State Bar Association and was an early member of its Electronic Discovery Committee. Mr. Tepper has been selected as a New York "Super Lawyer" in 2016 – 2023.

Some of the notable matters where Mr. Tepper had a leading role include:

- **Siegmund v. Bian**, No. 16-62506 (S.D. Fla.), achieving an estimated recovery of $29.93 per share on behalf of a class of public shareholders of Linkwell Corp. who were forced to sell their stock at $0.88 per share.
- **In re Platinum-Beechwood Litigation**, No. 18-06658 (S.D.N.Y.), achieved dismissal on behalf of an individual investor in Platinum Partners-affiliated investment fund.
- **Lakatamia Shipping Co. Ltd. v. Nobu Su**, Index No. 654860/2016 (Sup. Ct., N.Y. Co. 2016), achieved dismissal on suit attempting to domesticate a $40 million UK judgment in New York State.
- **Zelouf Int'l Corp. v. Zelouf**, No. 45 Misc.3d 1205(A) (Sup.Ct. N.Y. Co., 2014), representing the plaintiff in an appraisal proceeding triggered by freeze-out merger of closely-held corporation. Achieved a $10 million verdict after eleven day trial, with the Court rejecting a discount for lack of marketability.
- **Sacher v. Beacon Assocs. Mgmt. Corp.**, No. 114 A.D.3d 655 (2d Dep't 2014), affirming denial of defendants' motion to dismiss shareholder derivative suit by Madoff feeder fund against fund's auditor for accounting malpractice.
- **In re Belzberg**, No. 95 A.D.3d 713 (1st Dep't 2012), compelling a non-signatory to arbitrate brokerage agreement dispute arising under doctrine of direct benefits estoppel.
- **Estate of DeLeo**, No. 353758/A (Surrog. Ct., Nassau Co. 2011), achieving a full plaintiff's verdict after a seven day trial which restored a multi-million dollar family business to its rightful owner.

DANIEL TEPPER
Partner

• **CMIA Partners Equity Ltd. v. O'Neill**, No. 2010 NY Slip Op 52068(U) (Sup. Ct. N.Y. Co., 2010). Representing the independent directors of a Cayman Islands investment fund, won a dismissal on the pleadings in the first New York State case examining shareholder derivative suits under Cayman Islands law.
• **Hecht v. Andover Assocs. Mgmt. Corp.**, No. 27 Misc 3d 1202(A) (Sup. Ct. Nassau Co., 2010), aff'd, 114 A.D.3d 638 (2d Dep't 2014). Participated in a $213 million global settlement in the first Madoff related lawsuit in the country to defeat a motion to dismiss.

EDUCATION

• New York University School of Law, J.D. (2000)
• The University of Texas at Austin, B.A. with Honors (1997), National Merit Scholar

AWARDS

ADMISSIONS

• Massachusetts (2001)
• New York (2002)
• United States District Court for the Eastern District of New York (2004)
• United States District Court for the Southern District of New York (2010)
• United States District Court for the Western District of New York (2019)

ELIZABETH K. TRIPODI
Partner

Elizabeth K. Tripodi focuses her practice on shareholder protection, representing investors in securities fraud litigation, corporate derivative litigation, and litigation involving mergers, acquisitions, tender offers, and change-in-control transactions. Ms. Tripodi has been named as a Washington, D.C. "Super Lawyer" in the securities field and was selected as a "Rising Star" by Thomson Reuters for several consecutive years.

Ms. Tripodi's current representations include:

• **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (lead counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)

Ms. Tripodi has played a lead role in obtaining monetary recoveries for shareholders in M&A litigation:

• **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ, achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than $22 million -- a gross increase from $31.50 to $67.45 in total consideration per share (a 114% increase) for tendering stockholders

• **In re Bluegreen Corp. S'holder Litig.**, No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a $36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders

• **In re Cybex International S'holder Litig**, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of $1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger

• **In re Great Wolf Resorts, Inc. S'holder Litig**, No. 7328-VCN (Del. Ch. 2012), where there was a $93 million (57%) increase in merger consideration

ELIZABETH K. TRIPODI
Partner

• **Minerva Group, LP v. Keane**, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from $8.40 to $9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

• **In re Portec Rail Products, Inc. S'holder Litig**, No. G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
• **In re Craftmade International, Inc. S'holder Litig**, No. 6950-VCL (Del. Ch. 2011) • Dias v. Purches, et al., No. 7199-VCG (Del. Ch. 2012)
• **In re Complete Genomics, Inc. S'holder Litig**, No. 7888-VCL (Del. Ch. 2012)
• **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: **Rudolph v. UTStarcom** (stock option backdating litigation obtaining a $9.5 million settlement); **Grecian v. Meade Instruments** (stock option backdating litigation obtaining a $3.5 million settlement).

ELIZABETH K. TRIPODI
Partner

EDUCATION

- American University Washington College of Law, *cum laude* (2006), where she served as Co-Editor in Chief of the Business Law Journal (f/k/a Business Law Brief), was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
- Davidson College, B.A., Art History (2000)

AWARDS

ADMISSIONS

- Virginia (2006)
- United States District Court for the Eastern District of Virginia (2006)
- District of Columbia (2008)
- United States District Court for the District of Columbia (2010)
- United States Court of Appeals for the Seventh Circuit (2018)

Our Attorneys

Of Counsel

Levi & Korsinsky

- ANDREW E. LENCYK
- COURTNEY E. MACCARONE
- BRIAN STEWART

ANDREW E. LENCYK
Of Counsel

Andrew E. Lencyk is Counsel to the Firm. Prior to joining the Firm, Mr. Lencyk was a partner in an established boutique firm in New York specializing in securities litigation. He was graduated magna cum laude from Fordham College, New York, with a B.A. in Economics and History, where he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law, where he was a member of the Fordham Urban Law Journal. He was named to the 2013, 2014, 2015, 2016, 2017, 2018 and 2019 Super Lawyers®, New York Metro Edition.

Mr. Lencyk has co-authored the following articles for the Practicing Law Institute's Accountants' Liability Handbooks:

- *Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein*
- *An Accountant's Duty to Disclose Internal Control Weaknesses*
- *Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts*
- *Pleading Motions under the Private Securities Litigation Reform Act of 1995*
- *Discovery Issues in Cases Involving Auditors (co-authored and appeared in the 2002 PLI Handbook on Accountants' Liability After Enron.)*

In addition, he co-authored the following article for the Association of the Bar of the City of New York, Corporate & Securities Law Updates:

- Safe Harbor Provisions for Forward-Looking Statements (co-authored and published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000)

ANDREW E. LENCYK
Of Counsel

Cases in which Mr. Lencyk actively represented plaintiffs include:

- **Kirkland et al. v. WideOpenWest, Inc.,** No. 653248/2018 (Sup. Ct, NY County) (substantially denying defendants' motion to dismiss Section 11 and 12(a)(2) claims)
- **In re Community Psychiatric Centers Securities Litigation**, No. SA CV-91-533-AHS (Eex) (C.D. Cal.) and McGann v. Ernst & Young, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of $54.5 million against company and its outside auditors)
- **In re Danskin Securities Litigation**, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.);
- **In re JWP Securities Litigation**, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.) (class recovery of approximately $36 million)
- **In re Porta Systems Securities Litigation**, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.);
- **In re Leslie Fay Cos. Securities Litigation**, No. 92 Civ. 8036 (S.D.N.Y.)($35 million recovery)
- **Berke v. Presstek, Inc.,** No. 96-347-M (MDL Docket No. 1140) (D.N.H.) ($22 million recovery)
- **In re Micro Focus Securities Litigation**, No. C-01-01352-SBA-WDB (N.D. Cal.)
- **Dusek v. Mattel, Inc., et al.,** No. CV99-10864 MRP (C.D. Cal.) ($122 million global settlement)
- **In re Sonus Networks, Inc. Securities Litigation-II**, No. 06-CV-10040 (MLW) (D. Mass.)
- **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y.) ($24.2 million recovery)
- **In re Mutual Funds Investment Litigation**, MDL No. 1586 (D. Md.)
- **In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner**, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.)
- **In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter**, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.)
- **In re AIG ERISA Litigation II**, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) ($40 million recovery); and
- **Flynn v. Sientra, Inc.,** No. CV-15-07548 SJO (RAOx) (C.D. Cal.) ($10.9 million recovery) (co-lead counsel)

Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include:

- **Pub. Empls' Ret. Sys. of Miss. v. TreeHouse Foods**, No. 2018 U.S. Dist. LEXIS 22717 (N.D. Ill. Feb. 12, 2018) (denying defendants' motion to dismiss in its entirety)

ANDREW E. LENCYK
Of Counsel

• **Flynn v. Sientra, Inc.,** No. 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016) (denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), motion for reconsideration denied, slip op. (C.D. Cal. Aug 12, 2016)
• **In re Principal U.S. Property Account ERISA Litigation**, No. 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss)
• **In re AIG ERISA Litigation II**, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011) (denying in substantial part defendants' motions to dismiss), renewed motion to dismiss denied, slip op. (S.D.N.Y. June 26, 2014)
• **In re Mutual Funds Investment Litigation**, No. 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md. June 27, 2008) (same)
• **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety)
• **Dusek v. Mattel, Inc., et al.,** No. CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety) • In re Micro Focus Sec. Litig., Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint);
• **Zuckerman v. FoxMeyer Health Corp.,** No. 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995)
• **In re U.S. Liquids Securities Litigation**, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims)
• **Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc., et al.,** No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety)
• **Berke v. Presstek, Inc.,** No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss)
• **Chalverus v. Pegasystems, Inc.,** No. 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss);

ANDREW E. LENCYK
Of Counsel

• **Danis v. USN Communications, Inc.,** No. 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to dismiss)

EDUCATION

• Fordham University School of Law, J.D. (1992)
• Fordham College, B.A. *magna cum laude*, 1988)

AWARDS

ADMISSIONS

• Connecticut (1992)
• New York (1993)
• United States District Court for the Southern District of New York (2004)
• United States District Court for the Eastern District of New York (2004)
• United States Court of Appeals for the Second Circuit (2015)

COURTNEY E. MACCRONE
Of Counsel

Courtney E. Maccarone focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, Ms. Maccarone was an associate at a boutique firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. Maccarone served as the Executive Symposium Editor of the Brooklyn Journal of International Law and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the Brooklyn Journal of International Law.

Ms. Maccarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm. Ms. Maccarone has been recognized as a Super Lawyer "Rising Star" for the New York Metro area every year since 2014.

EDUCATION

- Brooklyn Law School, J.D., *magna cum laude* (2011)
- New York University, B.A., *magna cum laude* (2008)

AWARDS

RATED BY SuperLawyers
Rising Stars
Courtney E. Maccarone
SuperLawyers.com

RATED BY
Super Lawyers
Courtney E. Maccarone
SELECTED IN 2023
THOMSON REUTERS

ADMISSIONS

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

BRIAN STEWART
Of Counsel

Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

EDUCATION

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S., Economics and Mathematics (2008)

ADMISSIONS

- Maryland (2012)
- District of Columbia (2014)
- United States District Court for the District of Maryland (2017)
- United States District Court for the District of Colorado (2017)

Our Attorneys

Senior Associates

Levi & Korsinsky

- ADAM C. MCCALL
- MORGAN EMBLETON
- DAVID C. JAYNES
- JORDAN A. CAFRITZ

ADAM C. MCCALL
Senior Associate

Mr. McCall is an Associate with the Firm. Prior to joining Levi & Korsinsky, Mr. McCall was an extern at the Securities and Exchange Commission's Division of Corporate Finance.

EDUCATION

- Georgetown University Law Center, LL.M., Securities and Financial Regulation (2015)
- California Western School of Law, J.D., *cum laude* (2013)
- Santa Clara University, Certificate of Advanced Accounting Proficiency (2010)
- University of Southern California, B.A. Economics (2008)

ADMISSIONS

- California (2014)
- United States District Court for the Central District of California (2015)
- United States District Court for the Eastern District of California (2015)
- United States District Court for the Northern District of California (2015)
- United States District Court for the Southern District of California (2015)
- United States Court of Appeals for the Ninth Circuit (2016)
- District of Columbia (2017)

MORGAN EMBLETON
Senior Associate

Morgan M. Embleton is an associate in the Firm's Connecticut office. Since 2018, Ms. Embleton has focused her practice on federal securities class actions and protecting the interests of shareholders of publicly traded companies.

Prior to that, Ms. Embleton litigated matters arising under the False Claims Act, Jones Act, Longshore Harbor Workers' Compensation Act, Louisiana Whistleblower Act, and Louisiana Environmental Whistleblower Act, as well as pharmaceutical mass torts and products liability claims. Ms. Embleton has extensive experience prosecuting securities fraud matters, complex class actions, and multidistrict litigations.

Ms. Embleton received her J.D. and Environmental Law Certificate from Tulane University Law School in 2014. During her time in law school, Ms. Embleton was a student attorney in the Tulane Environmental Law Clinic, a member of the Journal of Technology and Intellectual Property, and the Assistant Director of Research and Development for the Durationator.

EDUCATION

- Tulane University Law School, J.D. and Environmental Law Certificate (2014)
- University of Colorado at Boulder, B.A., *cum laude*, Sociology (2010)

ADMISSIONS

- Louisiana (2014)
- United States District Court for the Eastern District of Louisiana (2015)
- United States District Court for the Middle District of Louisiana (2016)
- United States District Court for the Western District of Louisiana (2016)
- United States Court of Federal Claims (2016)
- United States Court of Appeals for the Fifth Circuit (2016)
- United States Court of Appeals for the Ninth Circuit (2017)
- United States District Court for the Eastern District of Michigan (2020)

DAVID C. JAYNES
Senior Associate

David C. Jaynes focuses his practice on investor protection and securities fraud litigation. In addition to his law degree, Mr. Jaynes has graduate degrees in business administration and finance. Prior to joining the firm, David worked in the Enforcement Division of the U.S. Securities and Exchange Commission in the Salt Lake Regional Office as part of the Student Honors Program. Mr. Jaynes began his career as a prosecutor and has significant trial experience.

While at Levi & Korsinsky, Mr. Jaynes has actively represented plaintiffs in the following securities class actions:

- **In re U. S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.)
- **Stein v. U.S. Xpress Enterprises, Inc.,** et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.)
- **John P. Norton, On Behalf Of The Norton Family Living Trust** UAD 11/15/2002 v. Nutanix, Inc. et al, No. 3:21-cv-04080 (N.D. Cal.)

Mr. Jaynes has also had a role in litigating the following securities actions:

- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated**, No.5:19-cv-1372-LHK (N.D. Cal.)
- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp.,** et al., No. 1:20-cv-08062-JMF (D. Nev.)
- **Dan Kohl v. Loma Negra Compania Industrial Argentina Sociedad Anonima**, et al., Index No. 653114/2018 (Sup. Ct., County of New York)

EDUCATION

- University of Utah, M.S., Finance (2020)
- University of Utah, M.B.A (2020)
- The George Washington University Law School, J.D. (2015)
- Brigham Young University, B.A., Middle East Studies and Arabic (2009)

ADMISSIONS

- Maryland (2015)
- Utah (2016)
- United States District Court for the District of Utah (2016)
- California (2021)
- United States District Court for the Northern District of California (2022)
- United States District Court for the Central District of California (2023)
- District of Colorado (2023)

JORDAN A. CAFRITZ
Senior Associate

Jordan Cafritz is an Associate with the Firm's Washington, D.C. office. While attending law school at American University he was an active member of the American University Business Law Review and worked as a Rule 16 attorney in the Criminal Justice Defense Clinic. After graduating from law school, Mr. Cafritz clerked for the Honorable Paul W. Grimm in the U.S. District Court for the District of Maryland.

EDUCATION

- American University Washington College of Law, J.D. (2014)
- University of Wisconsin-Madison, B.A., Economics & History (2010)

ADMISSIONS

- Maryland (2014)
- District of Columbia (2018)

Our Attorneys

Associates

Levi & Korsinsky

- RACHEL BERGER
- NOAH GEMMA
- DEVYN R. GLASS
- GARY ISHIMOTO
- ALEXANDER KROT
- NICHOLAS R. LANGE
- AMANDA FOLEY
- MELISSA MULLER
- CINAR ONEY
- CORREY A. SUK
- COLE VON RICHTHOEFEN
- MAX WEISS
- AARON PARNAS

RACHEL BERGER
Associate

Rachel Berger is an Associate with the Firm's Connecticut office. Her practice focuses on prosecuting securities fraud class actions on behalf of aggrieved investors.

Prior to joining Levi & Korsinsky, Ms. Berger practiced securities litigation with another top New York class action firm, where she represented classes of aggrieved shareholders and cryptocurrency purchasers against prominent defendants, including multiple Fortune 500 companies.

While in law school, Ms. Berger interned with a leading ESG institute, focusing on the intersection of ESG and securities law. She was also a member of the Fordham Urban Law Journal, the Fordham Mediation and Tax Clinics, and the Immigration Advocacy Project. Ms. Berger received the Paul R. Brenner Scholarship Award, as well as the Archibald R. Murray Public Service Award, cum laude, in recognition of her significant pro bono work.

Ms. Berger practices remotely from her home in St. Louis, Missouri.

EDUCATION

- Fordham University School of Law, J.D. (2019)
- Stern College for Women, Yeshiva University, B.A. Economics (2015)

ADMISSIONS

- New York (2020)
- United States District Court for the Southern District of New York (2020)
- District of Colorado (2023)

NOAH GEMMA
Associate

Noah Gemma worked previously as a summer associate at a boutique commercial litigation firm. There, Mr. Gemma drafted briefs and other legal memoranda on behalf of national and closely held corporations in complex federal and state court litigation. In particular, Mr. Gemma helped the firm: (i) win multiple motions to dismiss on behalf of a national bank and a national bonding company in federal court cases involving alleged fraud and other alleged improprieties; (ii) settle an avoidable preference action on behalf of a national hauling company in a federal bankruptcy proceeding for a small fraction of the alleged damages; (iii) settle a negligence action on behalf of a court appointed fiduciary against officers of a defunct company and its insurance carrier on advantageous terms; and (iv) secure a favorable decision on behalf of a national bonding company before the state supreme court.

Mr. Gemma also served as a judicial intern for the Honorable Judge Bruce M. Selya in the United States Court of Appeals for the First Circuit and for the Honorable Judge Virginia M. Hernandez Covington in the United States District Court for the Middle District of Florida. Using his experience representing the interests of national and closely held corporations to analyze and assess potential cases of corporate impropriety, Mr. Gemma currently prosecutes corporate and director malfeasance through the preparation and filing of shareholder mergers and acquisitions actions and corporate governance litigation.

EDUCATION

- Georgetown University Law Center, J.D., Editor for *The Georgetown Law Journal* (2021)
- Providence College, B.A. (2018)

ADMISSIONS

- Rhode Island (2021)
- District of Columbia (2022)

DEVYN R. GLASS
Associate

Devyn R. Glass currently focuses her practice on representing investors in federal securities fraud litigation.

Prior to joining the firm, Ms. Glass gained substantial experience at a national boutique firm specializing in complex litigation across a variety of practice areas representing both plaintiffs and defendants. Since 2017, Ms. Glass has focused her practice on consumer and shareholder protection, litigating numerous class action lawsuits across the country that involved data privacy and data breach, deceptive and unfair trade practices, and securities fraud.

At her prior firms, Ms. Glass played a pivotal role in obtaining monetary recoveries and/or injunctive relief on behalf of shareholders and consumers. Notable cases include: Lowry v. RTI Surgical Holdings, Inc. et al., (D. Ill.) (obtaining $10.5 million on behalf of a shareholder class alleging violations of the federal securities laws); In re Google Plus Profile Litigation, (N.D. Cal.) (obtaining $7.5 million on behalf of a consumer class exposed to a years-long data breach); and Barrett v. Pioneer Natural Resources USA, Inc., (D. Colo.) (obtaining $500,000 on behalf of more than 8,000 current and former 401(k) plan participants alleging violations of the Employee Retirement Income Security Act).

EDUCATION

- Loyola University College of Law, New Orleans, J.D., *cum laude* (2016), where she received a Certificate of Concentration in Law, Technology and Entrepreneurship, served as a member of the *Loyola Journal of Public Interest Law*, and interned for the Louisiana Second Circuit Court of Appeals
- Louisiana Tech University, B.A., *cum laude* (2013), Political Science, minor in English

ADMISSIONS

- New York (2017)
- District of Columbia (2017)
- United States District Court District of Columbia (2018)
- United States District Court District of Colorado (2018)
- United States Court of Appeals for the Ninth Circuit (2022)

GARY ISHIMOTO
Associate

Gary Ishimoto is an Associate working remotely with Levi and Korsinsky's Consumer Litigation Team. During law school, he worked at the Small Business Law Clinic helping to draft incorporation papers, non-compete clauses, IP assignments, board consent, and stock purchase agreements for start-up businesses. He also interned for the Rossi Law Group.

EDUCATION

- Pepperdine School of Law, J.D. (2020)
- California State University, Northridge, B.S. (2013)

ADMISSIONS

- Massachusetts (2021)
- New Hampshire (2022)

ALEXANDER KROT
Associate

EDUCATION

- American University, Kogod School of Business, M.B.A. (2012)
- Georgetown University Law Center, LL.M., Securities and Financial Regulation, With Distinction (2011)
- American University Washington College of Law, J.D. (2010)
- The George Washington University, B.B.A., concentrations in Finance and International Business (2003)

ADMISSIONS

- Maryland (2011)
- District of Columbia (2014)
- United States District Court for the District of Colorado (2015)
- United States Court of Appeals for the Tenth Circuit (2016)
- United States District Court for the Eastern District of Wisconsin (2017)
- United States Court of Appeals for the Third Circuit (2018)
- United States Court of Appeals for the Ninth Circuit (2020)

NICHOLAS R. LANGE
Associate

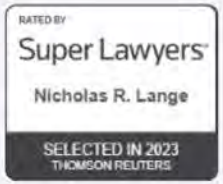
Based in Chicago, Illinois, Nicholas R. Lange is a remote member of the Firm's Connecticut office, where he focuses his practice in investor fraud and federal securities litigation. Prior to joining the Firm, Nicholas specialized in complex class action litigation and multi-district proceedings, including participation in some of the country's largest actions, with a focus in technology and consumer privacy.

As recognition for his class action work, Nicholas R. Lange received the Super Lawyers Rising Star award for 2023 (Class Action/Mass Torts).

EDUCATION

- DePaul University College of Law, J.D. (2014)
- University of Illinois and Urbana/Champaign, B.A. (2011)

AWARDS



ADMISSIONS

- Illinois (2014)
- United States District Court for the Northern District of Illinois (2016)
- United States District Court for the Southern District of Illinois (2020)
- United States District Court for the District of Colorado (2020)

AMANDA FOLEY
Associate

Amanda Foley is an Associate in Levi & Korsinsky's Stamford office where she focuses her practice on federal securities litigation.
Prior to joining Levi & Korsinsky, Amanda gained substantial experience at a boutique Boston firm where she was trained in securities and business litigation.

Amanda received her Juris Doctorate degree from Suffolk University Law School with an International Law concentration with Distinction and was selected to join the International Legal Honor Society of Phi Delta Phi. While in law school, Amanda focused her legal education on securities law & regulation, international investment law & arbitration, and business law.

EDUCATION

- Suffolk University Law School, J.D. (2021)
- Colorado State University, B.S. (2011)

ADMISSIONS

- Massachusetts (2021)
- United States District Court for the District of Massachusetts (2022)

MELISSA MULLER
Associate

Melissa Muller is an Associate with the Firm's New York Office focusing on federal securities litigation. Ms. Muller previously worked as a paralegal for the New York office while attending law school.

EDUCATION

- New York Law School, J.D., Dean's Scholar Award, member of the Dean's Leadership Council (2018)
- John Jay College of Criminal Justice, B.A. (2013), *magna cum laude*

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2020)

CINAR ONEY
Associate

Cinar Oney is an Associate in Levi & Korsinsky's New York office. His practice focuses on investigation and analysis of various forms of corporate misconduct, including excessive compensation, insider trading, unfair self-dealing, and corporate waste. He develops litigation strategies through which shareholders can pursue recoveries.

Prior to joining Levi & Korsinsky, Mr. Oney practiced with top firms in Turkey, where he represented shareholders, corporations, and governmental entities in commercial disputes and transactional matters.

PUBLICATIONS

- *FinTech Industrial Banks and Beyond: How Banking Innovations Affect the Federal Safety Net*, 23 FORDHAM J. CORP. & FIN. L. 541 (2018)

EDUCATION

- Fordham University School of Law, J.D. (2019)
- International University College of Turin, LL.M. (2014)
- Istanbul University Faculty of Law, Undergraduate Degree in Law (2011)

ADMISSIONS

- New York (2020)

CORREY A. SUK
Associate

Correy A. Suk is an experienced litigator with a focus on shareholder derivative suits, class actions, and complex commercial litigation. Correy began her career with the Investor Protection Bureau of the Office of the New York State Attorney General and spent four years prosecuting shareholder derivative actions and securities fraud litigation at one of the oldest firms in the country. Prior to joining Levi & Korsinsky, Correy represented both individuals and corporations in complex business disputes at a New York litigation boutique. Correy's unflappable disposition and composure reflect a pragmatic approach to both litigation and negotiation. She thrives under pressure and serves as an aggressive advocate for her clients in the most high-stakes situations. Correy has been recognized as a Super Lawyers Rising Star every year since 2017.

PUBLICATIONS

- "Unsafe Sexting: The Dangerous New Trend and the Need for Comprehensive Legal Reform," 9 Ohio St. J. Crim. L. 405 (2011)

EDUCATION

- The Ohio State University Moritz College of Law, J.D. (2011)
- Georgetown University, B.S.B.A. (2008)

AWARDS

RATED BY SuperLawyers
Rising Stars
Correy A. Suk
SuperLawyers.com

RATED BY
Super Lawyers
Correy A. Suk
SELECTED IN 2023
THOMSON REUTERS

ADMISSIONS

- New Jersey (2011)
- New York (2012)
- United States District Court for the Southern District of New York (2015)
- United States District Court for the Eastern District of New York (2015)
- United States District Court for the District of New Jersey (2016)

COLE VON RICHTHOFEN
Associate

Cole von Richthofen is an Associate in Levi & Korsinsky's Connecticut office. As a law student, he interned with the honorable Judge Thomas Farrish in the District of Connecticut's Hartford courthouse with an emphasis on settlements. He has also interned with the Office of the Attorney General for the State of Connecticut in the Employment Rights Division. While attending law school, Cole served as an Executive Editor of the Connecticut Public Interest Law Journal and as a member of the Connecticut Moot Court Board.

EDUCATION

- University of Connecticut School of Law, J.D. (2022)
- University of Connecticut, B.S., Business & Marketing (2015)

ADMISSIONS

- Connecticut (2022)

MAX WEISS
Associate

Max Weiss focuses his practice on investor protection and securities fraud litigation. He is proficient in litigation, legal research, motion practice, case evaluation and settlement negotiation. Prior to joining the firm, Max practiced in the general liability area and has extensive experience litigating high-exposure personal injury claims in New York State and federal trial and appellate courts. While in law school, Max gained experience helping pro se debtors prepare and file Chapter 7 and Chapter 13 petitions with the New York Legal Assistance Group **(NYLAG)** Bankruptcy Project and served as an intern to the Honorable Sean Lane of the Southern District of New York Bankruptcy Court.

EDUCATION

- St. John's School of Law, J.D. (2018), where he served as the Senior Executive Editor of the Journal of Civil Rights & Economic Development
- Colgate University, B.A., Political Science (2011)

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2019)
- United States District Court for the Eastern District of New York (2019)

AARON PARNAS
Associate

Aaron Parnas is an Associate in the firm's Washington, D.C. office. Prior to joining Levi & Korsinsky, Aaron served as a law clerk for the Honorable Sheri Polster Chappell in the United States District Court for the Middle District of Florida.

While in law school, Aaron was a student attorney for the Criminal Appeals and Post-Conviction Series Clinic along with the Vaccine Injury Litigation Clinic, where he litigated matters in front of the Maryland Court of Special Appeals and the Court of Federal Claims, respectively. As a result of his successes, Aaron was named the top advocate in his graduating class and received the Graduation Award for Excellence in Pre-Trial and Trial Advocacy.

EDUCATION

- The George Washington University Law School, with Honors (2020), where he served as the Managing Editor, Vol. 52 of The George Washington International Law Review
- Florida Atlantic University, B.A., Political Science and Criminal Justice, with Honors (2017)

ADMISSIONS

- Florida (2020)
- United States District Court for the Southern District of Florida (2021)
- District of Columbia (pending)*

*Pending admission to the D.C. bar, practicing under the supervision of a D.C. licensed attorney

Adam M. Apton, Esq.
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New York, NY 10004
Tel.: (212) 363-7500
Fax: (212) 363-7171

Attorneys for Lead Plaintiffs and Lead Counsel for the Class

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION

Case No. 1:21-cv-07203-CBA-JRC

DECLARATION OF PAUL MULHOLLAND OF STRATEGIC CLAIMS SERVICES REGARDING NOTICE AND ADMINISTRATION

I, Paul Mulholland, declare as follows:

1. I am the President of Strategic Claims Services ("SCS"), a nationally recognized class action administration firm. I have over thirty years of experience specializing in the administration of class action cases. SCS was established in April 1999 and has administered over six hundred (600) class action cases since its inception. At the request of Lead Counsel, I am submitting this declaration to provide the Court and the parties to the above-captioned action ("Action") with information about the procedures and methods that will be used to provide notice and claims administration services related to the proposed Settlement in this Action. I make this declaration based on personal knowledge, and if called to testify, I could and would do so competently.

2. After a competitive bidding process, SCS has been retained by Lead Counsel, subject to Court approval, to provide notice and claims administration services for the settlement of this Action.

Specifically, SCS has been retained to: (i) mail and a summary notice formatted as a postcard ("Postcard Notice") and/or email a link to the location of the Long Notice and Proof of Claim to potential Settlement Class Members and nominees; (ii) cause the publication of a summary notice once over an electronic newswire service; and (iii) provide related notice and claims administration and distribution services for the settlement of the Action.

3. SCS has successfully implemented notification and claims administration programs in hundreds of securities class actions. Members of our team have administered many of the most noteworthy securities class action settlements in recent years, including In re Christine Asia Co. Ltd. et al. v. Jack Yun Ma (Alibaba) et al. Securities Litigation, No. 1:15-md-02631-CM (SDA), (S.D.N.Y.); In re Silver Wheaton Corp. Securities Litigation, No. 2:15-cv-05146-CAS-PJWx, (C.D. of Cal.); and In re Omega Healthcare Investors, Inc. Securities Litigation., No. 1:17-cv-08983-NRB. (S.D.N.Y.). More information on SCS qualifications and experience can be found on our website at www.strategicclaims.net. Attached hereto as Exhibit A is a SCS brochure; a summary of SCS experience and qualifications; my curriculum vitae; and a list of representative cases administered by SCS over the past three years.

4. The proposed notice plan in this matter uses customary procedures designed to provide direct mail notification to all investors that are members of the Settlement Class and can be identified with reasonable effort. As in most securities class actions, the vast majority of potential Settlement Class Members are beneficial purchasers whose securities are held in "street name"—that is, the securities are purchased by brokerage firms, banks, institutions, and other third-party nominees in each instance in the name of the nominee, on behalf of the beneficial purchaser. Accordingly, SCS maintains a proprietary database with the names and mailing addresses and, in some instances, email addresses, of approximately 2,200 banks, brokers, and other nominees (the "Nominee List"). The Nominee List, which SCS updates on a monthly basis, also includes institutions that regularly file third-party claims on behalf of their investor clients in securities class actions, as well as all entities that have requested notification in every

case involving publicly traded securities. To further reach nominees and potential Settlement Class Members, SCS will submit the notice to the Depository Trust Company ("DTC") to post on the DTC Legal Notice System ("LENS"). LENS enables DTC member banks and brokers to review the notice and contact the Claims Administrator directly to obtain copies for their clients who may be Settlement Class Members.

5. Direct mail notification will be accomplished in this Action by mailing the Postcard Notice via United States Postal Service ("USPS") First-Class Mail to both the entities on SCS's Nominee List as well as to the individuals and entities listed on any transfer records provided or caused to be provided by Defendants ("Transfer Records"). SCS will also send notice via email to approximately 1,000 entities on SCS Nominee List that have standing requests to receive electronic notifications, as well as to any email addresses provided in the Transfer Records.

6. The Postcard Notice will instruct nominees to facilitate notice by either providing the names and addresses and email addresses of their clients who may be Settlement Class Members to SCS so that Postcard Notices can be sent by SCS to these potential Settlement Class Members; or by requesting bulk copies of the Postcard Notice for the nominee to distribute directly to potential Settlement Class Members; or email a link to the location of the Long Notice and Proof of Claim to Settlement Class Members. For any nominees that do not timely respond to the initial request to facilitate notice, SCS will send supplemental notifications to encourage compliance.

7. For any Postcard Notice that is returned by the USPS as undeliverable as addressed, if a forwarding address is provided by the USPS, the Postcard Notice will promptly be re-mailed to the forwarding address. If no forwarding address is provided by the USPS, SCS will use a third-party information provider to which SCS subscribes to search for an updated address, and a Postcard Notice will be promptly re-mailed to any updated addresses that are identified.

8. In addition to mailing the Postcard Notice and publishing a summary notice, SCS will also establish and maintain a toll-free telephone number and a case-specific website to address Settlement

Class Member inquiries. The toll-free telephone number will afford callers access to an automated attendant that answers all calls initially and presents callers with a series of choices to hear answers to frequently asked questions. If callers need further help, they will have the option of being transferred to a live operator during business hours. The case-specific website will include general information about the Action and the Settlement; highlight important dates and deadlines; host key documents related to the Action, including downloadable versions of the Long-Form Notice and Claim Form; and have functionality for Settlement Class Members to submit their Claim Forms online.

9. Settlement Class Members who wish to be eligible to receive a distribution from the Net Settlement Fund are required to complete and submit to SCS a properly executed Claim Form either by mail or online such that it is postmarked or received no later than the claim-filing deadline established by the Court, together with adequate supporting documentation for the transactions and holdings reported therein.

10. Each submitted claim form is reviewed upon receipt to verify that all required information had been provided. The documentation provided with each Claim Form is also reviewed for authenticity and compared to the information provided on the Claim Form to verify the claimant's identity and the purchase/acquisition transactions, sale transactions, and holdings listed on the Claim Form.

11. If a Claim Form is determined to be defective, a deficiency letter will be sent to the claimant describing the defect including, where applicable, what is necessary to cure the defect. The letter will advise the claimant that the submission of the appropriate information and/or documentary evidence to complete the Claim Form has to be sent within a specified time period from the date of the letter, or the Claim Form would be recommended for rejection to the extent that the deficiency or condition of ineligibility was not cured. The letter will also advise claimants that if they desired to contest the administrative determination, they are required to submit a written statement to SCS requesting Court review of their claim form and setting forth the basis for their request.

12. After the claims have been reviewed and final determination have been made as to which claims are valid, SCS will calculate each claim's Recognized Loss, pursuant to the Court-approved Plan of Allocation, and pro rata distribution amount based on the total Recognized Losses of all claims and the amount available for distribution in the Net Settlement Fund. Based on our experience, we expect the total Recognized Losses for all claims to exceed the amount available in the Net Settlement Fund for distribution such that the fund will be fully exhausted and allocated to eligible claimants.

13. Distribution payments will be sent via checks and wires with a specified period for each claimant to cash their payment (typically 90 or 180 days). For any checks that are not cashed, SCS will conduct an outreach campaign to encourage cashing and providing claimants with reissued checks where applicable.

14. The process described herein is the standard notice and claims administration process for securities class action settlements.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of January 2024 at Media, Pennsylvania.

PAUL MULHOLLAND

Exhibit A

CLAIMANT COMMUNICATION

Phone Calls

We tailor our Call Center to the needs of each settlement, we can provide an automated approach using the latest IVR technology or, if counsel perfers, we offer a more personal approach and have one of our highly trained staff answer the phone and help the Class member with any issue they may have. We also offer Call tracking for each case, detailing the claimants question, and reporting on the total number of calls received.

Email

If a client requests it, we can provide a dedicated email address for each settlement where Class members can correspond and recieve prompt answers from one of our highly trained staff.

Website

On request, we can provide a dedicated website for a settlement where all pertinent data and forms can be easily accessed by class members. Using these websites class counsel can quickly and easily communicatethe class with ongoing updates and status changes in the Settlement.

DISTRIBUTION

Checks

We have handled distributions of all sizes and values, ranging from a few hundred checks, to hundreds of thousands of checks worth millions of dollars. We monitor all our bank accounts on a daily basis using a Postive Pay system to ensure our clients that only checks we issued will be cashed

Taxation

SCS can handle all taxation needs for a settlement. From calculating and paying taxes on the interest earned in the Settlement Fund, to withholding Federal and State taxes on wage cases, our staff of Certified Public Accounts ensure that all filing requirements are met

KEY INDIVIDUALS

Paul Mulholland, CPA, CVA
President

As the founder, Mr. Mulholland is the key liaison with counsel on all administrative cases. He holds a BS degree in Accounting from Wheeling Jesuit University and is a Certified Public Accountant and a Certified Valuation Analyst. He is a member of the AICPA and NACVA.

Matthew Shillady
Operations Manager

Mr. Shillady overlooks all areas of operations and systems management. Matthew is an expert in database management and computer systems. Matthew Shillady is a graduate of Penn State University. He holds a BS degree in Information Sciences and Technology Integration with substantial experience in data integration and database systems. Mr. Shillady has been with Strategic Claims since June of 2003.

Josephine Bravata
Quality Assurance Manager

Ms. Bravata is involved with all areas of claims administration. She supervises the claims processing, database management, notification, bank reconciliations, check distributions and preparation of reports. Ms. Bravata joined the Company in 2001 after graduating from Neumann College. She has a BS degree in Accounting and a Minor in Computer and Information Management.

"I want to express my appreciation for the excellent work that Strategic Claims Services has provided to-date in administering the Blue Cross settlement. You and your staff have been timely, responsive and have made the claims administration process efficient and effective. Thank you for all your hard work."

Mike Karnuth, Esq.
Krislov & Associates, Ltd.

STRATEGIC CLAIMS SERVICES

Strategic Claims Services
600 North Jackson Street
Suite 3
Media, PA 19063

PHONE
866.274.4004
610.891.9852

FAX
610.565.7985

EMAIL
pmulholland@strategicclaims.net

"Your able and conscientious handling of this matter is much appreciated."

Honorable William C. Connor
United States District Judge
Southern District of New York
Administration of the Texaco ERISA
Litigation Settlement

OUR MISSION

Strategic Claims Services strives to offer high quality claims administration and unmatched solutions to its clients while maintaining exceptional client relationships.

» We supply customized reports and detailed reviews of the Administration process so clients can stay well informed and up-to-date on any aspect of the administration process.

» We provide unsurpassed customer relations through our fully trained claims administrators who answer each call personally and assist our clients with their knowledge and expertise.

» We tailor a solution to each class action to ensure compliance with all the court and settlement documents.

» We strive to be proactive to alert our clients of any shortfalls or hang-ups in the administration process

OUR HISTORY

Strategic Claims Services (SCS) was established in 1999 to provide support in managing, planning, implementing and administering class action litigations. The highly skilled staff consists of Certified Public Accountants, Information Technology professionals, experienced managers, bookkeepers and support staff.

With over a decade of experience in hundreds of cases involving notification, claims processing and distribution. SCS develops a custom solution for each and every client to ensure the highest quality service at a competitive price. SCS is devoted to offering paramount quality control throughout all dimensions of the claims administration process.

As an innovator in claims administration services, SCS is a technology driven organization with a proven track record to handle cases of all sizes in a cost-effective and efficient manner. The firm also provides tailored proposals, data management, and consultation.

CLASS NOTIFICATION

Strategic Claims Services offers many different options for both notices and claim forms. Based on the Client's requirements, SCS can compare the notice documents to ensure compliance with the settlement documents and the Court's requirements. SCS can also design Claim Forms to ensure Class Members fully understand and comply with the requirements of each settlement.

We can also provide assistance with publishing Legal Notice through *newspapers, press releases, and websites. Using our contacts in the publishing industry we can negotiate favorable rates in most major newspapers, allowing the class to benefit from reduced publication costs.*

Our Services Include:
» Direct Mailed Notice

» Email Campaigns

» Notice Design and Proofing

» Claim Form Design

» Custom Websites for each settlement

» Customize Class Data

» Updating Out-of-Date Class Data (National Change of Address, Skip-tracing methods)

» Providing compliance affadavits for publications and direct mailin

"Strategic Claims Services (SCS) provides excellent customer service, and the best price in the business. SCS's attention to detail, high quality work, quick and accurate turn around are the hallmarks of its true professionalism. Ready access to SCS's president, Paul Mulholland, and his personal involvement assures me everything is done right. You can't beat SCS – they're simply the best in the industry."
John F. Innelli
Innelli & Robertson

DATA MANAGEMENT

One of the most important steps in class action administration is creating and maintaining accurate class lists. Based on the client's needs we develop a custom database to hold all the class member's pertinent data.

Our Information Technology Specialists can:
» Convert most data formats for use in the class database

» Database Mangement and Design

» Website Design and Updates

» Design custom reports for clients based on class data

» Removal of duplicate records

» Class-wide loss calculations

CLAIMS PROCESSING

Our staff is well trained in all aspects of claims processing, with a focus on quality control and customer service. Each claim is reviewed in detail to ensure compliance with all settlement requirements. Using our custom built software, we ensure each claim is calculated accurately and quickly. The scope of our work includes, but is not limited to the following:

» Determining the validity of each claim filed

» Calculation of losses for each claim

» Communication with claimants to cure invalid claims

» Quality assurance for all high value claims

» Final reporting to Counsel and the Court

» Electronic Claim Processing

During the administration process we are in constant communication with counsel concerning all matters. We provide regular status reports from the initial mailing through the final disposition of funds.

PAUL MULHOLLAND
(CURRICULUM VITAE)

Mr. Mulholland is the President and founder of Strategic Claims Services (SCS) in April of 1999. SCS is a litigation support firm specializing in the administration of class action cases. SCS has administered over 700 class action settlements involving the distribution of over $3.5 billion in settlement/judgment funds, and the management of more than 4 million claims with mailings of notices to over 50 million potential class members. For more information on SCS visit its website at **www.strategicclaims.net**.

From 1992 to 1999, Mr. Mulholland was Senior Vice President of Valley Forge Administrative Services, Inc. Mr. Mulholland was responsible for overseeing all aspects preparation of damage/expert reports in class action matters and for claims processing and administration of class action settlements. He also was responsible for areas of federal and state income taxes for settlement funds and for compliance with all treasury regulations.

From 1986 to 1992, Mr. Mulholland was Chief Financial Officer of Terramics Property Company, a Philadelphia-based regional commercial real estate company with a $150 million real estate portfolio. He was responsible for asset management, financial reporting, budgets, bank and investor liaison, debt restructurings, refinancings, contract negotiations, tax matters, treasury functions and cash management.

From 1984 to 1986, Mr. Mulholland was Chief Financial Officer of American Health Systems, Inc., a $40 million (revenue) nursing home management company, and was responsible for financial reporting, taxation, budgeting, cash management, cost containment, risk management and regulatory reporting.

From 1980 to 1984, Mr. Mulholland was employed at Coopers & Lybrand. He planned and directed audit engagements in a variety of industries, including preparation of financial statements, SEC reporting, and evaluation of internal accounting systems and supervision of staff accountants.

Mr. Mulholland holds a BS in Accounting from Wheeling University and is a Certified Public Accountant (inactive). He was an adjunct professor of accounting and finance at Neumann University and currently serves on its business advisory board.

PAUL MULHOLLAND
EXPERT TESTIMONY AND DEPOSITIONS

Expert Testimony:

Celia L. Hale., et al., v. Wal-Mart Stores, Inc Jackson County, Missouri Case No. 01-CV-218710 (Division 1)	June 2008
Jitendra V. Singh v. vCustomer Corporation, et al. Eastern District of Pennsylvania Civil Action No. 03-4439	June 2004
Barter v. Southmoore Golf Associates (Common Pleas of Northhampton County (No. 199-C-1815)	March 21, 2000 and March 22, 2000
Pearl and Hoffman v. Geriatric & Medical Center, Inc (Eastern District of Pennsylvania (No.92-CV-5113 and No.93-CV-2129)	March 1995

Depositions:

Fosamax Products Liability Litigation No. 1:06-MD-1789 (JFK) (MDL No. 1789) USDC for the Southern District of New York	June 14, 2007
Aredia and Zometa Products Liability Litigation No. 3:06-MD-1760 (MDL No. 1760) USDC for the Middle District of Tennessee at Nashville	May 31, 2007
Jitendra V. Singh v. vCustomer Corporation, et al. Eastern District of Pennsylvania Civil Action No. 03-4439	June 2004
In Re: Curative Health Services, Inc. Securities Litigation (Master File No. CV99-2074) United States District Court Eastern District of New York	February 2002
Pearl and Hoffman v. Geriatric & Medical Center, Inc (Eastern District of Pennsylvania (No.92-CV-5113 and No.93-CV-2129)	January 1995

Mediation Presentation:

Alibaba Group Holding Limited Securities Litigation Civil Action 1:15-md-02361 (CN) USDC Southern District of New York Mediation Presentation to Honorable Layne R Phillips	March 2019

SUMMARY

SCS Experience and Qualifications

SCS has been in business since 1999. SCS has administered over 700 class action cases over the last 25 years including over 500 security cases. SCS has handled over $3.5 billion in settlement funds. SCS is considered one of the leading notice and claims administrator in the United States and has never had a claim filed against us in any manner. Please visit our website at www.strategicclaims.net. Attached is a list of class action settlements SCS has administered over the past three years.

Quality Assurance

SCS has never had a claim filed against it. This is the result of our strong quality control procedures. For example, our database will insert the high and low trading prices and reported trading volume (adjusted for market maker trading or specialist trading) for each day in the class period and verify the information in the claims are within these parameters. Additional quality assurance steps include but are not limited to review of any unusual trading on claims; large claims using a P.O. Box as an address; large transactions by non-institutions claimants; review of suspicious documentation by claimants; follow-up phone calls to brokers to authenticate non-institutional purchasers; as well as various random sampling of claims for additional quality assurance review. SCS operates similar to large public accounting firm where a staff member, supervisor, manager and an executive all are involved in reviewing claims. Our quality control department will then perform statistical sampling and other procedures in reviewing claims before signing off. Besides setting up the database to detect inconsistencies, our fraud prevention procedures consists of several steps including a sampling of claims to verify the supporting documentation is authentic (i.e. contact brokers); performing a sampling of skip tracing to make sure that social security numbers and names are a proper match as well as other procedures. In addition to our list of fraudulent claimants from other cases, we communicate with the FBI for any updated list of fraudulent claimants from previous cases.

SCS has a variety of security measures in place to ensure all personal information is kept safe and secure. These measures include, but are not limited to, SSL encryption of all data submitted through our website; internal monitoring of all computer usage by employees; live antivirus scanning of all files received/sent along with weekly updates and scanning of all servers and computers on our network; password protected and restricted access for employees working with personal data; use of a monitored and secure VPN for remote access; daily, weekly and monthly backups to secure offsite storage; and 24/7 notifications to immediately address any irregularities.

Case Name	Claims	Notices	Settlement Value
Christine Asia Co. Ltd. et al. v. Jack Yun Ma et al.	166,891	1,086,191	$250,000,000.00
Ferguson, et al. v. Ruane, Cunniff & Goldfarb Inc., et al., (DST)	788	15,278	$124,625,000.00
In re Silver Wheaton Corp. Securities Litigation	100,245	484,155	$41,500,000.00
Bernstein v. Virgin America, Inc., et al.	n/a	2,109	$30,976,831.97
In re Omega Healthcare Investors, Inc. Securities Litigation	27,204	236,656	$30,750,000.00
Menaldi v. Och-Ziff Capital Management Group LLC, et al.	30,567	68,723	$28,750,000.00
Richard Thorpe and Darrel Weisheit v. Walter Investment Management Corp., et al.	54,712	39,777	$24,000,000.00
Moshell v. Sasol Limited, et al.	46,707	89,110	$24,000,000.00
Thomas, et al. v. MagnaChip Semiconductor Corp., et al.	14,419	40,078	$23,500,000.00
AMC Entertainment Holdings, Inc., et al.,	7,209	25,831	$18,000,000.00
In re Prothena Corporation plc Securities Litigation	5,989	28,970	$15,750,000.00
Asanhussainsyedmohid v. Acuity Brands, Inc., et al.	75,579	122,316	$15,750,000.00
Chavez v. Jani-King of California, et al.	9,973	3,178	$15,350,000.00
In re USA Technologies, Inc. Securities Litigation	6,089	32,766	$15,300,000.00
In re Zillow Group, Inc. Securities Litigation	23,585	131,533	$15,000,000.00
Garthwait, et al. v. Eversource Energy Service Company, et al.	2,806	20,902	$15,000,000.00
In re Horsehead Holding Corp. Securities Litigation	8,079	38,794	$14,750,000.00
Duane & Virginia Lanier Trust v. SandRidge Mississippian Trust I, et al.	9,172	71,072	$13,942,500.00
Canopy Growth Corp. Securities Litigation	81,551	1,180,117	$13,000,000.00
Plumbers & Pipefitters National Pension Fund, et al. v. Kevin Davis and Amir Rosenthal (PSG)	5,961	19,758	$13,000,000.00
Kendall v. Odonate Therapeutics, Inc. et al.	4,896	36,189	$12,750,000.00
Boley, et al. v. Universal Health Services, Inc., et al.	8,040	184,690	$12,500,000.00
Sanders v. The RealReal, Inc., et al.	7,121	39,667	$11,000,000.00
In re United Development Funding IV Securities Litigation / Hay v. United Development Funding IV, et al.	11,717	49,535	$10,435,725.00
Lee v. Pincus Settlement	1,745	1,865	$10,000,000.00
In re Mindbody Inc. Securities Litigation	5,154	22,387	$9,750,000.00
In re Biogen, Inc. ERISA Litigation	n/a	n/a	$9,750,000.00
Meyer v. Concordia International Corp.	3,071	11,159	$9,250,000.00
Nicholas Skiadas v. Acer Therapeutics Inc., et. al.	714	7,353	$8,350,000.00
Plumbers & Pipefitters National Pension Fund v. Orthofix International N.V., et al.	8,362	19,208	$8,250,000.00
Mauss v. NuVasive, Inc	44,628	90,632	$7,900,000.00
Marin, et al. v. Dave & Buster's, Inc., et al.	n/a	2,151	$7,425,000.00
In re Montage Technology Group Limited Securities Litigation	15,950	12,141	$7,250,000.00
Zaller v. Fred's, Inc., et al.	2,486	8,882	$7,250,000.00
In re Sundial Growers Inc. Securities Litigation	951	4,683	$7,000,000.00
Ferreira v. Funko, Inc., et al.	6,152	32,168	$7,000,000.00
In re LinkedIn ERISA Litigation	360	19,061	$6,750,000.00
In re Patriot National, Inc. Securities Litigation	2,589	13,530	$6,500,000.00
Aeterna Zentaris, Inc., et al.	1,717	47,837	$6,500,000.00
In re Global Brokerage, Inc. f/k/a FXCM Inc. Securities Litigation	8,244	61,306	$6,500,000.00
Thomas, et al. v. MagnaChip Semiconductor Corp., et al. (II)	21,468	45,537	$6,200,000.00
Horowitz v. Sunlands Technology Group, et al.	627	n/a	$6,200,000.00
Bristol County Ret. Sys. v. Qurate Retail, Inc.	20,932	89,676	$5,750,000.00
In re Pareteum Securities Litigation	3,773	75,785	$5,650,000.00
Marchand v. Momo Inc., et al.	34,301	298,740	$5,000,000.00
Beltran v. SOS Limited, et al.	5,452	205,032	$5,000,000.00
Delarosa v. State Street Corporation, et al.	245,112	469,215	$4,900,000.00
In re Akazoo S.A. Securities Litigation	533	4,550	$4,900,000.00
In re Peabody Energy Corp. Securities Litigation	9,797	34,550	$4,625,000.00

Carlton, et al., v. Cannon, et al.	7,118	22,786	$4,500,000.00
In re Lifetrade Litigation	697	1,433	$4,500,000.00
Yao-Yi Liu, Tung-Hung Hsieh, and Chiu-Pao Tsai v. Wilmington Trust Company, et al. (BioProfit)	1,040	1,097	$4,350,000.00
In re Lipocine Inc. Securities Litigation	2,967	10,376	$4,250,000.00
In re: iDreamSky Technology Limited Securities Litigation	15,778	12,822	$4,150,000.00
Snellink v. Universal Travel Group, Inc.	3,416	32,351	$4,075,000.00
De Vito v. Liquid Holdings Group, Inc., et al.	4,953	15,004	$4,062,500.00
Brendon v. Allegiant Travel Company, et al.	16,813	49,085	$4,000,000.00
Whiteley v. Zynerba Pharmaceuticals, Inc. et al.	2,611	40,897	$4,000,000.00
Fergus v. Immunomedics, Inc. et al.	983	8,396	$4,000,000.00
In re 3D Systems Securities Litigation	671	n/a	$4,000,000.00
United Food and Commercial Workers Union Pension Fund v. Advanced Emissions Solutions, Inc., et al.	22,716	10,367	$3,950,000.00
Correa, et al., v. Liberty Oilfield Services Inc., et al.	6,362	22,151	$3,900,000.00
Costas v. Ormat Technologies, Inc.	5,665	32,542	$3,750,000.00
Armstrong Flooring, Inc., et al.	4,065	15,356	$3,750,000.00
Too v. Rockwell Medical Inc., et al.	1,188	10,143	$3,700,000.00
Amrit Kumar and Tony Tep v. SAExploration Holdings, Inc., et al.	1,778	69,492	$3,550,000.00
In re IsoRay, Inc. Securities Litigation	796	12,286	$3,537,500.00
Qiu v. Tarena International, Inc., et al.,	n/a	2,850	$3,500,000.00
Jones et al v. Coca-Cola Consolidated, Inc., et al.,	2,658	38,291	$3,500,000.00
Harr v. Ampio Pharmaceuticals, Inc., et al.	9,938	13,400	$3,400,000.00
Fred Kelsey v. Patrick J. Allin, et al. (TEXTURA)	11,800	16,376	$3,300,000.00
Yedlowski v. Roka Bioscience, Inc.	3,537	2,631	$3,275,000.00
Celeste, v. Intrusion, Inc., et al.	1,634	28,966	$3,250,000.00
Chan v. New Oriental Education and Technology Group Inc. et al.	3,378	8,119	$3,150,000.00
Byrne v. Westpac Banking Corp., et al.	32,406	118,279	$3,100,000.00
In re Loop Industries, Inc. Securities Litigation	1,276	8,263	$3,100,000.00
In re Retrophin, Inc. Securities Litigation	6,122	8,807	$3,000,000.00
Nickolas Van Wingerden v. Cadiz Inc., et al.	5,970	4,886	$3,000,000.00
Wang v. China Finance Online Co. Limited	20,645	31,744	$3,000,000.00
Pritchard v. Apyx Medical Corporation, et al.	459	4,983	$3,000,000.00
Convery v. Jumia Technologies AG, et al. - State	4,421	51,044	$3,000,000.00
In re FAT Brands Inc. Securities Litigation	1,905	54,230	$3,000,000.00
Coutinho v. Braskem S.A., et al.	4,901	8,949	$3,000,000.00
In re Spectrum Pharmaceuticals, Inc. Securities Litigation	15,845	56,912	$2,995,000.00
Barcenas et al. v. Rush Univ. Med. Ctr., et al.	2,920	29,354	$2,950,000.00
Clark, et al. v. Beth Israel Deaconess Medical Center., et al.	2,635	38,807	$2,900,000.00
Gauquie v. Albany Molecular Research, Inc. et al.	7,551	4,141	$2,868,000.00
In re Lihua International, Inc. Securities Litigation	1,688	6,785	$2,865,000.00
In re Lihua International, Inc. Securities Litigation	1,691	6,785	$2,865,000.00
Vaccaro, et al. v. New Source Energy Partners L.P., et al.	719	2,283	$2,850,000.00
In re Innocoll Holdings Public Limited Company Securities Litigation	691	4,582	$2,755,000.00
In re Namaste Technologies Inc. Securities Litigation	2,965	64,992	$2,750,000.00
Allison v. L Brands, Inc., et al.	6,582	104,599	$2,750,000.00
In re Akari Therapeutics, plc Securities Litigation	284	3,460	$2,700,000.00
Rosi v. Aclaris Therapeutics, Inc. Securities Litigation	3,083	11,918	$2,650,000.00
Moleski v. Tangoe, Inc., et al.	16,580	26,366	$2,550,000.00
Hosey v. Costolo (TWITTER)	183,031	463,059	$2,500,000.00
In re Sunrun Inc. Securities Litigation	5,200	35,908	$2,500,000.00
Headen v. Conservice, LLC	340	106,168	$2,500,000.00

Goodman v. UBS Class Action Litigation	n/a	2,536	$2,500,000.00
Gregory v. Zions Bank Settlement	n/a	657	$2,500,000.00
In re Omnicom Group, Inc. ERISA Litigation	2,368	3,629	$2,450,000.00
Mikhlin v. Oasmia Pharmaceutical AB et al.	323	10,672	$2,350,000.00
In re Akers Biosciences, Inc. Securities Litigation	2,041	115,995	$2,250,000.00
Donald Chu v. BioAmber Inc., et al.	2,612	13,545	$2,250,000.00
Smith v. NetApp, Inc., et al.	27,740	48,025	$2,250,000.00
Bell v. Kanzhun Limited, et al.	2,220	5,801	$2,250,000.00
Tapia-Matos v. Caesarstone, Ltd. et al.	53,284	35,126	$2,200,000.00
In re RCI Hospitality Holdings, Inc. Securities Litigation	3,515	14,408	$2,200,000.00
Matthew Crandall v. PTC Inc., et al.	40,181	69,978	$2,100,000.00
Rand-Heart of New York, Inc., et al v. James P. Dolan	609	3,447	$2,100,000.00
In re DS Healthcare Group, Inc. Securities Litigation	587	8,628	$2,100,000.00
Church v. Chatila, et al. (SUNEDISON)	2,136	14,880	$2,100,000.00
Bartell, v. Tibet Pharmaceuticals, Inc.	1,456	4,941	$2,075,000.00
Cohen v. Kitov Pharmaceuticals Holdings, Ltd., et al.	885	11,666	$2,000,000.00
Convery v. Jumia Technologies AG, et al. - Federal	4,421	51,112	$2,000,000.00
Michael Van Dorp v. Indivior PLC, et al.	1,781	10,411	$2,000,000.00
In re GTT Communications, Inc. Securities Litigation	12,885	112,585	$2,000,000.00
In re Mesoblast Class Action Litigation	1,595	51,312	$2,000,000.00
Todd France, et al. v. Jiayin Group, Inc., et al.	787	35,411	$2,000,000.00
In re Tufin Software Technologies Ltd. Securities Litigation	n/a	2,296	$2,000,000.00
Wright et al. v. The City of Charlotte	n/a	1,302	$1,999,000.00
Blackmon, et al. v. Zachry Holdings, Inc., et al	3,474	33,690	$1,875,000.00
Crystal v. Medbox, Inc., et al.	2,865	40,390	$1,850,000.00
Trampe v. CD Projekt S.A., et al.	6,732	14,952	$1,850,000.00
Likas v. ChinaCache International Holdings Ltd. et al.	885	24,771	$1,800,000.00
Zhengyu He v. China Zenix Auto International Limited, et al.	274	9,022	$1,800,000.00
Lin v. Liberty Health Sciences, et al.	1,132	38,342	$1,800,000.00
Petrie v. Electronic Game Card, Inc., et al. / Pace v. Quintanilla, et al.	763	14,233	$1,755,000.00
Ford v. Natural Health Trends Corp. et al.	2,507	23,267	$1,750,000.00
In re Correvio Class Action Litigation	769	9,516	$1,750,000.00
Spanier v. Bayerische Motoren Werke Aktiengesellschaft, et al. (BMW AG)	69,429	130,518	$1,750,000.00
Taronis Technologies, Inc., et al.	543	16,598	$1,700,000.00
Calfo, et al., v. Messina, Sr., et al.	2,617	10,201	$1,650,000.00
In re Akazoo S.A. Securities Litigation – Crowe Settlement	119	3,665	$1,610,000.00
Shapiro v. Alliance MMA, Inc., et al.	274	1,953	$1,550,000.00
In re Altair Nanotechnologies Securities Litigation	963	7,003	$1,500,000.00
In re KaloBios Pharmaceuticals, Inc. Securities Litigation	659	18,507	$1,500,000.00
In re CBD Energy Limited Securities Litigation	4,182	5,183	$1,500,000.00
In re China Mobile Games & Entertainment Group, Ltd Securities Litigation	15,933	14,592	$1,500,000.00
In re KaloBios Pharmaceuticals, Inc. Securities Litigation (II)	898	21,491	$1,500,000.00
Hrasok v. Kraton Corp., et al.	3,269	7,313	$1,500,000.00
Weinstein v. RMG Networks Holding Corp., et. al.	358	11,219	$1,500,000.00
Paulson v. Two Rivers Settlement	118	146	$1,500,000.00
Luo v. Sogou, Inc., et al. Securities Litigation	2,568	22,418	$1,450,000.00
Nisselson v. Ji / Skeway, et al. v. China Natural Gas, Inc	2,406	25,417	$1,400,000.00
Alberici v. Recro Pharma, Inc., et al.	1,033	5,125	$1,400,000.00
O'Hern v. Vida Longevity Fund, LP (VLF)	1,082	n/a	$1,400,000.00
In re Shattuck Labs, Inc. Securities Litigation	833	n/a	$1,400,000.00

O'Hern v. Vida Longevity Fund, LP (VLF)	1,082	5,774	$1,400,000.00
Malespin v. Longeveron Inc., et al.	465	n/a	$1,397,500.00
In re Dropbox, Inc. Securities. Litigation	12,388	152,272	$1,375,000.00
Springer, v. Code Rebel Corporation, et al.	548	5,207	$1,300,000.00
Balon v. Agria Corporation, et al.	125	730	$1,300,000.00
Nolff, et al., v. Aterian, Inc., et al.	2,638	34,576	$1,300,000.00
Pepe v. Cocrystal Pharma, Inc.	573	20,340	$1,265,000.00
Fastrich v. Continental General Insurance Company	469	5,017	$1,250,000.00
Tran v. ERBA Diagnostics, Inc., et al.	353	5,709	$1,215,000.00
Rex & Roberta Ling Living Trust v. B Communications Ltd.	319	1,620	$1,200,000.00
Monachelli v. Hortonworks, Inc.	1,765	8,285	$1,100,000.00
Bai v. TCP International Holdings, Ltd., et al.	433	1,661	$1,100,000.00
M & M Hart Living Trust et al. v. Global Eagle Entertainment et al.	1,711	7,703	$1,100,000.00
In re Changyou.com Limited Securities Litigation	746	6,939	$1,075,000.00
Garcia v. Hetong Guo, et al. (LENTUO)	298	2,982	$1,000,000.00
Charles Davis, et al., v. Katanga Mining Limited, et al.	692	10,040	$1,000,000.00
India Globalization Capital, Inc., et al.	1,491	41,247	$1,000,000.00
Schneider v. Champignon Brands, Inc., et al.	1,040	37,481	$1,000,000.00
McCutchan v. Coriant Operations, Inc., et al.	106	991	$1,000,000.00
Guangyi Xu v. ChinaCache International Holdings Ltd.	1,633	2,857	$990,000.00
Kachun Wong v. Baker Tilly Hong Kong, Ltd.	2,665	19,833	$925,000.00
Mandalevy v. Bofl Holding, Inc.	11,237	74,872	$900,000.00
In re NetSol Securities Litigation	419	1,868	$850,000.00
Patron v. Dotts and Soldan, Fusion Connect, Inc. Securities Litigation	1,230	3,759	$800,000.00
In re Velti plc Securities Litigation (II)	12,614	58,622	$750,000.00
Allen v. PixarBio Corporation, et al.	92	428	$750,000.00
Guyer v. MGT Capital Investments, Inc., et al.	2,357	116,445	$750,000.00
George Barney v. Nova LifeStyle Inc., et al.	177	n/a	$750,000.00
Rigoberto Sandoval v. Exela Enterprise Solutions, Inc., et al.	1,473	6,954	$750,000.00
In re Stemline Therapeutics, Inc. Securities Litigation	555	2,180	$680,000.00
Castillo Iv v. 6D Global Technologies, Inc., et al.	473	3,170	$640,000.00
Hartmann v. Verb Technology Company, Inc., et al.	234	7,374	$640,000.00
Edge, et al. v. Stillman Law Office, LLC, et al. (SLO)	n/a	388	$619,968.38
Hull v. Global Digital Solutions, Inc.	162	6,555	$595,000.00
Scalfani v. Misonix, Inc., et al.	272	825	$500,000.00
Springer, v. Code Rebel Corporation, et al. 2	684	17,788	$415,000.00
Healy v. Arben Kryeziu a/k/a Arben Kane, et al. / Torres v. Arben Kryeziu a/k/a Arben Kane (CODE REBEL)	684	6,062	$415,000.00
In re ForceField Energy Inc. Securities Litigation	1,254	4,028	$414,500.00
Yang v. G & C Gulf, Inc. d/b/a G&G Towing, et al.	n/a	287	$350,000.00
Castillo Iv v. 6D Global Technologies, Inc., et al. (6D2)	76	n/a	$260,000.00
Hashem v. NMC Health PLC, et al	2,076	1,710	$120,000.00
Longwei Petroleum Investment Holding Ltd. Dissolution Distribution	786	3,843	$100,000.00
Aerts v. Han, et al (CHINA XD)	n/a	17,834	$75,000.00
Poptech, L.P. v. Stewardship Credit Arbitrage Fund, LLC	40	146	$17,500.00
UDFSEC-WORKING	n/a	n/a	n/a
Hashem v. NMC Health PLC, et al., (NMC 2)	see NMC1	1,972	n/a
In re AMC Entertainment Holdings, Inc. Stockholder Litigation, Consolidated C.A. (AMC Derivative)	n/a	3,052,990	n/a
AMC Plus	n/a	n/a	n/a

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:21-cv-07203-CBA-JRC **DECLARATION OF KAOUTAR KAJJAME**

I, Kaoutar Kajjame, declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement. I have personal knowledge of the statements herein and if called upon as a witness, could and would competently testify thereto.

2. On or around February 3, 2022, I contacted the law firm of Levi & Korsinsky, LLP to discuss the lawsuit that was pending at the time against Meta Materials Inc. Following several conversations with the firm and its attorneys, on March 4, 2022, my attorneys at Levi & Korsinsky filed a motion for lead plaintiff on behalf of myself and my co-lead plaintiffs. At that time, I submitted a declaration to the Court certifying, among other things, that: I had reviewed a complaint filed in the action; I did not purchase the security that is the subject of this action at the

direction of plaintiff's counsel or in order to participate in this private action; I was willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary; and I would not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except as ordered or approved by the court, including any award for reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

3. Other lead plaintiff motions on behalf of other investors were also filed, including the motion filed by Mr. Venkateswara Ramireddy and his attorneys at the Rosen Law Firm, P.A. Mr. Ramireddy ultimately agreed to withdraw his motion and, on July 15, 2022, the Court ultimately granted my motion for appointment as co-lead plaintiff.

4. Since being appointed as a co-lead plaintiff, I have remained engaged and kept up to date with the various proceedings by staying in communication with my attorneys at Levi & Korsinsky. I have reviewed filings, including the complaints, stipulations and various motion papers. I have also participated by providing documents in my possession relating to my transactions in Meta Materials stock as well as helping counsel identify false and/or materially misleading statements about Meta Materials and its operations.

5. I am in favor of settling this case for $3,000,000. I have at all relevant times been familiar with the issues in the case, the negotiations that took place during the mediation, and Meta Materials' financial situation. The settlement presents a favorable outcome in my opinion. It will return a substantial amount of money to investors who, in my opinion, suffered damages as a result of investing in Meta Materials based on what I believe were inaccurate and misleading statements. I, of course, am included amongst those investors and welcome the opportunity to put this matter to rest. The Court should grant Plaintiffs' motion and preliminarily approve the settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 9 day of January 2024.

Kaoutar kajjame (Jan 9, 2024 10:25 EST)

KAOUTAR KAJJAME

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:21-cv-07203-CBA-JRC **DECLARATION OF PHILIP GRANITE**

I, Philip Granite, declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement. I have personal knowledge of the statements herein and if called upon as a witness, could and would competently testify thereto.

2. On or around January 6, 2022, I contacted the law firm of Levi & Korsinsky, LLP to discuss the lawsuit that was pending at the time against Meta Materials Inc. Following several conversations with the firm and its attorneys, on March 4, 2022, my attorneys at Levi & Korsinsky filed a motion for lead plaintiff on behalf of myself and my co-lead plaintiffs. At that time, I submitted a declaration to the Court certifying, among other things, that: I had reviewed a complaint filed in the action; I did not purchase the security that is the subject of this action at the

direction of plaintiff's counsel or in order to participate in this private action; I was willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary; and I would not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except as ordered or approved by the court, including any award for reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

3. Other lead plaintiff motions on behalf of other investors were also filed, including the motion filed by Mr. Venkateswara Ramireddy and his attorneys at the Rosen Law Firm, P.A. Mr. Ramireddy ultimately agreed to withdraw his motion and, on July 15, 2022, the Court ultimately granted my motion for appointment as co-lead plaintiff.

4. Since being appointed as a co-lead plaintiff, I have remained engaged and kept up to date with the various proceedings by staying in communication with my attorneys at Levi & Korsinsky. I have reviewed filings, including the complaints, stipulations and various motion papers. I have also participated by providing documents in my possession relating to my transactions in Meta Materials stock as well as helping counsel identify false and/or materially misleading statements about Meta Materials and its operations.

5. I am in favor of settling this case for $3,000,000. I have at all relevant times been familiar with the issues in the case, the negotiations that took place during the mediation, and Meta Materials' financial situation. The settlement presents a favorable outcome in my opinion. It will return a substantial amount of money to investors who, in my opinion, suffered damages as a result of investing in Meta Materials based on what I believe were inaccurate and misleading statements. I, of course, am included amongst those investors and welcome the opportunity to put this matter to rest. The Court should grant Plaintiffs' motion and preliminarily approve the settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8 day of January 2024.

Philip Granite (Jan 8, 2024 15:42 EST)

PHILIP GRANITE

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:21-cv-07203-CBA-JRC **DECLARATION OF RICARDO JOSEPH**

I, Ricardo Joseph, declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement. I have personal knowledge of the statements herein and if called upon as a witness, could and would competently testify thereto.

2. On or around January 13, 2022, I contacted the law firm of Levi & Korsinsky, LLP to discuss the lawsuit that was pending at the time against Meta Materials Inc. Following several conversations with the firm and its attorneys, on March 4, 2022, my attorneys at Levi & Korsinsky filed a motion for lead plaintiff on behalf of myself and my co-lead plaintiffs. At that time, I submitted a declaration to the Court certifying, among other things, that: I had reviewed a complaint filed in the action; I did not purchase the security that is the subject of this action at the

direction of plaintiff's counsel or in order to participate in this private action; I was willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary; and I would not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except as ordered or approved by the court, including any award for reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

3. Other lead plaintiff motions on behalf of other investors were also filed, including the motion filed by Mr. Venkateswara Ramireddy and his attorneys at the Rosen Law Firm, P.A. Mr. Ramireddy ultimately agreed to withdraw his motion and, on July 15, 2022, the Court ultimately granted my motion for appointment as co-lead plaintiff.

4. Since being appointed as a co-lead plaintiff, I have remained engaged and kept up to date with the various proceedings by staying in communication with my attorneys at Levi & Korsinsky. I have reviewed filings, including the complaints, stipulations and various motion papers. I have also participated by providing documents in my possession relating to my transactions in Meta Materials stock as well as helping counsel identify false and/or materially misleading statements about Meta Materials and its operations.

5. I am in favor of settling this case for $3,000,000. I have at all relevant times been familiar with the issues in the case, the negotiations that took place during the mediation, and Meta Materials' financial situation. The settlement presents a favorable outcome in my opinion. It will return a substantial amount of money to investors who, in my opinion, suffered damages as a result of investing in Meta Materials based on what I believe were inaccurate and misleading statements. I, of course, am included amongst those investors and welcome the opportunity to put this matter to rest. The Court should grant Plaintiffs' motion and preliminarily approve the settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 1/8/2024 day of January 2024.

DocuSigned by:
Ricardo Joseph
CB789BCF4E2B48D...

RICARDO JOSEPH

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE META MATERIALS INC. SECURITIES LITIGATION	Case No. 1:21-cv-07203-CBA-JRC **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT**

WHEREAS, a consolidated class action is pending before the Court entitled *In re Metamaterials Inc. Securities Litigation*, No. 1:21-cv-07203-CBA-JRC (E.D.N.Y.);

WHEREAS, (a) Lead Plaintiffs Kaoutar Kajjame, Philip Granite, and Ricardo Josephs, individually and on behalf of the Settlement Class (defined below) (collectively, "Plaintiffs"), and (b) Meta Materials Inc. f/k/a Torchlight Energy Resources, Inc. ("Meta Materials"), George Palikaras, Greg McCabe, John Brda, and Kenneth Rice (collectively, "Defendants"; and together with the Plaintiffs, the "Parties") have determined to settle all claims asserted against Defendants in this Litigation with prejudice on the terms and conditions set forth in the Stipulation of Settlement dated January 19, 2024 (the "Stipulation") subject to the approval of this Court (the "Settlement");

WHEREAS, (a) Allen Denton and Menachem Gurevitch, plaintiffs in a related shareholder class action lawsuit alleging claims for breaches of fiduciary duty and aiding and abetting breaches of fiduciary duty, styled *Denton, et al. v. Palikaras, et al.*, No. A-23-878134-C (Clark Cty., NV) (the "State Action") filed in Nevada state court, and (b) Defendants and additional defendants Alexandre Zyngier, Robert Lance Cook, and Michael Graves in the State Action also

have determined to settle all claims asserted in the State Action, as contemplated and comprised by the definition of the Settlement Class in this Action; and

WHEREAS, the Court having reviewed and considered Plaintiffs' unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"); as well as all papers submitted in support thereof; the proposed Settlement as set forth in the Stipulation, which, together with the exhibits annexed thereto, sets forth the terms and conditions of a proposed settlement of the above-captioned Litigation, dismissing the Defendants with prejudice upon the terms and conditions set forth therein; a copy of which has been submitted with the Motion and the terms of which are incorporated herewith; and all other prior proceedings in this Litigation; and good cause for this Order having been shown:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The provisions of the Stipulation, including definitions of the terms used therein, are hereby incorporated by reference as though fully set forth herein. All capitalized terms used herein have the meanings set forth and defined in the Stipulation.

2. This Court has jurisdiction over the subject matter of this Litigation and over all parties to this Litigation, including Settlement Class Members.

3. The Court preliminarily approves the Settlement and the proposed Plan of Allocation described in the Notice as fair, reasonable and adequate as to all Settlement Class Members, pending a final settlement and fairness hearing (the "Settlement Hearing"). The Court preliminarily finds that the proposed Settlement should be approved as: (i) the result of serious, extensive arm's-length and non-collusive negotiations; (ii) falling within a range of reasonableness warranting final approval; (iii) having no obvious deficiencies; (iv) not improperly granting preferential treatment to any of the Plaintiffs or segments of the Settlement Class; and (v)

warranting notice of the proposed Settlement at the Settlement Hearing described below.

4. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for purposes of this Settlement only, the Court hereby certifies a Settlement Class, defined as: (a) All Persons that purchased Meta Materials and/or Torchlight Energy Resources, Inc. ("Torchlight") publicly traded securities during the Class Period, and were damaged thereby; (b) All holders of Torchlight stock as of the May 5, 2021 record date, eligible to vote on the proposed merger with Metamaterial, Inc. at Torchlight's June 11, 2021 special meeting of shareholders, and were damaged thereby; and (c) All holders of Torchlight stock as of June 28, 2021, the date the proposed merger with Metamaterial, Inc. was consummated, and were damaged thereby. Excluded from the Settlement Class are: (i) Defendants and their Related Parties; (ii) the officers, directors, and affiliates of Meta Materials, at all relevant times; (iii) Meta Materials' employee retirement or benefit plan(s) and their participants or beneficiaries to the extent they purchased or acquired Meta Materials securities through any such plan(s); (iv) any entity in which Defendants have or had controlling interest; (v) Immediate Family members of any excluded person; and (vi) the legal representatives, heirs, successors, or assigns of any excluded person or entity. Also excluded from the Settlement Class are those Persons who validly and timely request exclusion.

5. With respect to the Settlement Class, this Court finds solely for purposes of effectuating this settlement that: (a) the Settlement Class Members are so numerous that joinder of all Settlement Class Members in the Litigation is impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Plaintiffs have fairly and adequately represented and protected the interests of all of the Settlement Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of

the controversy, considering: (i) the interests of the members of the Settlement Class in individually controlling the prosecution of the separate actions; (ii) the extent and nature of any litigation concerning the controversy already commenced by members of the Settlement Class; (iii) the desirability or undesirability of continuing the litigation of these claims in this particular forum; and (iv) the difficulties likely to be encountered in the management of the class action.

6. The Court hereby finds and concludes that pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Plaintiffs are adequate class representatives and certifies them as Class Representatives for the Settlement Class. The Court also appoints Lead Counsel as Class Counsel for the Settlement Class, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

7. The Court approves the appointment of Strategic Claims Services as the Claims Administrator to supervise and administer the notice procedure and the processing of claims.

8. The Court orders the stay of any pending litigation and enjoins the initiation of any new litigation by any Settlement Class Member in any court, arbitration, or other tribunal that includes any Released Claims against the Released Parties.

9. The Court hereby approves, as to form and content, the proposed Notice and Postcard Notice, substantially in the forms annexed hereto as Exhibits A-1 and A-4, and directs that as soon as practicable after entry of this Order, but no later than fourteen (14) days after entry of this Order granting preliminary approval, that the Settlement Administrator publish the Notice on a website to be maintained by the Claims Administrator and provide the Postcard Notice to each known Settlement Class Member via first class U.S. mail, postage pre-paid. Meta Materials shall cooperate in the identification of Settlement Class Members by producing reasonably available information from its shareholder transfer records or transfer agent. The Claims

Administrator shall file with the Court proof of mailing of the Notice seven (7) days prior to the Settlement Hearing.

10. Banks, brokerage firms, institutions, and other persons who are nominees who purchased or otherwise acquired Meta Materials securities for the beneficial interest of other persons during the Settlement Class Period are directed to, within ten (10) days after receipt of the Notice: either (a) send the Postcard Notice to all beneficial owners of Meta Materials securities purchased or otherwise acquired during the Class Period; or (b) send a list of the name, addresses and email addresses of such beneficial owners to the Claims Administrator; or (c) request a link to the location of the Long Notice and Proof of Claim and email the link to Settlement Class Members. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred up to a maximum of $0.03 per name, address and email address provided to the Claims Administrator; or up to $0.03 per Postcard Notice mailed, plus postage at the rate used by the Claims Administrator; or up to $.03 per email sent. The Claims Administrator or nominees shall provide notice to each Settlement Class Member no later than sixty (60) days prior to the Settlement Hearing.

11. The cost of providing the Notice to the Settlement Class as specified in this Order shall be paid as set forth in the Stipulation.

12. The Court hereby approves, as to form and content, the proposed form Summary Notice, substantially in the form annexed hereto as Exhibit A-3, and directs that within twenty-one (21) days after entry of this Order granting preliminary approval the Claims Administrator shall cause such Summary Notice to be published on a national business newswire. The Claims Administrator shall file with the Court proof of publication of the Summary Notice seven (7) days prior to the Settlement Hearing.

13. The Court approves the proposed Proof of Claim substantially in the form of Exhibit A-2 hereto.

14. The Court orders that the Notices, Proof of Claim form, Stipulation of Settlement and all papers submitted in support thereof be posted to a website to be maintained by the Claims Administrator.

15. This Court preliminarily finds that the distribution of the Notice and the publication of the Publication Notice, and the notice methodology, contemplated by the Stipulation and this Order:

(a) Constitute the best practicable notice to Settlement Class Members under the circumstances of this Action;

(b) Are reasonably calculated, under the circumstances, to apprise Settlement Class Members of: (i) the proposed Settlement of this Action; (ii) their right to exclude themselves from the Settlement Class; (iii) their right to object to any aspect of the proposed Settlement; (iv) their right to appear at the Settlement Hearing, either on their own or through counsel hired at their own expense, if they did not exclude themselves from the Settlement Class; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this Action, whether favorable or unfavorable, on all persons not excluded from the Settlement Class;

(c) Are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to be provided with notice; and

(d) Fully satisfy all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c) and (d)), the United States Constitution (including the Due Process Clause), the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), the

Private Securities Litigation Reform Act of 1995, the Rules of Court, and any other applicable law.

16. Settlement Class Members who wish to participate in the Settlement shall complete and submit the Proof of Claim and Release form in accordance with the instructions contained in the Notice. Unless the Court orders otherwise, all Proof of Claim and Release forms must be submitted no later than one hundred twenty (120) days after entry of this Order.

17. Any Settlement Class Member who does not submit a Proof of Claim and Release within the time provided shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by the Court, but shall nevertheless be bound by any final judgment entered by the Court. Notwithstanding the foregoing, Lead Counsel shall have the discretion to accept late-submitted claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby.

18. Any person falling within the definition of the Settlement Class may seek to be excluded from the Settlement Class by submitting to the Settlement Administrator a request for exclusion ("Request for Exclusion"), which complies with the requirements set forth in the Notice and is postmarked no later than twenty-eight (28) days prior to the Settlement Hearing. Any Request for Exclusion that does not supply the information required by this Paragraph 16 shall be rejected, and any such Settlement Class Member shall be bound by the Stipulation and any judgment entered in connection therewith.

19. All persons who submit valid and timely Requests for Exclusion shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Settlement Stipulation or the Judgment. However, a Settlement Class Member may submit a written revocation of a Request for Exclusion up until seven (7) days prior to the

date of the Settlement Hearing and still be eligible to receive payments pursuant to the Stipulation provided the Settlement Class Member also submits a valid Proof of Claim prior to the Settlement Hearing (the "Bar Date").

20. Unless otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs, and all other members of the Settlement Class, from commencing or prosecuting any and all of the Released Plaintiffs' Claims against each and all of the Defendants' Related Parties.

21. The Settlement Hearing shall take place before the undersigned, United States District Judge Carol Bagley Amon, in Courtroom 10D S at the United States District Court for the New York Eastern District, 225 Cadman Plaza East, Brooklyn, NY 11201, on _____, at ____:__.m., to determine:

(a) Whether the Settlement, on the terms and conditions provided for in the Stipulation, should be finally approved by the Court as fair, reasonable, and adequate;

(b) Whether the Litigation should be dismissed on the merits and with prejudice as to the Defendants;

(c) Whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Litigation;

(d) Whether the application for attorneys' fees and expenses to be submitted by Lead Counsel should be approved;

(e) Whether the Plan of Allocation is fair and reasonable to the members of the Settlement Class; and

(f) Such other matters as the Court may deem necessary or appropriate.

22. The Court may finally approve the Stipulation at or after the Settlement Hearing with any modifications agreed to by the parties and without further notice to the Settlement Class Members.

23. Lead Counsel and/or Defendants' Counsel shall submit papers in support of the Settlement, Plan of Allocation and Award of Attorney Fees and Expenses no later than thirty-five (35) days prior to the Settlement Hearing.

24. Any Settlement Class Member and any other interested person may appear at the Settlement Hearing in person or by counsel and be heard, to the extent allowed by the Court, either in support of or in opposition to the matters to be considered at the hearing; provided, however, that no person shall be heard, and no papers, briefs, or other submissions shall be considered by the Court in connection to such matters, unless no later than twenty-eight (28) days before the Settlement Hearing, such person files with the Court a statement of objection setting forth: (i) whether the person is a Settlement Class Member; (ii) to which part of the Stipulation the Settlement Class Member objects; (iii) the specific reason(s), if any, for such objection including any legal support the Settlement Class Member wishes to bring to the Court's attention. Such Settlement Class Member shall also provide documentation sufficient to establish the Meta Materials securities purchased, acquired and sold from September 21, 2020 to June 24, 2022, both dates inclusive (including the number of shares, dates, and prices). Failure to provide such information and documentation shall be grounds to void the objection.

25. All papers in response to objections or otherwise in support of the Settlement and related matters shall be filed fourteen (14) days prior to the Settlement Hearing.

26. Defendants shall have no responsibility for the Plan of Allocation or any Fee and

Expense Application, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Stipulation.

27. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation and any Fee and Expense Application proposed by Lead Counsel should be approved.

28. All reasonable expenses incurred in identifying and notifying Settlement Class Members as well as administering the Settlement Fund shall be paid as set forth in the Stipulation. The Court may adjourn the Settlement Hearing, including the consideration of the motion for attorneys' fees and expenses, without further notice of any kind other than an announcement of such adjournment in open court at the Settlement Hearing or any adjournment thereof. The contents of the Settlement Fund held by Esquire Bank (which the Court approves as the Escrow Agent), shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

29. If the Settlement is approved, all Settlement Class Members will be bound by the terms of the Settlement as set forth in the Stipulation, and by any judgment or determination of the Court affecting the Settlement Class, regardless of whether or not a Settlement Class Member submits a Proof of Claim. Any member of the Settlement Class who fails to opt out of the Settlement Class or who fails to object in the manner prescribed therein shall be deemed to have waived, and shall be foreclosed forever from raising objections or asserting any claims arising out of, related to, or based in whole or in part on any of the facts or matters alleged, or which could have been alleged, or which otherwise were at issue in the Action.

30. Upon payment of the Settlement consideration to the Escrow Account by Defendants, the Settlement Fund shall be deemed to be in the custody of the Court and shall remain

subject to the jurisdiction of the Court until such time as the Settlement Fund is distributed or returned to Defendants pursuant to the Stipulation and/or further order of this Court. There shall be no distribution of any part of the Net Settlement Fund to the Settlement Class until the Plan of Allocation is finally approved.

31. Except for the obligation to cooperate in the production of reasonably available information with respect to the identification of Class Members from Meta Materials' shareholder transfer records, in no event shall Defendants have any responsibility for the administration of the Settlement, and Defendants shall not have any obligation or liability to Plaintiffs in connection with such administration.

32. No Person shall have any claim against the Released Parties, the Claims Administrator, the Escrow Agent or any other agent designated by Lead Counsel based on distribution determinations or claim rejections made substantially in accordance with this Stipulation and the Settlement, the Plan of Allocation, or further orders of the Court, except in the case of fraud or willful misconduct. No person shall have any claim under any circumstances against the Released Parties, based on any distributions, determinations, claim rejections or the design, terms, or implementation of the Plan of Allocation.

33. Defendants have denied, and continue to deny, any and all allegations and claims asserted in the Litigation, and Defendants have represented that they entered into the Settlement solely to eliminate the burden, expense, and uncertainties of further litigation.

34. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants of the truth of any of the allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind.

35. The Released Parties, and each of their counsel may file the Stipulation and/or the Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction of any other theory of claim preclusion or issues preclusion or similar defense or counterclaim.

36. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, this Order shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated, and in such event, all orders entered and releases delivered in connection therewith shall be null and void to the extent provided by and in accordance with the Settlement, and without prejudice to the rights of the parties to the Stipulation before it was executed.

37. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the Settlement Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth above, and retains jurisdiction to consider all further applications arising out of or connected with the settlement.

SO ORDERED in the Eastern District of New York on _____, 2024.

_____
THE HON. CAROL BAGLEY AMON
UNITED STATES DISTRICT JUDGE