

## **Exhibit 6**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge John L. Kane**

Master Docket No. 09-md-02063-JLK-KMT (MDL Docket No. 2063)

**IN RE: OPPENHEIMER ROCHESTER FUNDS GROUP SECURITIES  
LITIGATION**

This document relates to the following Actions:

*In re AMT-Free Municipals Fund*

09-cv-1243-JLK (*Prince*)  
09-cv-1447-JLK (*Connel*)  
09-cv-1510-JLK (*Amato*)  
09-cv-1619-JLK (*Furman*)

*In re AMT-Free New York Municipal Fund*

09-cv-1621-JLK (*Isaac*)  
09-cv-1781-JLK (*Kurz*)

*In re Rochester National Municipal Fund*

09-cv-550-JLK (*Bock*)  
09-cv-706-JLK (*Stokar*)  
09-cv-927-JLK (*Tackmann*)  
09-cv-1042-JLK (*Krim*)  
09-cv-1060-JLK (*Truman*)  
09-cv-1482-JLK (*Laufer*)  
09-cv-1908-JLK (*Lariviere*)

*In re Rochester Fund Municipals*

09-cv-703-JLK (*Begley*)  
09-cv-1479-JLK (*Bernstein*)  
09-cv-1481-JLK (*Mershon*)  
09-cv-1622-JLK (*Stern*)  
09-cv-1478-JLK (*Vladimir*)  
09-cv-1480-JLK (*Weiner*)

*In re New Jersey Municipal Fund*

09-cv-1406-JLK (*Unanue*)  
09-cv-1617-JLK (*Baladi*)  
09-cv-1618-JLK (*Seybold*)  
09-cv-1620-JLK (*Trooskin*)

*In re Pennsylvania Municipal Fund*

09-cv-1483-JLK (*Woods*)  
09-cv-1368-JLK (*Egts*)  
09-cv-1765-JLK (*Wunderly*)

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**DECLARATION OF GLEN L. ABRAMSON ON BEHALF OF  
BERGER & MONTAGUE, P.C. IN SUPPORT OF  
LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION EXPENSES**

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Glen L. Abramson, Esq., declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a shareholder (member) of Berger & Montague, P.C. I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of litigation expenses on behalf of all plaintiffs’ counsel who contributed to the prosecution and settlement of the claims in the above-captioned actions (the “Actions”) from inception through May 30, 2014 (the “Time Period”). I have been actively involved in the litigation and settlement of the Actions from their inception through settlement, and I have personal knowledge of the matters set forth herein.

2. Berger & Montague, P.C. is counsel for Lead Plaintiff Dharamvir Bhanot and additional named plaintiffs William E. Miles, Jr. and John P. Galganovicz, each of whom is also a class representative for the class involving the Pennsylvania Municipal Fund (the “Pennsylvania Fund”). Although Berger & Montague, P.C. was appointed by the Court as Lead Counsel for the Pennsylvania Fund, the attorneys at my firm, principally the four attorneys identified below, have worked in a coordinated fashion with Lead Counsel for all of the Actions in order to prosecute the Actions in an efficient fashion that benefitted the classes in the above-captioned Actions.

3. The four attorneys at Berger & Montague, P.C. with principal responsibility for the Actions are as follows:

A. Glen L. Abramson: I have been actively involved in all aspects of the litigation and settlement of the Actions from their inception, including, among other things, the following: briefing, attending the hearing and resolving the motion for the appointment of lead plaintiff and lead counsel; drafting and editing the Pennsylvania Fund Consolidated Amended Complaint (the “Pennsylvania Complaint”) and the briefs opposing defendants’ multiple motions

to dismiss the various complaints in the Actions and two motions for summary judgment; coordination of the Actions, including the Joint Status reports and the discovery sought from Defendants; responding to the discovery addressed to plaintiffs in the Actions; participating in several meet and confer conferences regarding discovery matters; and preparing for and/or defending the depositions of Lead Plaintiff Dharamvir Bhanot and additional class plaintiffs William E. Miles, Jr. and John Galganovicz. In addition, I was designated by Lead Counsel in the Actions to speak on behalf of all plaintiffs and all lead counsel in the Actions both during the initial settlement exploration meeting with defense counsel in December 2012 as well as during the mediation on May 6 and 7, 2013, and in preparation for this assignment I met with Lead Counsel in the Actions and with Plaintiffs' experts. Moreover, I coordinated my efforts with Sherrie R. Savett, Gary E. Cantor and Eric Lechtzin of Berger & Montague, P.C. in order to ensure that there was no duplication of effort.

B. Sherrie R. Savett: Ms. Savett is the chair of Berger & Montague, P.C.'s securities litigation department. Ms. Savett was actively involved in the lead plaintiff motions and negotiations, initial organization meetings for the Actions as well as in certain strategic decisions that needed to be made in connection with the litigation and settlement of the actions.

C. Gary E. Cantor: Because of Mr. Cantor's background and experience not only in securities litigation, but also in securities valuation and portfolio analysis, Mr. Cantor, along with Eric Lechtzin and the team of paralegals supervised by Messrs. Cantor and Lechtzin, conducted a detailed review of over 1,000 bonds and inverse floaters held by the Pennsylvania Fund during the Class Period. This analysis included a historical analysis of the ratings assigned to each bond, discussions with an expert retained to assist in these matters, an analysis of the publicly reported trading activity for each bond on the Electronic Municipal Market Access

system (“EMMA”), which is the official website repository for municipal bond information maintained by the Municipal Securities Rulemaking Board (“MSRB”), and other analyses in order to support detailed allegations regarding the ratings, liquidity, high-risk nature of the inverse floaters and other matters set out not only in the Pennsylvania Complaint, but also in complaints for the other Actions. Mr. Cantor also compared the performance of the Pennsylvania Fund against other Pennsylvania tax-free municipal funds available during the class period. Thereafter, Mr. Cantor actively participated in all aspects of the litigation, discovery and settlement of the Actions. Mr. Cantor was responsible for coordinating efforts with Brower Piven, a professional Corporation (the “Brower Piven firm”) and the discrete research and discovery assignments delegated to the Brower Piven firm relating to reviewing documents produced by Defendants; drafting discrete sections of the briefs in opposition to the motions to dismiss or summary judgment; and other assignments. Moreover, Mr. Cantor was assigned principal responsibility for coordinating and reviewing the work performed by the experts in the Actions, including the portfolio liquidity, ratings & risk analysis performed by Gifford Fong Associates and the damage calculations performed by Financial Market Analysis, LLC. Mr. Cantor worked closely with Lead Plaintiff’s experts, and he prepared the descriptive analysis of the experts’ methodologies and conclusions along with the charts and summary exhibits for the initial settlement meeting and the mediation. Mr. Cantor also was responsible for drafting of the settlement notice, including the plan of allocation and calculation of per-share recoveries.

D. Eric Lechtzin: Mr. Lechtzin was involved in, among other thing, the following: the briefing and negotiations relating to the initial lead plaintiff motions, the detailed review of the Pennsylvania Fund’s portfolio holdings described above, drafting the Pennsylvania

Complaint, and drafting discrete portions of the opposition to defendants' motions to dismiss and for summary judgment.

4. The lodestar schedule attached hereto as Exhibit A is a summary indicating the amount of time spent by each attorney or paralegal from my firm who was involved in the prosecution of the Actions during the Time Period. The lodestar calculation is based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm.

5. The lodestar schedules attached were prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

6. The hourly rates for the attorneys in my firm included in the lodestar schedules are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other securities, shareholder, or class action litigation.

7. The total number of hours expended on this litigation by my firm during the Time Period is 5,346.20 hours. The total lodestar for my firm for those hours is \$3,174,872.40.

8. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

9. As detailed in Exhibit B, my firm has incurred a total of \$282,074.33 in unreimbursed expenses incurred in connection with the prosecution of the Actions during the Time Period.

10. The expenses incurred are reflected on the books and records of my firm, which are available at the request of the Court. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the actual expenses incurred. Third-party expenses included in Exhibit B are not marked up.

11. With respect to the standing of my firm and the biographies of the four attorneys with principal responsibility for this matter, attached hereto as Exhibit C is a firm resume.

12. I declare under penalty of perjury that the foregoing is true and correct. Executed on June 5, 2014.

  
s/ Glen L. Abramson  
Glen L. Abramson

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Exhibit A

**LODESTAR REPORT**

**FIRM: BERGER & MONTAGUE, P.C.**

**REPORTING PERIOD: INCEPTION THROUGH MAY 30, 2014**

<b>PROFESSIONAL</b>	<b>STATUS*</b>	<b>HOURLY RATE</b>	<b>TOTAL HOURS</b>	<b>TOTAL LODESTAR TO DATE</b>
Sherrie R. Savett	S	\$900.00	141.5	\$127,350.00
Gary E. Cantor	S	\$720.00	1,583.5	\$1,140,120.00
Barbara A. Podell	S	\$720.00	5.0	\$3,600.00
Robin B. Switzenbaum	S	\$660.00	0.5	\$330.00
Glen L. Abramson	S	\$625.00	1,688.0	\$1,055,000.00
Douglas M. Risen	S	\$610.00	3.5	\$2,135.00
Eric Lechtzin	A	\$650.00	850.7	\$552,955.00
Jon J. Lambiras	A	\$550.00	1.0	\$550.00
P.V. Telang	PL	\$275.00	127.0	\$34,925.00
Kimberly A. Walker	PL	\$275.00	87.0	\$23,925.00
Shawn L. Matteo	PL	\$275.00	843.6	\$231,990.00
Patricia L. Frohbergh	PL	\$300.00	4.5	\$1,350.00
Eleanor C. Magnus	PL	\$215.00	1.0	\$215.00
Sandy McCollum	IT	\$57.50	1.6	\$92.00
Arun K. Rajendran	IT	\$43.00	7.8	\$335.40
<b>TOTAL</b>			<b>5,346.20</b>	<b>\$3,174,872.40</b>

\*Shareholder (S)

Associate (A)

Of Counsel (OC)

Paralegal (PL)

Information Technology (IT)

**Exhibit B**

**DISBURSEMENT REPORT**

**FIRM: BERGER & MONTAGUE, P.C.**

**REPORTING PERIOD: INCEPTION THROUGH MAY 30, 2014**

<b>DISBURSEMENT</b>	<b>TOTAL AMOUNT</b>
Duplicating, Binding and Electronic Media	\$8,513.81
Document Hosting	\$8,724.30
Postage and Federal Express	\$17.14
Telephone and Fax	\$265.63
Messengers	\$71.32
Filing and Admission Fees	\$320.00
Court Reporters and Transcripts	\$9,102.90
Computer Research and Research Materials	\$3,403.72
Expert Fees	\$55,102.47
Travel, Meals and Hotels	\$11,343.77
Litigation Fund Contributions	\$334,700.42
Overtime	\$180.00
<b>Total Expenses</b>	<b>\$431,745.48</b>
<b>Less: Contribution Received from Brower Piven Firm Applied Toward Litigation Fund, Expert Fees and Deposition Transcripts</b>	<b>(\$149,671.15)</b>
<b>NET TOTAL EXPENSES</b>	<b>\$282,074.33</b>

**EXHIBIT C – FIRM RESUME OF BERGER & MONTAGUE, P.C.**



Dated: June 5, 2014

**BERGER & MONTAGUE, P.C.**

**THE FIRM:**

Berger & Montague has been engaged in the practice of complex and class action litigation from its Center City Philadelphia office for over 40 years. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of securities, antitrust, mass torts, civil and human rights, qui tam and whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role. The firm has achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell*. Currently, the firm consists of 68 lawyers; 18 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

The *National Law Journal* has selected Berger & Montague in nine of the last eleven years (2003-05, 2007-12) for its “Hot List” of top plaintiffs’ oriented litigation firms in the United States with a history of high achievement and significant, groundbreaking cases. Normally 15 or fewer firms are chosen for this honor. The *Legal 500*, a guide to worldwide legal services providers, has repeatedly cited Berger & Montague’s antitrust practice as “stand[ing] out by virtue of its first-class trial skills.” For four straight years, Berger & Montague has been selected by *Chambers and Partners’ USA’s* America’s Leading Lawyers for Business as one of Pennsylvania’s top antitrust firms. *Chambers USA* has specifically noted that Berger & Montague “specializes in plaintiffs’ antitrust class actions, and is noted for its exceptional work in pharmaceutical and financial disputes.” In 2009, *Employment Law360* named Berger & Montague as one of the top employment plaintiffs’ firms in the U.S. selecting only eight law firms in the country for this honor. Also in 2009, The Public Justice Foundation awarded its prestigious Trial Lawyer of the Year Award to the Berger & Montague trial team (led by Merrill G. Davidoff) in the Rocky Flats mass environmental tort class action, for their “long and hard-fought” victory against “formidable corporate and government defendants,” the second time Berger & Montague has won this honor. The jury verdict in that case was vacated on appeal, and proceedings are continuing in the district court.

Berger & Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm’s complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas, and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger & Montague has established new law and forged the path for recovery for victims of fraud and other wrongdoing.

The firm has been involved in a series of notable cases, some of them among the most important in the last 40 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger & Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$300 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger & Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident.

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which a four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million and was entered on RICO claims against certain defendants for \$239 million. Berger & Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors. Examples of prominent settlements are: *Merrill Lynch* (\$475 million), *Rite Aid* (\$334 million), *Waste Management* (\$220 million), *Sunbeam* (\$142 million), *IKON* (\$111 million), *Medaphis* (\$96 million), *Fleming Companies* (\$94 million), *Cigna* (\$93 million), *Xcel Energy* (\$80 million), *Alcatel* (\$75 million) and *Sotheby's* (\$70 million).

Berger & Montague has served as lead or co-lead counsel in 5 of the 100 largest securities class actions settled in the United States since the advent of the Private Securities Litigation Reform Act of 1995 (PSLRA).

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 30 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), and the *Brand Name Prescription Drug* price fixing case (settlement of more than \$700 million) and the *State of Connecticut Tobacco Litigation* (settlement of \$3.6 billion), the *Graphite Electrodes Antitrust Litigation* (settlement of more than \$134 million), and the *High-Fructose Corn Syrup Litigation* (\$531 million). The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic or other rival drug competition, having achieved over \$1 billion in settlements in such cases over the past decade.

Additionally in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not

returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

### **JUDICIAL PRAISE FOR BERGER & MONTAGUE ATTORNEYS**

Berger & Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

#### **Securities Litigation**

From **Judge Timothy C. Batten** of the U.S. District Court for the Northern District of Georgia, in granting final approval of the class settlement:

“[T]he right word for the conduct and performance of the lawyers ... in this case would be exemplary.... It's hard to imagine a class action being litigated more appropriately, forcefully, hard fought.”

Praising the work of Lead Counsel Merrill G. Davidoff, Michael Dell' Angelo and Lane Vines in *In re NetBank, Inc. Securities Litigation*, No. 1:07-cv-2298-TCB (N.D. Ga. Nov. 9, 2011).

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

Court stated that lead counsel had made “very full and well-crafted” and “excellent submissions”; that there was a “very fine job done by plaintiffs’ counsel in this case”; and that this was “surely a very good result under all the facts and circumstances.”

Regarding the representation in *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y. July 27, 2009) of Co-Lead Counsel Berger & Montague, led by shareholder Lawrence J. Lederer, who was assisted by a team of additional Berger & Montague attorneys including Arthur Stock, Gary Cantor, Robin Switzenbaum and others.

From **Chief Justice Steele** and **Justices Holland, Berger, Jacobs and Ridgely** of the Delaware Supreme Court sitting *en banc*:

Stating that the case was litigated by “very capable counsel,” Chancellor [Chandler] went on to find that:

“All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case. And I think that’s a testimony -- Mr. Valihura correctly says that’s what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.”

Regarding the work of Lawrence Deutsch and Robin Switzenbaum in *In re Matter of The Philadelphia Stock Exchange, Inc.*, 945 A.2d 1123, 1143-44 (Del. 2008).

From **Chancellor William Chandler, III** of the Court of Chancery of Delaware when awarding counsel’s fee observed:

“Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class.”

Concerning Lawrence Deutsch and Robin Switzenbaum at the Plan of Allocation Approval Hearing in *Ginsburg v. Philadelphia Stock Exchange, Inc.*, C.A. No. 2202 (Del. Ch.) on July 2, 2008.

From **Judge Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania:

“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger & Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

Praising the work of Berger & Montague attorneys including Securities Department Chair Sherrie R. Savett and shareholders Carole A. Broderick and Barbara A. Podell in *In re CIGNA Corp. Sec. Litig.*, Master File No. 2:02-cv-8088 2007 U.S. Dist. LEXIS 51089, at \*17-18 (E.D. Pa. July 13, 2007).

From **Judge David S. Doty** of the U.S. District Court for the District of Minnesota:

“[A] just result without the assistance of a governmental investigation .... Counsel ... conducted themselves in an exemplary manner ... consistently demonstrated considerable skill and cooperation to bring this matter to an amicable conclusion ... [and] moved the case along expeditiously”.

Praising the work of counsel in *In re Xcel Energy Sec. Deriv. "ERISA" Litig.*, 364 F. Supp. 2d 980, 992, 995-96 (D. Minn. 2005), where Berger & Montague (led by Ms. Savett) served as Plaintiffs' Co-Lead Counsel.

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

"Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.

\* \* \* \*

"Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter.... [T]hey were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here."

Praising the work of Berger & Montague attorneys including Securities Department Chair Sherrie R. Savett and shareholders Carole Broderick and Robin Switzenbaum in *In re Rite Aid Corp. Securities Litigation*, 269 F. Supp. 2d 603, 605 n.1, 611 (E.D. Pa. 2003).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

"As to 'the skill and efficiency of the attorneys involved,' we can only echo what we said about some of the same lawyers in *U.S. Bioscience*. The results here are outstanding in a litigation that was far ahead of public agencies like the Securities and Exchange Commission and the United States Department of Justice.... At the same time, these attorneys have, through the division of their labors, represented the class most efficiently[.]"

Praising the work of Berger & Montague attorneys including Securities Department Chair, Sherrie R. Savett, in achieving settlements of over \$190 million in *In re Rite Aid Inc. Securities Litigation*, 146 F. Supp. 2d 706, 735 (E.D. Pa. June 8, 2001).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett ..., and the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

Commenting on the settlement of a securities case litigated by Sherrie R. Savett and Carole A. Broderick, *In re U.S. Bioscience Securities Litigation*, No. 92-cv-0678, hearing held April 4, 1994 (E.D. Pa. 1994).

From **Judge Clarence C. Newcomer** of the U.S. District Court for the Eastern District of Pennsylvania:

“[C]ounsel has conducted this litigation with skill, professionalism and extraordinary efficiency.”

Praising the work of Sherrie R. Savett, Securities Department Chair, and Arthur Stock in *In re Unisys Corporation Securities Litigation*, No. 99-cv-5333, 2001 U.S. Dist. LEXIS 20160, at \*10 (E.D. Pa. Dec. 6, 2001).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

“[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines and the pressure of handling thousands of documents in a large multi-district action.... These counsel have also acted vigorously in their clients’ interests[.]

\* \* \* \*

The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines.

\* \* \* \*

Class counsel did a remarkable job in representing the class interests.”

Commenting on the work of Berger & Montague attorneys Merrill G. Davidoff, Todd S. Collins and Douglas M. Risen, on the partial settlement for \$111 million approved May, 2000 in *In re IKON Office Solutions Securities Litigation*, 194 F.R.D. 166, 177, 195, 197 (E.D. Pa. 2000).

From Judge **Wayne R. Andersen** of the U.S. District Court for the Northern District of Illinois:

“[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases ... in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here .... I would say this has been the best representation that I have seen.”

Praising the work of Sherrie R. Savett , Carole A. Broderick, and Gary E. Cantor at a hearing in *In re Waste Management, Inc. Securities Litigation*, No. 97-C 7709 (N.D. Ill. 1999).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

“In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.

\* \* \* \*

Throughout the course of their representation, the attorneys at Berger & Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.”

Commenting, *inter alia*, on lead counsel, lead trial counsel and lead appellate counsel Merrill G. Davidoff in awarding fees on April 15, 1996 in *In Re Melridge, Inc. Securities Litigation*, No. 87-cv-1426-FR (D. Ore.).

From **Judge Joseph F. Anderson, Jr.** of the U.S. District Court for the District of South Carolina:

“I don’t have a problem at all approving the settlement. In light of what you’ve said today and your submission to the Court and I am familiar with the case ... it was a sharply litigated case, with good lawyers on both sides and I think it’s an

ideal case for settlement. It's the largest settlement I've been called upon to approve in my eight years as a judge."

Praising the work of Sherrie R. Savett, Securities Department Chair in achieving a \$32 million settlement in *In re Policy Management Systems Corporation*, No. 3:93-cv-0807-17 (D.S.C. 1993).

From **Judge Harry R. McCue** of the U.S. District Court for the Southern District of California:

"There can be no doubt that the public good was fully served by the attorneys for the plaintiffs in this case, because they invested their own time, their own money, they invested their special skills and knowledge to vindicate the rights and interests of the thousands of investors who invested their money and placed their trust in the integrity of the securities market.... I conclude that the achievement of plaintiffs' counsel under any of those tests was superior."

Concerning the work of lead attorney Sherrie R. Savett in achieving a \$33 million settlement in *In re Oak Industries Securities Litigation*, No. 83-cv-0537-G(M), 1986 U.S. Dist. LEXIS 20942 (S.D. Cal. 1986).

From **Judge John F. Keenan** of the U.S. District Court for the Southern District of New York:

"The quality of work of plaintiffs' counsel on this case is also demonstrated by the efficient manner of prosecution.... At the settlement hearing, defense counsel conceded that plaintiffs' counsel constitute the 'cream of the plaintiffs' bar.' The court cannot find fault with that characterization."

Regarding the work of Sherrie R. Savett in *In re Warner Communications Securities Litigation*, 618 F. Supp. 735, 749 (S.D.N.Y. 1985).

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:

"In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger & Montague.

\* \* \* \*

Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich.”

Commenting in *In re Revco Securities Litigation*, No. 1:89-cv-0593, slip opinion (N.D. Ohio Sept. 14, 1993).

**Antitrust Litigation**

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

“Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression.”

\* \* \*

“Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues .... The law firms of Berger & Montague and Coughlin Stoa were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar.”

Praising the work of Class Counsel, which included Berger & Montague shareholder Eric L. Cramer, in achieving settlement of \$75 million in *In re Currency Conversion Fee Antitrust Litigation*, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg** of the United States District court for the District of New Jersey:

“[W]e sitting here don’t always get to see such fine lawyering, and it’s really wonderful for me both to have tough issues and smart lawyers ... I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, ... On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do.”

*In re Remeron Antitrust Litig.*, Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

“[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again.”

*In re Linerboard Antitrust Litig.*, No. MDL 1261, 2004 WL 1221350, at \*5-\*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

“[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel.... [T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]”

*In re Cardizem CD Antitrust Litig.*, MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras** of the U.S. District Court for the Northern District of Illinois:

“The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . . There is no question that the results achieved by class counsel were extraordinary[.]”

Regarding the work of Berger & Montague (by Mr. Montague) in achieving more than \$700 million in settlements with some of the defendants in *In Re Brand Name Prescription Drugs Antitrust Litigation*, No. 94 C 897, 2000 U.S. Dist. LEXIS 1734, at \*36 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte** of the U.S. District Court for the District of Maryland:

“The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs’ counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded.”

Commenting at the Settlement Approval Hearing, Oct. 28, 1994, in *Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.*, C.A. No. PJM-92-3624 (D. Md.), on the Berger & Montague litigation team led by Merrill G. Davidoff.

From **Judge Donald W. Van Arsdale**n of the U.S. District Court for the Eastern District of Pennsylvania:

“As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the extreme uncertainties of trial, plaintiffs’ counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure.”

*Bogosian v. Gulf Oil Corp.*, 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:

“Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result.”

Where the firm and Merrill Davidoff were co-lead counsel in *In re Art Materials Antitrust Litigation*, MDL No. 436, 1984 CCH Trade Cases ¶65,815, 1983 U.S. Dist. LEXIS 10434, at \*10-11 (N.D. Ohio Dec. 27, 1983).

From **Judge Joseph Blumenfeld** of the U.S. District Court for the District of Connecticut:

“The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions.”

*In re Master Key Antitrust Litigation*, MDL Docket No. 45, 1977 U.S. Dist. LEXIS 12948, at \*35 (D. Conn. Nov. 4, 1977).

From **Judge Charles R. Weiner** of the U.S. District Court for the Eastern District of Pennsylvania:

“Class Counsel exhibited the highest level of skill and professionalism in their conduct of this litigation.”

Praising the work of Class Counsel, which included Berger & Montague senior shareholder Merrill G. Davidoff, who served as Co-Lead Counsel, in achieving settlements in excess of \$47 million in *In re Graphite Electrodes Antitrust Litigation*, No. 97-cv-4182, MDL No. 1244, slip opinion (E.D. Pa. Sept. 8, 2003).

#### *Civil/Human Rights Cases*

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

“We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers.”

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

#### *Insurance Litigation*

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

Noting the “very significant risk in pursuing this action” given its uniqueness in that “there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants.” Further, “the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel’s outstanding work in this case and substantial effort over five years, no member of

the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result.”

Regarding the work of Berger & Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in *Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.*, in the Order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

**Customer/Broker Arbitrations**

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

About the efforts of Berger & Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in *Steinman v. LMP Hedge Fund, et al.*, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

**PROMINENT JUDGMENTS AND SETTLEMENTS**

The firm has a wide breadth of achievement in many significant areas of complex and business-related litigation. The following is a partial list of some of the more notable judgments and settlements from the past few years. For ease of reference, the specific litigation areas can be found as follows:

Securities Litigation	Pages 14-17
Individual Securities Action	Page 17
Antitrust Litigation	Pages 17-21
Environmental/Mass Tort Litigation	Pages 21-22
Employee Benefits/ERISA Litigation	Page 22
Civil/Human Rights Litigation	Pages 22-23
Consumer Litigation	Pages 23-25
Commercial Litigation	Pages 25-26
Employment Litigation	Pages 26-27
Insurance Litigation	Pages 27

**Securities Litigation**

***In re Merrill Lynch Securities Litigation:*** Berger & Montague, as co-lead counsel, obtained a recovery of \$475 million for the benefit of the class in one of the largest recoveries among the recent financial crisis cases. (No. 07-cv-09633 (S.D.N.Y.)).

***In re Sotheby's Holding, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a \$70 million settlement, of which \$30 million was contributed, personally, by an individual defendant (No. 00-cv-1041 (DLC) (S.D.N.Y.)).

***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).

***Ginsburg v. Philadelphia Stock Exchange, Inc., et al.:*** The firm represented certain shareholders of the Philadelphia Stock Exchange in the Delaware Court of Chancery and obtained a settlement valued in excess of \$99 million settlement. (C.A. No. 2202-CC (Del. Ch.)).

***In re Sepracor Inc. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$52.5 million for the benefit of bond and stock purchaser classes. (No. 02-cv-12235-MEL (D. Mass.)).

***In re CIGNA Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$93 million for the benefit of the class. (Master File No. 2:02-cv-8088 (E.D. Pa.)).

***In re Fleming Companies, Inc. Securities Litigation:*** The firm, as lead counsel, obtained a class settlement of \$94 million for the benefit of the class. (No. 5-03-MD-1530 (TJW) (E.D. Tex.)).

***In re Xcel Energy Inc. Securities, Derivative & "ERISA" Litigation:*** The firm, as co-lead counsel in the securities actions, obtained a cash settlement of \$80 million on behalf of investors against Xcel Energy and certain of its officers and directors. (No. 02-cv-2677 (DSD/FLN) (D. Minn.)).

***In re NetBank, Inc. Securities Litigation:*** The firm served as lead counsel in this certified class action on behalf of the former common shareholders of NetBank, Inc. The \$12.5 million settlement, which occurred after class certification proceedings and substantial discovery, is particularly noteworthy because it is one of the few successful securities fraud class actions litigated against a subprime lender and bank in the wake of the financial crisis. (No. 07-cv-2298-TCB (N.D. Ga.)).

***Brown v. Kinross Gold U.S.A. Inc.:*** The firm represented lead plaintiffs as co-lead counsel and obtained \$29.25 million cash settlement and an additional \$6,528,371 in dividends for a gross settlement value of \$35,778,371. (No. 02-cv-0605 (D. Nev.)) All class members recovered 100% of their damages after fees and expenses.

***In re Campbell Soup Co. Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$35 million for the benefit of the class. (No. 00-cv-152 (JEI) (D.N.J.)).

***In re Premiere Technologies, Inc. Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement of over \$20 million in combination of cash and common stock. (No.1:98-cv-1804-JOF (N.D. Ga.)).

***In re PSINet, Inc., Securities Litigation:*** The firm, as co-lead counsel, obtained a settlement of \$17.83 million on behalf of investors. (No. 00-cv-1850-A (E.D. Va.)).

***In re Safety-Kleen Corp. Securities Litigation :*** The firm, as co-lead counsel, obtained a class settlement in the amount of \$45 million against Safety-Kleen's outside accounting firm and certain of the Company's officers and directors. The final settlement was obtained 2 business days before the trial was to commence. (No. 3:00-cv-736-17 (D.S.C.)).

***The City Of Hialeah Employees' Retirement System v. Toll Brothers, Inc.:*** The firm, as co-lead counsel, obtained a class settlement of \$25 million against Home Builder Toll Brothers, Inc. (No. 07-cv-1513 (E.D. Pa.)).

***In re Rite Aid Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (No. 99-cv-1349 (E.D. Pa.)).

***In re Sunbeam Inc. Securities Litigation:*** As co-lead counsel and designated lead trial counsel (by Mr. Davidoff), the firm obtained a settlement on behalf of investors of \$142 million in the action against Sunbeam's outside accounting firm and Sunbeam's officers. (No. 98-cv-8258 (S.D. Fla.)).

***In re Waste Management, Inc. Securities Litigation:*** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash which included a settlement against Waste Management's outside accountants. (No. 97-cv-7709 (N.D. Ill.)).

***In re IKON Office Solutions Inc. Securities Litigation:*** The firm, serving as both co-lead and liaison counsel, obtained a cash settlement of \$111 million in an action on behalf of investors against IKON and certain of its officers. (MDL Dkt. No. 1318 (E.D. Pa.)).

***In re Melridge Securities Litigation:*** The firm served as lead counsel and co-lead trial counsel for a class of purchasers of Melridge common stock and convertible debentures. A four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million, and judgment was entered on

RICO claims against certain defendants for \$239 million. The court approved settlements totaling \$57.5 million. (No. 87-cv-1426 FR (D. Ore.)).

***Emil Rossdeutscher and Dennis Kelly v. Viacom:*** The firm, as lead counsel, obtained a settlement resulting in a fund of \$14.25 million for the class. (C.A. No. 98C-03-091 (JEB) (Del. Super. Ct.)).

***Aldridge v. A.T. Cross Corp.:*** The firm represented a class of investors in a securities fraud class action against A.T. Cross, and won a significant victory in the U.S. Court of Appeals for the First Circuit when that Court reversed the dismissal of the complaint and lessened the pleading standard for such cases in the First Circuit, holding that it would not require plaintiffs in a shareholder suit to submit proof of financial restatement in order to prove revenue inflation. See *Aldridge v. A.T. Cross Corp.*, 284 F.3d 72 (1st Cir. 2002). The case ultimately settled for \$1.5 million. (C.A. No. 00-203 ML (D.R.I.)).

***Silver v. UICI:*** The firm, as co-lead counsel, obtained a settlement resulting in a fund of \$16 million for the class. (No. 3:99-cv-2860-L (N.D. Tex.)).

***In re Alcatel Alsthom Securities Litigation:*** The firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).

***Walco Investments, Inc. et al. v. Kenneth Thenen, et al. (Premium Sales):*** The firm, as a member of the plaintiffs' steering committee, obtained settlements of \$141 million for investors victimized by a Ponzi scheme. Reported at: 881 F. Supp. 1576 (S.D. Fla. 1995); 168 F.R.D. 315 (S.D. Fla. 1996); 947 F. Supp. 491 (S.D. Fla. 1996)).

***In re The Drexel Burnham Lambert Group, Inc.:*** The firm was appointed co-counsel for a mandatory non-opt-out class consisting of all claimants who had filed billions of dollars in securities litigation-related proofs of claim against The Drexel Burnham Lambert Group, Inc. and/or its subsidiaries. Settlements in excess of \$2.0 billion were approved in August 1991 and became effective upon consummation of Drexel's Plan of Reorganization on April 30, 1992. (No. 90-cv-6954 (MP), Chapter 11, Case No. 90 B 10421 (FGC), Jointly Administered, reported at, *inter alia*, 960 F.2d 285 (2d Cir. 1992), *cert. dismissed*, 506 U.S. 1088 (1993) ("Drexel I") and 995 F.2d 1138 (2d Cir. 1993) ("Drexel II")).

***In re Michael Milken and Associates Securities Litigation:*** As court-appointed liaison counsel, the firm was one of four lead counsel who structured the \$1.3 billion "global" settlement of all claims pending against Michael R. Milken, over 200 present and former officers and directors of Drexel Burnham Lambert, and more than 350 Drexel/Milken-related entities. (MDL Dkt. No. 924, M21-62-MP (S.D.N.Y.)).

***RJR Nabisco Securities Litigation:*** The firm represented individuals who sold RJR Nabisco securities prior to the announcement of a corporate change of control. This securities case settled for \$72 million. (No. 88-cv-7905 MBM (S.D.N.Y.)).

### **Individual Securities Actions**

***New Jersey v. Qwest Communications International:*** The firm represented the pension funds for public employees in the State of New Jersey seeking to recover losses on their investments in Qwest common stock. This opt-out action settled for \$45 million. (MER-L-3738-02 (N.J. Super. Ct., Mercer Cty.)).

***Pennsylvania Public School Employees' Retirement System, et al. v. Time Warner, Inc., et al.:*** Berger & Montague represented a group of pension funds seeking to recover for losses on their investments in AOL/Time Warner common stock. The case settled for \$23 million. (July 2003, No. 002103 (Pa. Common Pleas Ct., Phila. Cty.)).

***Kelly v. McKesson HBOC, Inc.:*** Berger & Montague represented a group of private shareholders who sold their companies to a large publicly-held corporation in exchange for \$103.5 million in stock. The case settled for a confidential sum on the eve of trial for a percentage of plaintiffs' damages far greater than plaintiffs would have received from a related class action. (C.A. No. 99C-09-265WCC (Del. Super. Ct.)).

***Miller v. Waste Management, Inc.:*** Berger & Montague represented a group of private shareholders who sold their company to a large publicly-held corporation in exchange for \$1.15 billion in stock. The case was ultimately settled for a confidential sum that was a percentage of plaintiffs' damages far greater than plaintiffs would have received from a related class action. (C.A. No. 00C-06-257 (Del. Super. Ct.)).

***Forbes v. GMH:*** Berger & Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

### **Antitrust Litigation**

***In re Currency Conversion Fee Antitrust Litigation:*** Berger & Montague, as one of two co-lead counsel, spearheaded a class action lawsuit alleging that the major credit cards had conspired to fix prices for foreign currency conversion fees imposed on credit card transactions. After eight years of litigation, a settlement of \$336 million was approved in October, 2009, with a Final Judgment entered in November, 2009. Following the resolution of eleven appeals, the District Court, on October 5, 2011, directed distribution of the settlement funds to more than 10 million timely filed claimants, among the largest class of claimants in an antitrust consumer class action. (MDL No. 1409 (S.D.N.Y.)).

***Ross, et al. v. Bank of America (USA) N.A., et al.:*** Berger & Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require

cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called “cardholder agreements” for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. A proposed settlement has been reached with the non-bank defendant arbitration provider (NAF), and, after defeating summary judgment, Berger & Montague is preparing the case for trial against the remaining two bank defendants.

***In re High Fructose Corn Syrup Antitrust Litigation:*** Berger & Montague was one of three co-lead counsel in this nationwide class action alleging a conspiracy to allocate volumes and customers and to price-fix among five producers of high fructose corn syrup. After nine years of litigation, including four appeals, the case was settled on the eve of trial for \$531 million. (MDL No. 1087, Master File No. 95-1477 (C.D. Ill.)).

***In re Linerboard Antitrust Litigation:*** Berger & Montague was one of a small group of court-appointed executive committee members who led this nationwide class action against producers of linerboard. The complaint alleged that the defendants conspired to reduce production of linerboard in order to increase the price of linerboard and corrugated boxes made therefrom. At the close of discovery, the case was settled for more than \$200 million. (98 Civ. 5055 and 99-1341 (E.D. Pa.)).

***Meijer, Inc., et al. v. Abbott Laboratories:*** Berger & Montague served as co-lead counsel in a class action on behalf of pharmaceutical wholesalers and pharmacies charging Abbott Laboratories with illegally maintaining monopoly power and overcharging purchasers in violation of the federal antitrust laws. Plaintiffs alleged that Abbott had used its monopoly with respect to its anti-HIV medicine Norvir (ritonavir) to protect its monopoly power for another highly profitable Abbott HIV drug, Kaletra. This antitrust class action settled for \$52 million after four days of a jury trial in federal court in Oakland, California. (Case No. 07-5985 (N.D. Cal.)).

***In re Nifedipine Antitrust Litigation:*** Berger & Montague played a major role (serving on the executive committee) in this antitrust class action on behalf of direct purchasers of generic versions of the anti-hypertension drug Adalat (nifedipine). After eight years of hard-fought litigation, the court approved a total of \$35 million in settlements. (Case No. 1:03-223 (D.D.C.)).

***Johnson, et al. v. AzHHA, et al.:*** Berger & Montague is co-lead counsel in this litigation on behalf of a class of temporary nursing personnel, against the Arizona Hospital and Healthcare Association, and its member hospitals, for agreeing and conspiring to fix the rates and wages for temporary nursing personnel, causing class members to be underpaid. The court approved a nearly \$22.5 million settlement on behalf of this class of nurses. (Case No. 07-1292 (D. Ariz.)).

***In re DDAVP Direct Purchaser Antitrust Litigation:*** Berger & Montague served as co-lead counsel in a case that charged defendants with using sham litigation and a fraudulently obtained patent to delay the entry of generic versions of the prescription drug DDAVP. Berger & Montague achieved a \$20.25 million settlement only after winning a precedent-setting victory before the United States Court of Appeals for the Second Circuit that ruled that direct purchasers had standing to recover overcharges arising from a patent-holder's misuse of an allegedly fraudulently obtained patent. (Case No. 05-2237 (S.D.N.Y.)).

***In re Terazosin Antitrust Litigation:*** Berger & Montague was one of a small group of counsel in a case alleging that Abbott Laboratories was paying its competitors to refrain from introducing less expensive generic versions of Hytrin. The case settled for \$74.5 million. (Case No. 99-MDL-1317 (S.D. Fla.)).

***In re Remeron Antitrust Litigation:*** Berger & Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Remeron. The case settled for \$75 million. (2:02-CV-02007-FSH (D. N.J.)).

***In re Tricor Antitrust Litigation:*** Berger & Montague was one of a small group of counsel in a case alleging that the manufacturer of this drug was paying its competitors to refrain from introducing less expensive generic versions of Tricor. The case settled for \$250 million. (No. 05-340 (D. Del.)).

***In re Relafen Antitrust Litigation:*** Berger & Montague was one of a small group of firms who prepared for the trial of this nationwide class action against GlaxoSmithKline, which was alleged to have used fraudulently-procured patents to block competitors from marketing less-expensive generic versions of its popular nonsteroidal anti-inflammatory drug, Relafen (nabumetone). Just before trial, the case was settled for \$175 million. (No. 01-12239-WGY (D. Mass.)).

***In re Microcrystalline Antitrust Litigation:*** Berger & Montague was one of two co-lead counsel in this class action alleging a conspiracy to fix the price of microcrystalline cellulose, used in the manufacture of many pharmaceuticals. The case was settled shortly before trial for a total of \$50 million. (MDL No. 1402 (E.D. Pa.)).

***In re Graphite Electrodes Antitrust Litigation:*** Berger & Montague was one of the four co-lead counsel in a nationwide class action price-fixing case. The case settled for in excess of \$134 million and over 100% of claimed damages. (02 Civ. 99-482 (E.D. Pa.)).

***In re Buspirone Antitrust Litigation:*** The firm served on the court-appointed steering committee in this class action, representing a class of primarily pharmaceutical wholesalers and resellers. The Buspirone class action alleged that pharmaceutical manufacturer BMS engaged in a pattern of illegal conduct surrounding its popular anti-anxiety medication, Buspar, by paying a competitor to refrain from marketing a generic version of Buspar, improperly listing a patent with the FDA, and wrongfully prosecuting patent infringement actions against generic

competitors to Buspar. On April 11, 2003, the Court finally approved a \$220 million settlement. (MDL No. 1410 (S.D.N.Y.)).

***In re Cardizem CD Antitrust Litigation:*** Berger & Montague served on the executive committee of firms appointed to represent the class of direct purchasers of Cardizem CD. The suit charged that Aventis (the brand-name drug manufacturer of Cardizem CD) entered into an illegal agreement to pay Andrx (the maker of a generic substitute to Cardizem CD) millions of dollars to delay the entry of the less expensive generic product. On November 26, 2002, the district court approved a final settlement against both defendants for \$110 million. (No. 99-MD-1278, MDL No. 1278 (E.D. Mich.)).

***In re Brand Name Prescription Drugs Antitrust Litigation:*** The firm served as co-lead counsel in this antitrust price-fixing class action on behalf of a class of purchasers of brand name prescription drugs. Following certification of the class by the district court, settlements exceeded \$717 million. (No. 94 C 897 (M.D. Ill.)).

***North Shore Hematology-Oncology Assoc., Inc. v. Bristol-Myers Squibb Co.:*** The firm was one of several prosecuting an action complaining of Bristol Myers's use of invalid patents to block competitors from marketing more affordable generic versions of its life-saving cancer drug, Platinol (cisplatin). The case settled for \$50 million. (No. 1:04CV248 (EGS) (D.D.C.)).

***In re Catfish Antitrust Litig. Action:*** The firm was co-trial counsel in this action which settled with the last defendant a week before trial, for total settlements approximating \$27 million. (No. 2:92CV073-D-O, MDL No. 928 (N.D. Miss.)).

***In re Carbon Dioxide Antitrust Litigation:*** The firm was co-trial counsel in this antitrust class action which settled with the last defendant days prior to trial, for total settlements approximating \$53 million, plus injunctive relief. (MDL No. 940 (M.D. Fla.)).

***In re Infant Formula Antitrust Litigation:*** The firm served as co-lead counsel in an antitrust class action where settlement was achieved two days prior to trial, bringing the total settlement proceeds to \$125 million. (MDL No. 878 (N.D. Fla.)).

***Red Eagle Resources Corp., Inc., v. Baker Hughes, Inc.:*** The firm was a member of the plaintiffs' executive committee in this antitrust class action which yielded a settlement of \$52.5 million. (C.A. No. H-91-627 (S.D. Tex.)).

***In re Corrugated Container Antitrust Litigation:*** The firm, led by H. Laddie Montague, was co-trial counsel in an antitrust class action which yielded a settlement of \$366 million, plus interest, following trial. (MDL No. 310 (S.D. Tex.)).

***Bogosian v. Gulf Oil Corp.:*** With Berger & Montague as sole lead counsel, this landmark action on behalf of a national class of more than 100,000 gasoline dealers against 13 major oil

companies led to settlements of over \$35 million plus equitable relief on the eve of trial. (No. 71-1137 (E.D. Pa.)).

***In re Master Key Antitrust Litigation:*** The firm served as co-lead counsel in an antitrust class action that yielded a settlement of \$21 million during trial. (MDL No. 45 (D. Conn.)).

### **Environmental/Mass Tort Litigation**

***Cook v. Rockwell International Corporation:*** In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium or other toxins. Judgment in the case was entered by the court in June 2008 which, with interest, totaled \$926 million (with proceedings now continuing on appeal). Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Mr. Davidoff, Mr. Sorensen and the entire trial team for their “long and hard-fought” victory against “formidable corporate and government defendants.” (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal; appellate proceedings are continuing.

***In re Exxon Valdez Oil Spill Litigation:*** On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs’ discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 “Trial Lawyer of the Year Award” given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).

***In re Ashland Oil Spill Litigation:*** The firm led by Harold Berger served as co-lead counsel and obtained a \$30 million settlement for damages resulting from a very large oil spill. (Master File No. M-14670 (W.D. Pa.)).

***State of Connecticut Tobacco Litigation:*** Berger & Montague was one of three firms to represent the State of Connecticut in a separate action in state court against the tobacco companies. The case was litigated separate from the coordinated nationwide actions. Although eventually Connecticut joined the national settlement, its counsel’s contributions were recognized by being awarded the fifth largest award among the states from the fifty states’ Strategic Contribution Fund.

***In re School Asbestos Litigation:*** As co-lead counsel, the firm successfully litigated a case in which a nationwide class of elementary and secondary schools and school districts suffering property damage as a result of asbestos in their buildings were provided relief. Pursuant to an

approved settlement, the class received in excess of \$70 million in cash and \$145 million in discounts toward replacement building materials. (No. 83-0268 (E.D. Pa.)).

***Drayton v. Pilgrim's Pride Corp.***: The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of *Listeria Monocytogenes* in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F.Supp.2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).

***In re SEPTA 30th Street Subway/Elevated Crash Class Action***: Berger & Montague represented a class of 220 persons asserting injury in a subway crash. Despite a statutory cap of \$1 million on damages recovery from the public carrier, and despite a finding of sole fault of the public carrier in the investigation by the National Highway Transit Safety Administration, Berger & Montague was able to recover an aggregate of \$3.03 million for the class. (1990 Master File No. 0001 (Pa. Ct. Com. Pls., Phila. Cty.)).

***In re Three Mile Island Litigation***: As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

#### **Employee Benefits /ERISA Litigation**

***In re Unisys Corp. Retiree Medical Benefits***: The firm, as co-lead counsel, handled the presentation of over 70 witnesses, 30 depositions, and over 700 trial exhibits in this action that has resulted in partial settlements in 1990 of over \$110 million for retirees whose health benefits were terminated. (MDL No. 969 (E.D. Pa.)).

***Local 56 U.F.C.W. v. Campbell Soup Co.***: The firm represented a class of retired Campbell Soup employees in an ERISA class action to preserve and restore retiree medical benefits. A settlement yielded benefits to the class valued at \$114.5 million. (No. 93-MC-276 (SSB) (D.N.J.)).

#### **Civil/Human Rights Litigation**

***In re Holocaust Victim Assets Litigation***: Through membership on the executive committee in cases brought by Holocaust survivors against the three largest Switzerland-based banks, this litigation was settled for \$1.25 billion. (105 F. Supp.2d 139 (E.D.N.Y. 2000)).

***In re Nazi Era Cases Against German Defendants Litigation:*** Through the firm's co-lead counsel role, cases against German industry and banks for the use of slave and forced labor during the Nazi era were ultimately settled in the context of international negotiations which created a fund for victims of \$4.5 billion. (198 F.R.D. 429 (D.N.J. 2000)).

### **Consumer Litigation**

***Countrywide Predatory Lending Enforcement Action:*** Berger & Montague advised the Ohio Attorney General (and several other state attorneys general) regarding predatory lending in a landmark law enforcement proceeding against *Countrywide* (and its parent, Bank of America) culminating in 2008 in mortgage-related modifications and other relief for borrowers across the country valued at some \$8.6 billion.

***In re Pet Foods Product Liability Litigation:*** The firm served as one of plaintiffs' co-lead counsel in this multidistrict class action suit seeking to redress the harm resulting from the manufacture and sale of contaminated dog and cat food. The case settled for \$24 million. Many terms of the settlement are unique and highly beneficial to the class, including allowing class members to recover up to 100% of their economic damages without any limitation on the types of economic damages they may recover. (1:07-cv-02867 (D.N.J.), MDL Docket No. 1850 (D.N.J.)).

***In re TJX Companies Retail Security Breach Litigation:*** The firm served as co-lead counsel in this multidistrict litigation brought on behalf of individuals whose personal and financial data was compromised in the then-largest theft of personal data in history. The breach involved more than 45 million credit and debit card numbers and 450,000 customers' driver's license numbers. The case was settled for benefits valued at over \$200 million. Class members whose driver's license numbers were at risk were entitled to 3 years of credit monitoring and identity theft insurance (a value of \$390 per person based on the retail cost for this service), reimbursement of actual identity theft losses, and reimbursement of driver's license replacement costs. Class members whose credit and debit card numbers were at risk were entitled to cash of \$15-\$30 or store vouchers of \$30-\$60. (No. 1:07-cv-10162-WGY, (D. Mass.)).

***In Re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement of cash and injunctive relief for a class of 130 million credit card holders whose credit card information was stolen by computer hackers. The breach was the largest known theft of credit card information in history. The settlement is subject to court approval. (No. 4:09-MD-2046 (S.D. Tex. 2009)).

***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rouge employee sold their information to unauthorized third parties. Settlement benefits included: (i)

reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).

***In re Educational Testing Service Praxis Principles of Learning and Teaching: Grades 7-12 Litigation:*** The firm served on the plaintiffs' steering committee and obtained an \$11.1 million settlement in 2006 on behalf of persons who were incorrectly scored on a teacher's licensing exam. (MDL No. 1643 (E.D. La.)).

***Vadino, et al. v. American Home Products Corporation, et al.:*** The firm filed a class complaint different from that filed by any other of the filing firms in the New Jersey State Court "Fen Phen" class action, and the class sought in the firm's complaint was ultimately certified. It was the only case anywhere in the country to include a claim for medical monitoring. In the midst of trial, the New Jersey case was folded into a national settlement which occurred as the trial was ongoing, and which was structured to include a medical monitoring component worth in excess of \$1 billion. (Case Code No. 240 (N.J. Super. Ct.)).

***Parker v. American Isuzu Motors, Inc.:*** The firm served as sole lead counsel and obtained a settlement whereby class members recovered up to \$500 each for economic damages resulting from accidents caused by faulty brakes. (Sept. Term 2003, No. 3476 (Pa. Ct. Com. Pl., Phila. Cty.)).

***In re: Bridgestone Firestone, Inc. ATX, ATX II and Wilderness Tires Products Liab. Litig.:*** The firm filed a complaint that was later consolidated into the master multidistrict litigation (MDL). Claims in the MDL were focused on: (1) products liability claims against Bridgestone/Firestone for faulty tires; and (2) diminution in value (DIV) claims against Ford for the falling value of Ford Explorers. B&M was one of three firms on the Discovery Committee. After surviving in part the motion to dismiss, engaging in substantial discovery, and litigating the motion for class certification, the case was settled on a non-class basis. (Master File No. 00-ml-09374-SEB-JMS (S.D. Ind.), MDL No. 1373).

***Salvucci v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class alleging that defendants failed to disclose that its vehicles contained defectively designed timing belt tensioners and associated parts and that defendants misrepresented the appropriate service interval for replacement of the timing belt tensioner system. After extensive discovery, a settlement was reached. (Docket No. ATL-1461-03 (N.J. Sup. Ct. 2007)).

***Burgo v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class against defendants' defective tires that were prone to bubbles and bulges. Counsel completed extensive discovery and class certification briefing. A settlement was reached while the decision on class certification was pending. The settlement consisted of remedies including total or partial

reimbursement for snow tires, free inspection/replacement of tires for those who experienced sidewall bubbles, blisters, or bulges, and remedies for those class members who incurred other costs related to the tires' defects. (Docket No. HUD-L-2392-01 (N.J. Sup. Ct. 2001)).

***Crawford v. Philadelphia Hotel Operating Co.:*** The firm served as co-lead counsel and obtained a settlement whereby persons who contracted food poisoning at a business convention recovered \$1,500 each. (March Term, 2004, No. 000070 (Pa. Ct. Com. Pl., Phila. Cty.)).

***Block v. McDonald's Corporation:*** The firm served as co-lead counsel and obtained a settlement of \$12.5 million with McDonald's stemming from its failure to disclose the use of beef fat in its french fries. (No. 01-CH-9137 (Ill. Cir. Ct., Cook Cty.)).

### **Commercial Litigation**

***Erie Power Technologies, Inc. v. Aalborg Industries A/S, et al.:*** Berger & Montague represented a trustee in bankruptcy against officers and directors and the former corporate parent and obtained a very favorable confidential settlement. (No. 04-282E (W.D. Pa.)).

***Moglia v. Harris et al.:*** Berger & Montague represented a liquidating trustee against the officers of U.S. Aggregates, Inc. and obtained a settlement of \$4 million. (No. C 04 2663 (CW) (N.D. Cal.)).

***Gray v. Gessow et al.:*** The firm represented a litigation trust and brought two actions, one against the officers and directors of Sunterra Inc. an insolvent company, and the second against Sunterra's accountants, Arthur Andersen and obtained an aggregate settlement of \$4.5 million. (Case No. MJG 02-CV-1853 (D. Md.) and No. 6:02-CV-633-ORL-28JGG (M.D. Fla.)).

***Fitz, Inc. v. Ralph Wilson Plastics Co.:*** The firm served as sole lead counsel and obtained, after 7 years of litigation, in 2000 a settlement whereby fabricator class members could obtain full recoveries for their losses resulting from defendants' defective contact adhesives. (No. 1-94-CV-06017 (D.N.J.)).

***Provident American Corp. and Provident Indemnity Life Insurance Company v. The Loewen Group Inc. and Loewen Group International Inc.:*** Berger & Montague settled this individual claim, alleging a 10-year oral contract (despite six subsequent writings attempting to reduce terms to writing, each with materially different terms added, all of which were not signed), for a combined payment in cash and stock of the defendant, of \$30 Million. (No. 92-1964 (E.D. Pa.)).

***Marilou Whitney (Estate of Cornelius Vanderbilt Whitney) v. Turner/Time Warner:*** Berger & Montague settled this individual claim for a confidential amount, seeking interpretation of the distribution agreement for the movie, *Gone with the Wind* and undistributed profits for the years 1993-1997, with forward changes in accounting and distribution.

***American Hotel Holdings Co., et. al v. Ocean Hospitalitys, Inc., et. al.:*** Berger & Montague defended against a claim for approximately \$16 million and imposition of a constructive trust, arising out of the purchase of the Latham Hotel in Philadelphia. Berger & Montague settled the case for less than the cost of the trial that was avoided. (June Term, 1997, No. 2144 (Pa. Ct. Com. Pl., Phila. Cty.))

***Creative Dimensions and Management, Inc. v. Thomas Group, Inc.:*** Berger & Montague defended this case against a claim for \$30 million for breach of contract. The jury rendered a verdict in favor of Berger & Montague's client on the claim (i.e., \$0), and a verdict for the full amount of Berger & Montague's client on the counterclaim against the plaintiff. (No. 96-6318 (E.D. Pa.)).

***Robert S. Spencer, et al. v. The Arden Group, Inc., et al.:*** Berger & Montague represented an owner of limited partnership interests in several commercial real estate partnerships in a lawsuit against the partnerships' general partner. The terms of the settlement are subject to a confidentiality agreement. (Aug. Term, 2007, No. 02066 (Pa. Ct. Com. Pl., Phila. Cty. - Commerce Program)).

***Forbes v. GMH:*** Berger & Montague represented a private real estate developer/investor who sold a valuable apartment complex to GMH for cash and publicly-held securities. The case which claimed securities fraud in connection with the transaction settled for a confidential sum which represented a significant portion of the losses experienced. (No. 07-cv-00979 (E.D. Pa.)).

#### **Employment Litigation**

***Employees Committed for Justice v. Eastman Kodak Company:*** The firm served as co-lead counsel and obtained a settlement of \$21.4 million on behalf of a nationwide class of African American employees of Kodak alleging a pattern and practice of racial discrimination (pending final approval). A significant opinion issued in the case is *Employees Committed For Justice v. Eastman Kodak Co.*, 407 F.Supp.2d 423 (W.D.N.Y. 2005) (denying Kodak's motion to dismiss). No. 6:04-cv-06098 (W.D.N.Y.)).

***Salcido v. Cargill Meat Solutions Corp.:*** The firm served as co-lead counsel and obtained a settlement of \$7.5 million on behalf of a class of thousands of employees of Cargill Meat Solutions Corp. alleging that they were forced to work off-the-clock and during their breaks. This is one of the largest settlements of this type of case involving a single plant in U.S. history. (Civil Action Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal.)).

***Miller v. Hygrade Food Products, Inc.:*** The firm served as lead counsel and obtained a settlement of \$3.5 million on behalf of a group of African American employees of Sara Lee Foods Corp. to resolve charges of racial discrimination and retaliation at its Ball Park Franks plant. (No. 99-1087 (E.D. Pa.)).

***Chabrier v. Wilmington Finance, Inc.***: The firm served as co-lead counsel and obtained a settlement of \$2,925,000 on behalf of loan officers who worked in four offices of to resolve claims for unpaid overtime wages. A significant opinion issued in the case is *Chabrier v. Wilmington Finance, Inc.*, 2008 WL 938872 (E.D. Pa. April 04, 2008) (denying the defendant's motion to decertify the class). (No. 06-4176 (E.D. Pa.)).

***Bonnette v. Rochester Gas & Electric Co.***: The firm served as co-lead counsel and obtained a settlement of \$2 million on behalf of a class of African American employees of Rochester Gas & Electric Co. to resolve charges of racial discrimination in hiring, job assignments, compensation, promotions, discipline, terminations, retaliation, and a hostile work environment. (No. 07-6635 (W.D.N.Y.)).

### **Insurance Litigation**

***Spencer v. Hartford Financial Services Group, Inc.***: The firm, together with co-counsel, prosecuted this national class action against The Hartford Financial Services Group, Inc. and its affiliates in the United States District Court for the District of Connecticut (*Spencer v. Hartford Financial Services Group, Inc.*, Case No. 05-cv-1681) on behalf of approximately 22,000 claimants, each of whom entered into structured settlements with Hartford property and casualty insurers to settle personal injury and workers' compensation claims. To fund these structured settlements, the Hartford property and casualty insurers purchased annuities from their affiliate, Hartford Life. By purchasing the annuity from Hartford Life, The Hartford companies allegedly were able to retain up to 15% of the structured amount of the settlement in the form of undisclosed costs, commissions and profit - all of which was concealed from the settling claimants. On March 10, 2009, the U.S. District Court certified for trial claims on behalf of two national subclasses for civil RICO and fraud (256 F.R.D. 284 (D. Conn. 2009)). On October 14, 2009, the Second Circuit Court of Appeals denied The Hartford's petition for interlocutory appeal under Federal Rule of Civil Procedure 23(f). On September 21, 2010, the U.S. District Court entered judgment granting final approval of a \$72.5 million cash settlement.

***Nationwide Mutual Insurance Company v. O'Dell***: The firm, together with co-counsel, prosecuted this class action against Nationwide Mutual Insurance Company in West Virginia Circuit Court, Roane County (*Nationwide Mutual Insurance Company v. O'Dell*, Case No. 00-C-37), on behalf of current and former West Virginia automobile insurance policyholders, which arose out of Nationwide's failure, dating back to 1993, to offer policyholders the ability to purchase statutorily-required optional levels of underinsured ("UIM") and uninsured ("UM") motorist coverage in accordance with West Virginia Code 33-6-31. The court certified a trial class seeking monetary damages, alleging that the failure to offer these optional levels of coverage, and the failure to provide increased first party benefits to personal injury claimants, breached Nationwide's insurance policies and its duty of good faith and fair dealing, and violated the West Virginia Unfair Trade Practices Act. On June 25, 2009, the court issued final approval of a settlement that provided a minimum estimated value of \$75 million to Nationwide auto policyholders and their passengers who were injured in an accident or who suffered property damage.

**BIOGRAPHIES OF ATTORNEYS WITH PRINCIPAL RESPONSIBILITY  
FOR THE OPPENHEIMER-ROCHESTER FUNDS MATTER**

**Sherrie R. Savett**

**Summary**

Sherrie R. Savett, Chair of the Securities Litigation Department and Qui Tam/False Claims Act Department, and member of the Management Committee of the law firm of Berger & Montague, has practiced in the area of securities litigation and class actions since 1975. Eight securities class actions in which Ms. Savett served as lead counsel, are among the largest securities class actions settled in the United States since the enactment of the Private Securities Litigation Reform Act (“PSLRA”) in 1995. In the past decade, she has also worked actively in the False Claims Act arena and was a part of the team that litigated and settled the Average Wholesale Price qui tam cases which settled collectively for over \$1 billion. She has advanced investor protection by helping to establish several significant legal precedents. Ms. Savett speaks and writes often on professional topics, and is also a business and community leader.

**Securities Litigation**

Ms. Savett serves or has served as lead or co-lead counsel or as a member of the executive committee in a large number of important securities and consumer class actions in federal and state courts across the country, including:

**Advanced Micro Devices** (class settlement of \$11.5 million);  
**\*Alcatel Alsthom** (class settlement of \$75 million);  
**BankAmerica** (derivative settlement of \$39.25 million);  
**Boston Chicken** (class settlement of \$21.5 million);  
**Bristol-Myers Squibb** (class settlement of \$20 million);  
**Cephalon** (class settlement of \$17 million);  
**\*Cigna** (class settlement of \$93 million);  
**Coastal Physician Group** (class settlement of \$8.15 million);  
**Crocker Bank** (class settlement of \$35 million);  
**Employee Solutions** (class settlement valued at \$15 million);  
**Fidelity/Micron** (class settlement of \$10 million);  
**\*Fleming Companies** (class settlement of \$94 million);  
**Genentech** (class settlement of \$29 million);  
**Global Crossing** (class settlement of \$444 million);  
**Home Shopping Network** (class settlement of \$18.2 million);  
**\*KLA-Tencor** (class settlement of \$65 million);  
**Long Island Lighting** (class settlement of \$48.5 million);  
**Marconi** (class settlement of \$7.1 million);  
**\*Medaphis/Deloitte & Touche** (class settlement of \$96.5 million);

*MicroWarehouse* (class settlement valued at \$30 million);  
*Motorola* (class settlement of \$15 million);  
*Oak Industries* (class settlement in excess of \$35 million);  
*Plains All American Pipeline LP* (class settlement of \$24.1 million);  
*Policy Management* (class settlement of \$32 million);  
*Policy Management II* (class settlement of \$7.75 million);  
*Public Service Company of New Mexico* (class and derivative settlements of \$33 million);  
*Raychem* (class settlement of \$19.5 million);  
\**Rite Aid* (class settlement of \$334 million);  
*Safety-Kleen* (class settlement of \$44.5 million achieved two days before trial);  
*Sepracor* (class settlement of \$52.5 million)  
*Shopko Stores* (class settlement of \$4.9 million);  
*SmithKline Beckman* (class settlement of \$22 million);  
\**Sotheby's Holdings* (class settlement of \$70 million);  
*Summit Technology* (class settlement of \$10 million);  
*Sunrise Medical* (class settlement of \$20 million);  
*Subaru* (class settlement of \$70 million);  
*Synergen* (class settlement of \$28 million);  
*U.S. Bioscience* (class settlement valued at \$15.25 million);  
*United HealthCare* (class settlement of \$20.1 million);  
*United Telecommunications* (class settlement of \$28 million);  
*Valujet* (class settlement of \$5 million);  
*W.R. Grace* (derivative settlement of \$8.5 million);  
\**Waste Management* (class settlement of \$220 million); and  
\**Xcel Energy* (class settlement of \$80 million).

\* Listed among the largest securities class actions settled in the United States since the enactment of the PSLRA in 1995.

### **Investor Protection**

Ms. Savett has helped establish several significant precedents. Among them is the holding (the first ever in a federal appellate court) that municipalities are subject to the anti-fraud provisions of SEC Rule 10b-5 under ' 10(b) of the Securities Exchange Act of 1934, and that municipalities that issue bonds are not acting as an arm of the state and therefore are not entitled to immunity from suit in the federal courts under the Eleventh Amendment. *Sonnenfeld v. City and County of Denver*, 100 F.3d 744 (10th Cir.1996)

In the *U.S. Bioscience* securities class action, a biotechnology case where critical discovery was needed from the federal Food and Drug Administration, the court ruled that the FDA may not automatically assert its administrative privilege to block a subpoena and may be subject to discovery depending on the facts of the case. *In re U.S. Bioscience Secur. Litig.*, 150 F.R.D. 80 (E.D. Pa. 1993)

In the *CIGNA Corp. Securities Litigation*, the Court denied defendants' motion for summary judgment, holding that a plaintiff has a right to recover for losses on shares held at the time of a corrective disclosure and his gains on a stock should not offset his losses in determining legally recoverable damages. *In re CIGNA Corp. Securities Litigation*, 459 F. Supp. 2d 338 (E.D. Pa. 2006).

### **Judicial Praise**

From **Judge Stewart Dalzell**, of the U.S. District Court for the Eastern District of Pennsylvania, *In re U.S. Bioscience Securities Litigation*, Civil Action No. 92-0678, hearing held April 4, 1994 (E.D. Pa. 1994).:

"The quality of lawyering on both sides, but I am going to stress now on the plaintiffs' side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don't come any better than Mrs. Savett . . . , and the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs' counsel were as good as they come."

From **Judge David S. Doty**, of the U.S. District Court for the District of Minnesota, *In re Xcel Energy Sec. Deriv. "ERISA" Litig.*, 364 F. Supp. 2d 980, 992, 995-96 (D. Minn. 2005):

"... [A] just result without the assistance of a governmental investigation," plaintiffs' co-lead counsel Berger & Montague "conducted themselves in an exemplary manner," "consistently demonstrated considerable skill and cooperation to bring this matter to an amicable conclusion," and "moved the case along expeditiously".

From Judge **Wayne R. Andersen**, of the U.S. District Court for the Northern District of Illinois, *In Re: Waste Management, Inc. Securities Litigation*, Civil Action No. 97-C 7709 (N.D. Ill. 1999):

"...[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here ... I would say this has been the best representation that I have seen."

From **Judge Stewart Dalzell**, of the U.S. District Court for the Eastern District of Pennsylvania, *In re Rite Aid Inc. Sec. Litig.*, 269 F.Supp. 2d 603, 611 (E.D. Pa. 2003):

"This litigation presented layers of factual and legal complexity which assured that, absent a global settlement, these disputes would take on Dickensian dimensions ... In short, it would be hard to equal the skill class counsel demonstrated here .... [T]hey were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings.

From U.S. District Judge **Michael M. Baylson**, *In Re: CIGNA Corp. Sec. Litig.*, 2007 U.S. Dist. LEXIS 51089, \*\*17-18 (E.D. Pa. July 13, 2007):

“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger & Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

### **Professional Leadership**

Ms. Savett is active in her profession, and is a frequent author and lecturer on prosecuting shareholder and consumer class actions. She was formerly on the board of the Philadelphia Bar Foundation.

In April 2013, Ms. Savett spoke at the 2013 ABA Litigation Section Annual Conference in Chicago on two panels. One program on securities litigation was entitled “The Good, The Bad, and The Ugly: Ethical Issues in Class Action Settlements and Opt Outs.” The other program focused on consumer class actions in the real estate area and was entitled “The Foreclosure Crisis Puzzle: Navigating the Changing Landscape of Foreclosure.”

In May 2007, Ms. Savett spoke in Rome, Italy at the conference presented by the Litigation Committee of the Dispute Resolution Section of the International Bar Association and the Section of International Law of the American Bar Association on class certification. Ms. Savett participated in a mock hearing before a United States Court on whether to certify a worldwide class action that includes large numbers of European class members.

She has lectured at the Wharton School of the University of Pennsylvania and at the Stanford Law School on prosecuting shareholder class actions. She is frequently invited to present and serve as panelist in American Bar Association, American Law Institute/American Bar Association and Practising Law Institute (PLI) conferences on securities class action litigation and the use of class actions in consumer litigation. She has been a presenter and panelist at PLI’s Securities Litigation and Enforcement Institute annually since 1995. She has also spoken at major institutional investor and insurance industry conferences, and DRI -- the Voice of the Defense Bar. In February 2009, she was a member of a six person panel who presented an analysis of the current state of securities litigation before over 1,000 underwriters and insurance executives at the PLUS (Professional Liability Underwriting Society) Conference in New York City. She has presented at the Cyber-Risk Conference in 2009 and will present at the PLUS Conference in Chicago on November 16, 2009 on the subject of litigation involving security breaches and theft of personal information.

Ms. Savett is a member of the Editorial Board of the *Securities Litigation Report* and has been a contributor to this publication.

She has written numerous articles on securities and complex litigation issues, including:

“Plaintiffs’ Vision of Securities Litigation: Current Trends and Strategies,” 1762 *PLI*, October 2009

“Plaintiffs’ Vision of Securities Litigation: Trends/Strategies in 2005-2007,” 1620 *PLI*, September 2007

“Plaintiffs’ Vision of Securities Litigation: Trends/Strategies in 2005-2007,” SM086 ALI ABA, June 7-8, 2007

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1557 *PLI*, September 2006

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1505 *PLI*, September 2005

“Recent Developments in the Lead Plaintiff and Lead Counsel Provisions of the Private Securities Litigation Reform Act (PSLRA),” 1 *Securities Litigation Report*, (Glasser LegalWorks) December 2004-January 2005

“Primary Liability of ‘Secondary’ Actors under the PSLRA,” 1 *Securities Litigation Report*, (Glasser) November 2004

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” 1442 *PLI/Corp.13*, September-October 2004

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SJ084 ALI-ABA 399, May 13-14, 2004

“The ‘Indispensable Tool’ of Shareholder Suits,” *Directors & Boards*, Vol. 28, February 18, 2004

“Plaintiff’s Perspective on How to Obtain Class Certification in Federal Court in a Non-Federal Question Case”, 679 *PLI*, August 2002

“Hurdles in Securities Class Actions: The Impact of Sarbanes-Oxley from a Plaintiff’s Perspective,” 9 *Securities Litigation and Regulation Reporter* (Andrews), December 23, 2003

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SG091 ALI-ABA, May 2-3, 2002

“Securities Class Actions Since the 1995 Reform Act: A Plaintiff’s Perspective,” SF86 ALI-ABA 1023, May 10, 2001

“Greetings from the Plaintiffs’ Class Action Bar: We’ll Be Watching,” SE082 ALI-ABA739, May 11, 2000

“Preventing Financial Fraud,” B0-00E3 *PLI* BO-00E3 April-May 1999

“Shareholders Class Actions in the Post Reform Act Era,” SD79 ALI-ABA 893, April 30, 1999

“What to Plead and How to Plead the Defendant’s State of Mind in a Federal Securities Class Action,” with Arthur Stock, *PLI*, ALI/ABA 7239, November 1998

“The Merits Matter Most: Observations on a Changing Landscape under the Private Securities Litigation Reform Act of 1995,” 39 *Arizona Law Review* 525, 1997

“Everything David Needs to Know to Battle Goliath,” ABA Tort & Insurance Practice Section, *The Brief*, Vol. 20, No.3, Spring 1991

“The Derivative Action: An Important Shareholder Vehicle for Insuring Corporate Accountability in Jeopardy,” *PLI* H4-0528, September 1, 1987

“Prosecution of Derivative Actions: A Plaintiff’s Perspective,” *PLI* H4-5003, September 1, 1986

## **Honors**

Ms. Savett is widely recognized as a leading litigator and a top female leader in the profession by local and national legal rating organizations.

*The Legal Intelligencer* and *Pennsylvania Law Weekly* named her one of the “56 Women Leaders in the Profession” in 2004.

In 2003-2005 and 2007-2009, Berger & Montague was named to the *National Law Journal*’s “Hot List” of 12-20 law firms nationally “who specialize in plaintiffs’ side litigation and have excelled in their achievements.” Having achieved this designation in 6 out of 7 years, the firm is on the *National Law Journal*’s “Hall of Fame.” Ms. Savett’s achievements were mentioned, among others, in each year.

Ms. Savett was named a “Pennsylvania Top 50 Female Super Lawyer” and a “Pennsylvania Super Lawyer” from 2004 through 2009 by *Philadelphia Magazine* after an extensive nomination and polling process among Pennsylvania lawyers.

In 2006 and 2007, she was named one of the “500 Leading Litigators” and “500 Leading Plaintiffs’ Litigators” in the United States by *Lawdragon*. In 2008, Ms. Savett was named as one of the “500 Leading Lawyers in America.” Also in 2008, she was named one of 25 “Women of the Year” in Pennsylvania by *The Legal Intelligencer* and *Pennsylvania Law Weekly* which

stated on May 19, 2008 in the *Women in the Profession* in *The Legal Intelligencer* that she “has been a prominent figure nationally in securities class actions for years, and some of her recent cases have only raised her stature.”

In June 2008, Ms. Savett was named by *Lawdragon* as one of the “100 Lawyers You Need to Know in Securities Litigation.”

### **Business and Community Leadership**

A business leader, Ms. Savett is a member of The Forum of Executive Women and a member of the Union League of Philadelphia.

Ms. Savett is active in community affairs. She is currently serving the third year of a three year term as President of The Jewish Federation of Greater Philadelphia, and has served for decades on its Board of Trustees. She also serves as Vice Chairperson of the Board of Directors of the National Liberty Museum and the Board of the Anti-Defamation League. In 2005, she received The Spirit of Jerusalem Medallion, the State of Israel Bonds’ highest honor.

### **Education**

She earned her J.D. from the University of Pennsylvania Law School, and a B.A. *summa cum laude* from the University of Pennsylvania.

### **Glen L. Abramson**

Glen L. Abramson has been a member of Berger & Montague’s Securities Litigation Department since 2003, concentrating his practice in the area of complex securities class action litigation. Prior to joining Berger & Montague, he worked at Dechert LLP in Philadelphia, where he handled complex commercial litigation, product liability, intellectual property, and civil rights disputes. While at Dechert, Mr. Abramson co-chaired a civil rights trial in federal court that led to a six-figure verdict. Mr. Abramson also spent three years as a professional equities trader.

Currently Mr. Abramson represents both public and private institutional investors, as well as high-net-worth individuals, in several high-profile securities fraud class actions. He is actively involved in *In re Mutual Funds Investment Litigation*, where Berger & Montague is a member of the Steering Committee, and represents the interest of investors who were harmed as a result of the mutual fund industry’s recent market timing and late trading scandal.

Mr. Abramson is also active in pursuing corporate governance reform on behalf of institutional investors. He is a member of the National Association of Public Pension Attorneys (NAPPA), and had contributed to an article titled “The Indispensable Tool of Shareholder Suits: Private Securities Litigation as a Remedy for Failed Governance” in *Directors & Boards* magazine (Vol. 28, No. 2, Winter 2004). Mr. Abramson has also commented on securities fraud cases for several publications, including *The Economist*.

In 2006, 2007, and 2008, Mr. Abramson was named as a Pennsylvania Super Lawyer - Rising Star. The designation of "Rising Star" is an honor conferred upon only the top 2.5% of attorneys in Pennsylvania who are 40 or younger.

Mr. Abramson was awarded a B.A. from Cornell University where he was elected to Phi Beta Kappa. He holds a J.D. *cum laude* from the Harvard Law School, where he was a member of the Harvard Legal Aid Bureau. He is admitted to practice law in Pennsylvania and New Jersey.

### **Gary E. Cantor**

Gary E. Cantor has been a member of Berger & Montague's Securities Litigation Department since 1977, concentrating his practice in the areas of complex litigation, particularly securities litigation and securities valuations. Among other cases, Mr. Cantor has served as co-lead counsel in *Steiner v. Phillips, et al.* (Southmark Securities), Consolidated C.A. No. 3-89-1387-X (N.D. Tex.), which resulted in several payments to the Settlement Fund of \$82.5 million, and *In re Kenbee Limited Partnerships Litigation*, Civil Action No. 91-2174 (GEB), a class action involving 119 separate limited partnerships resulting in cash settlement and debt restructuring (with as much as \$100 million in wrap mortgage reductions). In addition, he played a major leadership role in: *In re Merrill Lynch Securities Litigation*, Civil Action No. 07-cv-09633 (S.D.N.Y.) (\$475 million settlement); *In Re Kla-Tencor Corp. Securities Litigation*, Master File No. C-06-04065-CRB (N.D. Cal.)(\$65 million class settlement approved September 26, 2008); *In re Sepracor Inc. Securities Litigation*, Civil Action no. 02-12235-MEL (D. Mass.)(\$52.5 million settlement approved September 6, 2007); *In re Marconi, Plc, Securities Litigation*, Civil Action No. 2:01-CV-1259 (W.D. Pa.)(\$7.1 million settlement approved January 16, 2004); *In re Sotheby's Holding, Inc. Securities Litigation*, No. 00 Civ. 1041 (DLC) (S.D.N.Y.)(\$70 million class settlement); *In re Fidelity/Micron Securities Litigation*, Civil Action No. 95-12676-RGS (D. Mass.) (\$10 million class settlement); *In re Tucson Electric Power Company Securities Litigation*, C.A. No. 89-1274 PHX (WPC C.D. Ariz.) (\$30 million settlement of class and derivative actions). He was also actively involved in the *Waste Management Securities Litigation* (class settlement of \$220 million).

In addition, for 20 years Mr. Cantor has also concentrated on securities valuations and the preparation of event or damage studies or the supervision of outside damage experts for many of the firm's securities cases, including many of the firm's cases listed under Prominent Judgments and Settlements above. Mr. Cantor's work in this regard has focused on statistical analysis of securities trading patterns and pricing for determining materiality, loss causation and damages as well as aggregate trading models to determine class-wide damages.

Mr. Cantor is a graduate of Rutgers College (B.A., *magna cum laude*, 1974, with highest distinction in economics) where he was a member of Phi Beta Kappa, and the University of Pennsylvania Law School (J.D. 1977), where he was a member of the Moot Court Board and the author of a law review comment on computer-generated evidence. Mr. Cantor has been active in numerous community service activities, including serving as treasurer, president and board chairman of a private school.

**Eric Lechtzin**

Eric Lechtzin joined the firm in 2008 and concentrates his practice in the areas of securities fraud class actions, shareholder derivative suits, mergers and acquisitions, and consumer fraud cases. Prior to joining Berger & Montague, Mr. Lechtzin worked with two nationally prominent law firms where he represented institutional investors, including public pension funds, as well as individual shareholders, in securities fraud class actions and corporate governance litigation. For the first 9 years of his career, Mr. Lechtzin worked at a large Philadelphia law firm, where his practice focused on labor and employment litigation.

Mr. Lechtzin has helped obtain multi-million dollar settlements in a number of federal securities cases, including the following: *In re Transkaryotic Therapies, Inc. Sec. Litig.*, 2005 WL 3178162 (D. Mass. 2005) (\$50 million settlement); *In re Global Crossing Access Charge Litig.*, No. 04-MD-1630 (S.D.N.Y.) (\$15 million settlement); *Taft v. Ackermans*, (KPNQwest Sec. Litig.), No. 02-CV-07951 (S.D.N.Y.) (\$15 million settlement); *In re RenaissanceRe Holdings Ltd. Sec. Litig.*, No. 1:05-CV-06764 (S.D.N.Y.) (\$13.5 million settlement); *In re Van der Moolen Holding N.V. Sec. Litig.*, No. 1:03-CV-8284 (S.D.N.Y.) (\$8 million settlement); *Scott Tanne v. Autobyte, Inc., et al*, No. CV 04-8987 (C.D. Cal.) (\$6.75 million settlement); *In re Hemispherx Biopharma, Inc. Litig.*, 09-CV-5262-PD (E.D. Pa.) (\$3.6 million settlement achieved after defeating defendants' motion to dismiss); *In re Biolase Technology, Inc. Sec. Litig.*, No. 8:04-CV-00947 (C.D. Cal.) (\$2.95 million settlement). Mr. Lechtzin has also helped obtain significant corporate governance reforms in shareholder derivative actions.

Mr. Lechtzin received his B.A. in Political Science and Economics, *magna cum laude*, from Temple University, where he was elected to Phi Beta Kappa, in 1988. Mr. Lechtzin received his J.D. from Temple University James E. Beasley School of Law, in 1991.

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