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6  
7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

9 IN RE LINKEDIN ADVERTISING )  
10 METRICS LITIGATION, )

11 *Plaintiffs,* )

12 vs. )

13 LINKEDIN CORPORATION, )

14 *Defendant.* )

Case No.: 5:20-cv-08324-SVK

**PLAINTIFFS’ MOTION AND NOTICE  
OF MOTION FOR ATTORNEYS’ FEES,  
COSTS, AND SERVICE AWARDS**

Date: January 28, 2025  
Time: 10:00 a.m.  
Dept: Courtroom 6 – 4th Floor  
Judge: Hon. Susan van Keulen

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1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD**

2 **PLEASE TAKE NOTICE THAT** on January 28, 2025 at 10:00 a.m. or as soon thereafter  
3 as counsel may be heard before the Honorable Susan van Keulen, Courtroom 6, 280 South 1<sup>st</sup>  
4 Street, San Jose, CA, 95113, Plaintiffs TopDevz LLC and Noirefy, Inc will and hereby do move  
5 this court for an order awarding their attorneys' fees, costs, and service awards from the common  
6 settlement fund established in this case.

7 This motion is based on the supporting memorandum of points and authorities, the  
8 declarations of J. Dominick Larry, David Neiman, Jordan Lurie, and Josh Fruchter filed  
9 contemporaneously herewith, and any other matters in the record or that properly come before the  
10 Court.

11 Dated: October 1, 2024

Respectfully submitted,

12 s/ J. Dominick Larry

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**PROOF OF SERVICE**

The undersigned certified and declared as follows:

I am a citizen of the United States and employed in Cook County, State of Illinois. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 150 N. Riverside Plaza, Suite 4100, Chicago, IL 60606. On the date set forth below, I served a copy of the following document(s):

**NOTICE OF MOTION AND MOTION FOR ATTORNEYS’ FEES, COSTS, AND SERVICE AWARDS**

On the interested parties in the subject actions by placing a true copy thereof as indicated below, and as addressed as follows:

**BY ECF:** by electronic service on the parties to this action pursuant to Local Rule 5-1. I hereby certify that the above documents were uploaded to the ECF Website and the ECF Webmaster will give email notification to all registered parties in this action.

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Dated: October 1, 2025 s/ J. Dominick Larry

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(Additional counsel listed on signature page)

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

) Case No.: 5:20-cv-08324-SVK  
)  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN SUPPORT OF**  
) **PLAINTIFFS' MOTION FOR**  
) **ATTORNEYS' FEES, LITIGATION**  
) **COSTS, AND SERVICE AWARDS**

*In Re LinkedIn Advertising Metrics Litigation*

) Date: January 28, 2025  
) Time: 10:00 a.m.  
) Dept: Courtroom 6 – 4th Floor  
) Judge: Hon. Susan van Keulen  
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## INTRODUCTION

1  
2 Plaintiffs TopDevz, LLC—a developer of custom software solutions—and Noirefy Inc.—  
3 a startup connecting professionals from underrepresented backgrounds with career opportunities  
4 in high-growth companies—filed this case almost four years ago, seeking redress for Defendant  
5 LinkedIn Corp.’s alleged failure to ensure the integrity of the metrics and pricing for advertising  
6 on its social-media platform. In doing so, Plaintiffs risked their professional reputations, and  
7 undertook a commitment of substantial time and resources for the benefit of the class members  
8 they sought to (and now have been appointed to) represent. Plaintiffs did not bear the risks of this  
9 litigation alone, however. With them were their attorneys, who undertook this representation on a  
10 purely contingent basis, knowing that they would likely have to commit millions of dollars of  
11 attorney time and hundreds of thousands of dollars of out-of-pocket costs, with a strong likelihood  
12 that their efforts may be for naught. And for a time, it seemed they would be.

13 The Court dismissed Plaintiff’s claims with prejudice in December of 2021. At that point,  
14 the time and resources diverted by Plaintiffs, and the thousands of hours and hundreds of thousands  
15 of dollars committed by their attorneys, were heading toward being written off. After Plaintiffs  
16 appealed to the Ninth Circuit and completed their briefing, and with oral argument upcoming,  
17 however, the parties were able to negotiate a class-wide settlement, establishing a common fund  
18 of \$6.625 million, or roughly 15% of the total amount available at trial. That result represented a  
19 surprising recovery not only when viewed in light of this Court’s outright dismissal of Plaintiffs’  
20 claims, but also when compared to other, similar cases against social-media advertising platforms,  
21 which have generally resulted in non-recovery.

22 With the risks facing Plaintiffs and their counsel and the substantial recovery for the Class  
23 in mind, Plaintiffs now move for payment of their attorneys’ fees, costs, and service awards from  
24 the common settlement fund. The attorneys’ fees—25% of the fund, for a total of \$1,656,750—  
25 are equal to the Ninth Circuit benchmark for common-fund class actions, and are below the  
26 amounts ordinarily awarded by California courts. The costs—\$154,874.94—are reasonable under  
27 existing law, and are in fact less than what was actually incurred by Class Counsel. And the  
28

1 proposed service awards are in line with circuit precedent, given the efforts to and risks facing the  
2 Plaintiffs here. For these reasons, and as explained more fully below, the Court should approve  
3 Plaintiffs' request for attorneys' fees, costs, and service awards.

#### 4 **BACKGROUND**

5 Plaintiffs filed their initial class action complaint on November 25, 2020. ECF No. 1. After  
6 LinkedIn moved to dismiss, Plaintiffs amended their complaint on February 17, 2021. ECF No.  
7 49. On February 24, 2021, Plaintiffs' claims were consolidated with similar claims filed by another  
8 plaintiff, Synergy RX PBM LLC, *see* ECF No. 52, and an amended consolidated complaint was  
9 filed on March 17, 2021. ECF No. 55. LinkedIn again moved to dismiss, ECF No. 65, and the  
10 Court granted the motion in part, without prejudice on August 3, 2021. ECF No. 85. TopDevz and  
11 Noirefy filed a second amended complaint on August 17, 2021,<sup>1</sup> ECF No. 89, which LinkedIn  
12 moved to dismiss on August 31, 2021, ECF No. 97. The Court granted LinkedIn's motion with  
13 prejudice and entered a judgment in LinkedIn's favor on December 27, 2021. ECF Nos. 104, 105.

14 Plaintiffs timely appealed on January 26, 2022. ECF No. 106. The parties held a settlement  
15 conference with the Ninth Circuit mediator on March 4, 2022, but were unable to make meaningful  
16 progress toward a resolution at that time, and the case was released from the mediation program  
17 on June 6, 2022. *See TopDevz, LLC et al. v. LinkedIn Corp.*, No. 22-15118, ECF Nos. ("App. ECF.  
18 Nos.") 5, 11 (9th Cir.); Declaration of J. Dominick Larry ("Larry Decl."), ¶ 12. The parties  
19 completed briefing the appeal on October 25, 2022, App. ECF No. 29, and the case was set for  
20 oral argument on April 17, 2023, App. ECF No. 34.

21 Following the scheduling of oral argument, the parties resumed their settlement  
22 discussions, and scheduled a private mediation with Randall W. Wulff, of Wulff Quinby  
23 Sochynsky, on March 31, 2023. App. ECF No. 39; Larry Decl. ¶ 13. The parties engaged in a full-  
24 day mediation, and the session ended with the parties both accepting a mediator's proposal and  
25 reaching an agreement in principle on the terms of a class-wide settlement. Larry Decl. ¶¶ 13, 14.

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28 <sup>1</sup> Synergy RX PBM LLC voluntarily dismissed its claims on July 4, 2021. ECF No. 84.

1 Over the following year, with the Circuit Mediator’s assistance, the parties worked through  
 2 a variety of issues as part of the finalization of the settlement agreement, including complex  
 3 analysis of the underlying advertising data, the process by which class members will obtain  
 4 payment if the settlement is approved, and the methods by which payment will occur. *Id.*, ¶ 16.

5 On September 10, 2024, the Court preliminarily approved the settlement. *See* ECF Nos.  
 6 118, 119. The Settlement Administrator launched the settlement website on September 27, 2024,  
 7 and is disseminating email and postcard notice on October 1, 2024. Larry Decl. ¶ 19. Plaintiffs  
 8 now seek an award of reasonable attorneys’ fees, costs, and incentive awards.

### 9 ARGUMENT

10 Rule 23 allows class counsel to recover attorneys’ fees “that are authorized by law or by  
 11 the parties’ agreement.” Fed. R. Civ. P. 23(h). To determine the appropriate fee, a federal court  
 12 sitting in diversity looks to the applicable state’s law. *Salamanca v. Sprint/United Mgmt. Co.*, No.  
 13 15-cv-05084, 2018 WL 1989568, at \*1 (N.D. Cal. Mar. 9, 2018) (citing *Mangold v. Cal. Pub. Util.*  
 14 *Comm’n*, 67 F.3d 1470, 1478 (9th Cir. 1995)). Here, the operative complaints all alleged claims  
 15 exclusively under California law, *see* ECF Nos. 1, 49, 55, 89, per the Class members’ agreement  
 16 with LinkedIn. *See, e.g.*, ECF No. 89-1 at 7. As a result, California law governs Class Counsel’s  
 17 entitlement to a fee award. *See Walsh v. Kindred Healthcare*, No. 11-cv-00050, 2013 WL  
 18 6623224, at \*1 (N.D. Cal. Dec. 16, 2013) (citing *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th  
 19 Cir. 2002).

20 As set forth in detail below, Plaintiff’s requests for attorneys’ fees, costs, and incentive  
 21 award are appropriate under California law and circuit precedent.

#### 22 **I. The requested 25% fee award is authorized by law.**

23 “California law has long recognized ... the propriety of awarding an attorney fee to a party  
 24 who has recovered or preserved a monetary fund for the benefit of himself or herself and others.”  
 25 *Laffitte v. Robert Half Int’l Inc.*, 1 Cal. 5th 480, 488–89 (2016). Here, Plaintiff secured a \$6.625  
 26 million recovery for the Class, which entitles Class Counsel to payment of a reasonable attorneys’  
 27 fee from the fund. *Id.*

1 In common-fund cases like this one, California courts assess the requested fee “by choosing  
2 an appropriate percentage of the fund created.” *Id.* at 503. While the Ninth Circuit has adopted a  
3 25-percent benchmark for common-fund cases, the California Supreme Court “did not adopt [that]  
4 touchstone.” *Dilts v. Penske Logistics, LLC*, No. 08-cv-0318, 2017 WL 2620664, at \*4 (S.D. Cal.  
5 June 16, 2017). Rather, “[i]n California, ‘regardless [of] whether the percentage method or the  
6 lodestar method is used, fee awards in class actions average around one-third of the recovery.’”  
7 *Bernstein v. Virgin Am., Inc.*, No. 15-cv-02277, 2023 WL 7284158, at \*2 (N.D. Cal. Nov. 3, 2023)  
8 (quoting *In re Consumer Privacy Cases*, 176 Cal. App. 4th 545, 558 (2009)); *see also* *Beaver v.*  
9 *Tarsadia Hotels, Corp.*, No. 11-cv-01842, 2017 WL 4310707, at \*9 (S.D. Cal. Sept. 28, 2017)  
10 (“California courts routinely award attorneys’ fees of one-third of the common fund.”); *Chavez v.*  
11 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66 (2008) (“[F]ee awards in class actions average around one-  
12 third of the common fund.”); *Laffitte*, 1 Cal. 5th at 506 (affirming fee of one third of the common  
13 fund).

14 When assessing a percentage-of-the-fund request, California “[c]ourts consider ‘the risks  
15 and ... value of the litigation’ as a function of the contingency, novelty, and difficulty,’ as well as  
16 ‘the skill shown by counsel, the number of hours worked[,] and the asserted hourly rates.’”  
17 *Bernstein*, 2023 WL 7284158, at \*2 (quoting *Laffitte*, 1 Cal. 5th at 504); *see also* *Willner v.*  
18 *Manpower Inc.*, No. 11-cv-02846, 2015 WL 3863625, at \*5 (N.D. Cal. June 22, 2015) (“[T]he  
19 Court may take into account ‘exceptional results,’ the risk of non-recovery, any ‘benefits beyond  
20 the case settlement fund’ that counsel achieved for the class, counsel’s reasonable expectations ...  
21 based on the circumstances of the case and the range of fee awards out of common funds of  
22 comparable size,’ and any unusual burdens borne by counsel.”) (quoting *Vizcaino v. Microsoft*  
23 *Corp.*, 290 F.3d 1043, 1058–50 (9th Cir. 2002)). Here, those factors more than justify the requested  
24 25% fee award.

25 **A. Class Counsel delivered a strong result.**

26 California courts often consider the quality of the “results obtained” for the class. *Laffitte*,  
27 1 Cal. 5th at 489; *see also* *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal.  
28

1 2008) (overall result and benefit to the class is “the most critical factor in granting a fee award”  
2 under federal law). Here, that factor weighs in favor of Class Counsel’s 25% fee request.

3 As noted previously in Plaintiffs’ motion for preliminary approval, Class Counsel secured  
4 a substantial recovery for the Class, particularly when compared to the recoveries in similar cases  
5 and to the total recovery possible at trial. Regarding the former, in a class action alleging that  
6 Facebook advertisers were improperly charged for engagement with fake or fraudulent accounts,  
7 Judge Alsup denied class certification and granted summary judgment to the defendant, and the  
8 Ninth Circuit affirmed. *See dotStrategy Co. v. Facebook Inc.*, No. C 20-00170 WHA, 2021 WL  
9 2550391 (N.D. Cal. June 22, 2021); *dotStrategy Co. v. Facebook Inc.*, No. C 20-00170 WHA,  
10 2021 WL 5415265, at \*3 (N.D. Cal. Nov. 20, 2021), *aff’d sub nom. dotStrategy Co. v. Meta*  
11 *Platforms, Inc.*, No. 21-17056, 2022 WL 17248983 (9th Cir. Nov. 28, 2022). Similar claims  
12 against Twitter, Google, and Facebook (again) likewise failed to achieve class recoveries. *See*  
13 *dotStrategy Co. v. Twitter, Inc.*, No. 19-cv-6176, ECF No. 105 (N.D. Cal. Dec. 21, 2021)  
14 (voluntary dismissal); *Singh v. Google LLC*, No. 16-cv-03734, 2022 WL 94985 (N.D. Cal. Jan.  
15 10, 2022) (denying class certification); *IntegrityMessageBoards.com v. Facebook, Inc.*, No. 18-  
16 CV-05286-PJH, 2021 WL 3771785, at \*1 (N.D. Cal. Aug. 24, 2021) (denying class certification).  
17 Thus, when viewed against the (non)recovery in similar cases, Plaintiffs’ recovery here is  
18 impressive.

19 The settlement is also substantial when viewed against the possible recovery at trial. As  
20 detailed in Plaintiff’s preliminary approval motion, the maximum recovery at trial was in the range  
21 of \$24 million to \$60 million, with a midpoint of \$42 million. *See* ECF No. 115-1 at 24–25.<sup>2</sup> Class  
22 Counsel’s recovery of 15.77% of that total represents a “substantial” result for the class. *Rihn v.*  
23 *Acadia Pharm. Inc.*, No. 15-cv-00575, 2018 WL 513448, at \*4 (S.D. Cal. Jan. 22, 2018); *Stovall-*  
24 *Gusman v. W.W. Granger, Inc.*, No. 13-CV-02540-HSG, 2015 WL 3776765, at \*4 (N.D. Cal. June  
25 17, 2015) (approving settlement where gross fund represented 10% of potential recovery, and net  
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27 <sup>2</sup> When citing to filings from the Court’s docket, Plaintiffs refer to the ECF-stamped page  
28 numbers, rather than the internal pagination of the document at issue.

1 fund (after fees, costs, notice and administration expenses, and incentive award) was 7.3% of  
2 potential recovery)); *Hayes v. MagnaChip Semiconductor Corp.*, No. 14-cv-1160, 2016 WL  
3 6902856, at \*2 (N.D. Cal. July 18, 2016) (finally approving settlement recovering 15% of potential  
4 amount).

5 The substantial recovery, provided now, rather than after years of appeal and further  
6 litigation, therefore supports the requested fee.

7 **B. Class Counsel overcame significant risk to recover for the Class.**

8 On the other side of the coin from the meaningful recovery is the risk Class Counsel faced  
9 in securing it, which also favors payment of the requested fee award. *See Laffitte*, 1 Cal. 5th at 488.

10 The first, and most obvious, reflection of the risk of non-recovery was this Court's  
11 dismissal of Plaintiffs' claims with prejudice. *See* ECF No. 104. While every case—and  
12 particularly every class action—contains some risk of loss, that risk was realized here. While  
13 Plaintiffs had fully briefed their arguments on appeal and believed strongly in them, the fact of the  
14 matter is that most appeals fail. And even if Plaintiffs were successful on appeal, they faced risks  
15 of defeat on class certification, *see dotStrategy Co. v. Facebook Inc.*, 2021 WL 2550391; *Singh*,  
16 2022 WL 94985; *IntegrityMessageBoards.com*, 2021 WL 3771785, and the risk of defeat on  
17 summary judgment. *See dotStrategy Co.*, 2021 WL 5415265. Then, if Plaintiffs survived summary  
18 judgment with class claims intact, Plaintiffs would have to prevail at trial, and would have to  
19 establish damages for their implied-contract claims and entitlement to restitution for their UCL  
20 claims, over LinkedIn's arguments that their metrics were accurate and that the prices paid by the  
21 Class reflected the value received.

22 Thus, this case presented “uniquely potent risks ... that Plaintiffs would have to overcome  
23 to reach a favorable result [in] this lawsuit. Accordingly, the risks attendant to maintaining this  
24 litigation weigh in favor of granting Class Counsel's request for a fee award” of 25% of the  
25 recovery. *In re Anthem, Inc. Data Breach Litig.*, No. 15-md-2617, 2018 WL 3960068, at \*13 (N.D.  
26 Cal. Aug. 17, 2018).

**C. Class Counsel undertook the litigation on a purely contingent basis.**

When assessing a fee request, California law considers whether Class Counsel undertook the representation on a contingent basis, because “[t]he contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services.” *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 580 (2004); *see also Laffitte*, 1 Cal. 5th at 504; *Vizcaino*, 290 F.3d at 1051.

Here, Class Counsel undertook this representation on a contingent basis with no guarantee of recovery, and they proceeded to commit over 3,300 hours of work, and over \$175,000 in out-of-pocket costs, all of which otherwise would have been deployed on other matters over the course of the nearly four years this action has been pending. Larry Decl. ¶¶ 26–29; Neiman Decl. ¶¶ 6, 7; Fruchter Decl. ¶¶ 3, 4; Lurie Decl. ¶¶ 11, 12. This factor further supports the requested fee award. *See Laffitte*, 1 Cal. 5th at 448; *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001); *see also In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 955 (9th Cir. 2015) (considering “the burdens class counsel experienced while litigating the case (e.g. cost, duration, foregoing other work)”); *Vizcaino*, 290 F.3d at 1047–48 (considering that class counsel has to forgo “significant other work”).

**D. The difficult and novel legal issues affecting the Class’s claims further support the requested fee award.**

California courts assessing fee requests also consider both the “skill shown by counsel,” *Laffitte*, 1 Cal. 5th at 504, and the presence of “novel issues of law.” *Spears v. First Am. Eappraiseit*, No. 08-cv-868, 2015 WL 1906126, at \*2 (N.D. Cal. Apr. 27, 2015) (awarding 35% of common fund); *see also Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 42 (2000) (noting consideration of “the special skill and experience of counsel” when assessing fee request).

The “prosecution and management of a complex national class action requires unique legal skills and abilities.” *In re Omnivision*, 559 F. Supp. 2d at 1047 (citation omitted). Here, the Class has been represented by firms recognized as highly skilled in complex litigation. Larry Decl. ¶¶ 2–6; Neiman Decl. ¶¶ 3–5; Fruchter Decl. ¶ 2; Lurie Decl. ¶¶ 2–10. That experience mattered here, as this case presented novel contractual claims, as well as claims under the UCL’s anti-fraud and



1 unfair-practices prongs, as well as unsettled issues regarding the Ninth Circuit’s decision in *Sonner*  
2 *v. Premier Nutrition Corp.*, 971 F.3d 834, 838 (9th Cir. 2020). The case also involved challenging  
3 merits- and damages-related factual issues, which required Class Counsel to assemble a team of  
4 experts with experience in source-code review, machine learning, social-media advertising,  
5 forensic accounting, and auction-related economics. *See Hopkins v. Stryker Sales Corp.*, No. 11-  
6 cv-2786, 2013 WL 496358, at \*2 (N.D. Cal. Feb. 6, 2013) (counsel’s use of experts to evaluate  
7 and prepare case was part of “skillful preparation” that demonstrated skill and quality of work).

8 Those efforts and experience led to the successful recovery for the Class. Despite the  
9 Court’s dismissal with prejudice of Plaintiffs’ claims, Class Counsel’s efforts in the trial and  
10 appellate courts were sufficient to bring LinkedIn to the bargaining table, and for it to pay \$6.625  
11 million to resolve claims that had been dismissed. Class Counsel also brought their substantial  
12 experience to bear when dealing with complex issues after reaching an agreement in principle.  
13 While working with LinkedIn and the settlement administrator, Class Counsel helped craft a  
14 settlement plan that will deliver funds economically and automatically to class members using  
15 three different payment methods designed to ensure class members automatically receive, and then  
16 spend, their recoveries.

17 In sum, Class Counsel’s experience and skill further supports the requested 25% fee. *See,*  
18 *e.g., In re Heritage Bond Litig.*, No. 02-ML-1475, 2005 WL 1594403, at \*20–21 (C.D. Cal. June  
19 10, 2005) (one-third fee appropriate given counsel’s skill and experience).

#### 20 **E. Ninth Circuit law supports the 25% fee award.**

21 Even though Class Counsel’s fee request is governed by California law rather than federal  
22 common law, the Court may still consider the Ninth Circuit’s 25% benchmark as a factor when  
23 assessing Class Counsel’s fee request. *Willner*, 2015 WL 3863625, at \*5. Here, the requested fee  
24 is exactly in line with the Ninth Circuit benchmark.

25 To confirm the propriety of using the benchmark, the courts applying federal common law  
26 consider the factors addressed above, including the results achieved, the risk undertaken by class  
27 counsel, the market rate for similar services, and, relatedly, the fees awarded in comparable cases.

1 See *Vizcaino*, 290 F.3d at 1048–50. Because those factors support the requested fee, which is in  
2 line with the Ninth Circuit benchmark, the Court would be well within its discretion to award the  
3 requested fee. See, e.g., *Beaver*, 2017 WL 4310707, at \*10 (applying California and federal law,  
4 and noting that “[d]istrict courts in this circuit have routinely awarded fees of one-third of the  
5 common fund or higher after considering the particular facts and circumstances of each case.”).

6 **II. A lodestar cross-check confirms the reasonableness of a 25% fee award.**

7 Under California law, after selecting an appropriate percentage of the fund, the Court may  
8 “double check” the reasonableness of the fee through a lodestar cross-check. *Laffitte*, 1 Cal. 5th at  
9 504–06. The lodestar cross-check “provides a mechanism for bringing an objective measure of the  
10 work performed into the calculation of a reasonable attorney fee.” *Id.* at 504.

11 To calculate the lodestar, courts multiply the number of hours reasonably expended  
12 litigating the case times a reasonable hourly rate, which can then be adjusted up or down by a  
13 multiplier to reflect the quality of the representation, the benefit obtained for the class, the  
14 complexity and novelty of the issues presented, and the risk of nonpayment. *Walsh*, 2013 WL  
15 6623224, at \*2 (citing *Lealao*, 82 Cal. App. 4th at 26). When using the lodestar as a cross-check,  
16 rather than as the primary method of determining fees, courts need not exhaustively catalogue and  
17 review counsel’s hours, but can instead focus on the general question of whether the fee award  
18 appropriately reflects the degree of time and effort expended. *Laffitte*, 1 Cal. 5th at 505; *In re:*  
19 *Volkswagen “Clean Diesel” Mktg., Sales Practices & Prod. Liab. Litig.*, No. 15-md-2672, 2017  
20 WL 1047834, at \*5 n.5 (N.D. Cal. Mar. 17, 2017).

21 As detailed below, Class Counsel’s commitment of 3,313.20 hours to the litigation and  
22 their typical hourly rates give rise to a lodestar of \$2,600,058, and a multiplier of 0.64. That  
23 multiplier is well below average in class-action settlements, and further supports the requested fee  
24 award.

1           **A. Class Counsel devoted over 3,300 hours to prosecuting this case in the trial**  
2           **and appellate courts.**

3           For roughly four years, Class Counsel have vigorously investigated and pursued the Class's  
4           claims, to the tune of 3,313.20 hours of attorney and paralegal time. *See* Larry Decl. ¶ 26; Neiman  
5           Decl. ¶ 6; Fruchter Decl. ¶ 3; Lurie Decl. ¶ 11. At a high level, that time included:

- 6           • A detailed pre-filing investigation, leading to detailed initial complaints;
- 7           • Coordination of proceedings, including moving for consolidation and appointment  
8           of lead counsel, and drafting of amended, consolidated complaints;
- 9           • Responding to two Rule 12(b)(6) motions to dismiss,<sup>3</sup> *see* ECF Nos. 75, 99, and a  
10           motion to strike class allegations, *see* ECF No. 74;
- 11           • Working with four sets of experts and consultants to support and develop plaintiff's  
12           case, *see* Larry Decl. ¶ 10;
- 13           • Preparation of written discovery requests (including two sets of interrogatories and  
14           requests for production), supported by repeated meet and confers with LinkedIn's  
15           counsel;
- 16           • Responding to LinkedIn's discovery requests;
- 17           • Briefing discovery disputes with LinkedIn, *see* ECF No. 81, 93;
- 18           • Fully briefing Plaintiffs' appeal of the Court's dismissal order, *see* Appellate ECF  
19           Nos. 12, 29, and preparing for oral argument;
- 20           • Mediating with the Ninth Circuit mediator and then Randall Wulff of Wulff Quinby  
21           Sochynsky, then negotiating for months regarding the remaining settlement terms  
22           after reaching an agreement in principle;
- 23           • Preparing a comprehensive settlement agreement along with the class notices, and  
24           developing the class notice plan as well as the allocation plan; and
- 25           • Drafting the preliminary approval papers.

26           *See* Larry Decl. ¶¶ 7–19.

27           In short, the litigation has already required considerable effort from Class Counsel, and  
28           those efforts will continue for months, as they continue to work through the settlement-approval

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<sup>3</sup> Defendant moved to dismiss three times, but Plaintiffs elected to amend their complaint rather than respond to the first motion. *See* ECF No. 47.

1 process, work with the Settlement Administrator to effectuate notice, and to update the Court  
2 regarding the distribution of funds, as required by the Court’s procedural guidance for class action  
3 settlements.

4 **B. Class Counsel’s hourly rates fall within the range prevailing in the**  
5 **community.**

6 After evaluating the hours devoted to the litigation, the next step in the lodestar cross-check  
7 is to assess the reasonableness of counsel’s hourly billing rates. In making that assessment, courts  
8 consider whether the rate is “in line with those prevailing in the community for similar services  
9 by lawyers of reasonably comparable skill, experience, and reputation.” *Camacho v. Bridgeport*  
10 *Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008) (quoting *Blum v. Stenson*, 465 U.S. 886, 895 n.11  
11 (1984)).

12 Here, the hourly rates used to calculate counsel’s lodestar range from \$750 to \$1,250 per  
13 hour for partners and senior counsel, \$650 for associates, and \$200 for paralegals and other  
14 litigation-support staff. *See* Larry Decl. ¶ 26; Neiman Decl. ¶ 6; Fruchter Decl. ¶ 3; Lurie Decl.  
15 ¶ 11. Those hourly rates are set by counsel based on their experience, periodic review of the rates  
16 charged by other attorneys involved in similarly complex litigation, and the rates charged by  
17 counsel’s hourly clients. Larry Decl. ¶ 27. As a result, it is unsurprising that those rates fall within  
18 the prevailing range in the community. *See, e.g., In re Anthem, Inc. Data Breach Litig.*, 2018 WL  
19 3960068, at \*17 (approving partner rates of up to \$970, non-partner rates of up to \$850, and support  
20 staff rates of up to \$440); *In re Facebook Biometric Info. Privacy Litig.*, 522 F. Supp. 3d 617, 633  
21 (N.D. Cal. 2021) (finding hourly partner rates of up to \$1,325, associate rates of up to \$580, and  
22 counsel rates of up to \$1,325 reasonable); *In re TikTok, Inc. Consumer Privacy Litig.*, 617 F. Supp.  
23 3d 904, 943 (N.D. Ill. 2022) (approving fee request with hourly partner rates of up to \$1,020,  
24 hourly associate rates of up to \$600, and hourly of counsel rates of up to \$800).

**C. The 0.64 multiplier is well below those regularly approved by federal and state courts in California.**

The final step in a lodestar cross-check is to compare the fee requested to the lodestar figure and to assess any multiplier. The purpose of a multiplier is “to compensate for the risk of loss generally in contingency cases,” since a “lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions.” *Ketchum*, 24 Cal. 4th at 1133 (citations omitted). Under California law, “[m]ultipliers can range from 2 to 4 or even higher.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001); *see also Chavez*, 162 Cal. App. 4th at 66 (affirming 2.5 multiplier); *Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1265 (C.D. Cal. 2016) (applying California law and finding multiplier of 3.07 “well within the range of reasonable multipliers”); *Laffitte*, 1 Cal. 5th at 487 (affirming multiplier of 2.03 to 2.13).

Here, with the base lodestar currently at \$2,600,095 (and increasing as settlement administration continues), the requested attorneys’ fee creates a so-called “negative multiplier” of 0.64. That multiplier is well below what is commonly accepted as reasonable, and will continue to decrease as Class Counsel continues to devote time to final approval, settlement administration, interactions with class members, and handling any appeals. As a result, the lodestar “cross-check confirms the reasonableness of the percentage-based fee.” *Laffitte*, 1 Cal. 5th at 496.

\* \* \*

In sum, Class Counsel’s fee request is supported by the history of the litigation and the result achieved, providing for millions of dollars to be distributed automatically to class members, following dismissal of all claims by this Court.

**III. Class Counsel’s request for reimbursement of costs is reasonable.**

In addition to the requested attorneys’ fee, Class Counsel seek reimbursement of \$154,874.94 in out-of-pocket costs incurred during the litigation. “[A] party preserving or recovering a fund for the benefit of others in addition to himself, [may] recover his costs, including his attorneys’ fees, from the fund of property itself.” *Lealao*, 82 Cal. App. 4th at 27 (quoting *Serrano v. Priest*, 20 Cal. 3d 25, 35 (1977)); Fed. R. Civ. P. 23(h) (permitting the court to award

1 nontaxable costs authorized by law). “To that end, courts throughout the Ninth Circuit regularly  
2 award litigation costs and expenses—including photocopying, printing, postage, court costs,  
3 research on online databases, experts and consultants, and reasonable travel expenses.” *Destefano*  
4 *v. Zynga, Inc.*, No. 12-cv-4007, 2016 WL 537946, at \*22 (N.D. Cal. Feb. 11, 2016).

5 The attached declarations detail Class Counsel’s costs, broken down by category. *See* Larry  
6 Decl. ¶ 28; Neiman Decl. ¶ 7; Fruchter Decl. ¶ 4; Lurie Decl. ¶ 12. These expenditures were  
7 necessary to Class Counsel’s prosecution of the action and are particularly reasonable given the  
8 highly technical subject matter involved, which required extensive ESI preservation and collection  
9 and retention of several experts and consultants. Such costs are regularly billed to clients in hourly  
10 fee cases, and routinely awarded in contingency fee cases. *See, e.g., In re Capacitors Antitrust*  
11 *Litig.*, No. 14-cv-3264, 2018 WL 4790575, at \*6 (N.D. Cal. Sept. 21, 2018) (“Reasonable  
12 reimbursable litigation expenses include: those for document production, experts and consultants,  
13 depositions, translation services, travel, mail and postage costs.”) (citation omitted); *In re Lenovo*  
14 *Adware Litig.*, No. 15-md-2624, 2019 WL 1791420, at \*9 (N.D. Cal. Apr. 24, 2019) (reimbursing  
15 “professional service fees (experts, investigators, accountants,), travel fees, and discovery-related  
16 fees”).

17 Here, Class Counsel agreed to limit their request for cost reimbursement to \$154,874.94,  
18 which represents the costs they had accrued at the time the parties agreed upon the content of the  
19 class notices (which included Class Counsel’s intended request for costs). *See* ECF No. 115-3 at  
20 22, 31. Class Counsel’s request for costs therefore excludes \$23,561.49 subsequently accrued,  
21 primarily for travel and ESI hosting. Accordingly, partial reimbursement to Class Counsel in the  
22 amount of \$154,874.94 is reasonable and appropriate.

#### 23 **IV. The proposed service awards are appropriate.**

24 Finally, Plaintiffs request that the Court authorize service awards of \$25,000 each to  
25 Noirefy and TopDevz, to recognize the time, effort, risk, and expense they incurred pursuing their  
26 claims, which benefited the entire Class. Service awards are common in class actions, because they  
27 “compensate class representatives for work done on behalf of the class, to make up for financial  
28

1 or reputational risk undertaken in bringing the action, and, sometimes, to recognize their  
2 willingness to act as a private attorney general.” *In re Cellphone Fee Termination Cases*, 186 Cal.  
3 App. 4th 1380, 1394 (2010) (quoting *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir.  
4 2009)). Courts assessing service awards consider the actions the plaintiff has taken to advance the  
5 Class’s interest, the degree to which the class has benefited, the time and effort expended by the  
6 class representatives, and any reasonable fears of retaliation. *See Staton v. Boeing Co.*, 327 F.3d  
7 938, 977 (9th Cir. 2003).

8 As detailed in the class notice, Plaintiffs seek service awards of \$25,000 each. Similar  
9 requests have repeatedly been found reasonable and awarded by courts in this Circuit. *See, e.g.*,  
10 *Mostajo v. Nationwide Mut. Ins. Co.*, No. 17-cv-350, 2023 WL 2918657, at \*14 (E.D. Cal. Apr.  
11 12, 2023) (\$25,000 each to two class representatives); *Watson v. Tennant Co.*, No. 18-cv-2462,  
12 2020 WL 5502318, at \*7 (E.D. Cal. Sept. 11, 2020) (\$25,000 to one class representative); *Alfred*  
13 *v. Pepperidge Farm*, No. LACV140786JAKX, 2022 WL 17066171, at \*13–14 (C.D. Cal. Mar. 4,  
14 2022) (incentive awards of \$25,000 each to three class representatives, \$20,000 each to two class  
15 representatives, and \$15,000 each to two class representatives); *Curtis-Bauer v. Morgan Stanley*  
16 *& Co., Inc.*, No. 06-cv-3903, 2008 WL 7863877, at\*1 (N.D. Cal. Oct. 22, 2008) (\$25,000 award  
17 to one class representative); *Glass v. UBS Fin. Servs., Inc.*, No. 06-cv-4068, 2007 WL 221862, at  
18 \*1 (N.D. Cal. Jan. 26, 2007) (\$25,000 each to four class representatives), *aff’d*, 331 Fed. Appx.  
19 452 (9th Cir. 2009); *Hughes v. Microsoft Corp.*, No. 93-cv-0178, 2001 WL 34089697, at \*1 (W.D.  
20 Wash. Mar. 26, 2001) (awards of \$7,500, \$25,000, and \$40,000); *In re Wells Fargo & Co.*  
21 *S’Holder Derivative Litig.*, 445 F. Supp. 3d 508, 534 (N.D. Cal. 2020) (\$25,000 award to each of  
22 two class representatives), *aff’d* 845 Fed. Appx. 563 (9th Cir. 2021).

23 Here, Plaintiffs both devoted substantial time and effort to this litigation, at risk to  
24 themselves, for the benefit of the Class. Those efforts included assisting with Class Counsel’s  
25 initial investigation and preparation of the initial complaint; providing complete access to their  
26 LinkedIn advertising records and spending dozens of hours providing information used in the  
27 amended complaints; working with Class Counsel to ensure collection and preservation of all  
28



1 relevant ESI sources; responding to LinkedIn’s discovery requests; working with Class Counsel  
 2 to stay apprised of the litigation; and participating directly in the settlement process, with Plaintiff  
 3 Noirefy Inc.’s CEO attending the mediation in person, and Plaintiff TopDevz, LLC’s CEO  
 4 participating throughout the day by telephone. *See* Larry Decl. ¶¶ 20–24.

5 In addition to the substantial time and effort required to prepare the pleadings, respond to  
 6 discovery, and participate in the settlement process, Plaintiffs faced unique business risks because  
 7 of their participation in this litigation. Specifically, they faced the risk of reputational harm from  
 8 vendors and customers who could have viewed Plaintiffs as unduly litigious, and from investors  
 9 who questioned the deployment of resources to the litigation. *See* Larry Decl. ¶ 25. These unusual  
 10 risks, therefore, merit an incentive award higher than those often awarded to class representatives  
 11 who do not bear such risks. *See, e.g., Beaver*, 2017 WL 4310707, at \*8 (finding \$50,000 awards  
 12 to each of four class representatives fair and reasonable “in light of the extraordinary risks they  
 13 accepted and the time and effort they expended for the benefit of the Class”).

#### 14 CONCLUSION

15 For the reasons set forth above, Plaintiffs respectfully requests that the Court award from  
 16 the settlement fund Plaintiffs attorneys’ fees of \$1,656,250, litigation costs of \$154,874.94, and  
 17 incentive awards of \$25,000 to each Plaintiff.

18 Dated: October 1, 2024

Respectfully submitted,

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28 *Class Counsel*



**PROOF OF SERVICE**

The undersigned certified and declared as follows:

I am a citizen of the United States and employed in Cook County, State of Illinois. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 150 N. Riverside Plaza, Suite 4100, Chicago, IL 60606. On the date set forth below, I served a copy of the following document(s):

**NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

On the interested parties in the subject actions by placing a true copy thereof as indicated below, and as addressed as follows:

**BY ECF:** by electronic service on the parties to this action pursuant to Local Rule 5-1. I hereby certify that the above documents were uploaded to the ECF Website and the ECF Webmaster will give email notification to all registered parties in this action.

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Dated: October 1, 2025

s/ J. Dominick Larry

J. Dominick Larry (*pro hac vice*)  
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*Class Counsel*

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

*In re LinkedIn Advertising Metrics  
Litigation*

) Case No.: 5:20-cv-08324-SVK

) **DECLARATION OF J. DOMINICK  
LARRY IN SUPPORT OF MOTION  
FOR ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS**

**DECLARATION OF J. DOMINICK LARRY**

Pursuant to 28 U.S.C. § 1746, I, J. Dominick Larry, hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of Illinois, and before this Court *pro hac vice*. I am Senior Counsel at Keller Postman LLC, which has been retained to represent Plaintiffs TopDevz, LLC and Noirefy, Inc. in this matter. I am over the age of 18 and am fully competent to make this declaration. This declaration is based upon my personal knowledge, except where expressly noted otherwise. If called to testify regarding the matters asserted herein, I could and would do so.

***Background on Keller Postman***

2. Keller Postman was founded with the mission of taking on the most complex and resource-intensive litigation challenges. More than 40% of Keller Postman’s partners and associates were law clerks at a federal court of appeals or district court, including four former law clerks at the Supreme Court of the United States.

3. The attorneys at Keller Postman have extensive experience litigating consumer-protection, unfair-competition, and deceptive-practices class actions. Keller Postman represents plaintiffs in complex litigation in federal and state courts and in arbitrations across the country. *See Ex. A.*

4. For example, Keller Postman has built a formidable product-liability practice, representing thousands of clients in a dozen consolidated actions throughout the country. Federal courts nationwide have recognized Keller Postman’s creativity and skill by appointing the Firm’s lawyers to regularly take on leadership and law and briefing responsibilities in MDLs.

5. Keller Postman’s attorneys also have years of experience litigating class actions involving consumer protection and fraud claims, including under California law (and even against LinkedIn), and many cases in this District.

6. Keller Postman is now composed of over 65 attorneys and over 300 non-attorney professionals.

1 ***Class Counsel's litigation efforts***

2 7. This case was filed in November 2020. Earlier that month, The Wall Street Journal  
3 reported that LinkedIn had detected measurement errors that inflated ad metrics, affecting more  
4 than 418,000 advertisers,<sup>1</sup> including Plaintiffs Noirefy Inc. and TopDevz, LLC. In response,  
5 LinkedIn acknowledged the error, and provided ad credits to affected advertisers.

6 8. Further research suggested that false, fraudulent, erroneous, and automated activity  
7 on LinkedIn had inflated ad metrics and costs throughout the class period.

8 9. Since the inception of the litigation, Plaintiffs' counsel have vigorously prosecuted  
9 this case, with LinkedIn consistently denying the core allegation of the suit and contesting  
10 Plaintiffs' legal theories. Plaintiffs' counsel opposed three motions to dismiss, *see* ECF Nos. 47,  
11 75, 99, served two sets of interrogatories and requests for production, collected and preserved 131  
12 GB of data from Plaintiffs, and responded to and supplemented responses to a dozen  
13 interrogatories and 21 requests for production. The parties also engaged in several rounds of meet-  
14 and-confers, leaving discovery disputes pending with the Court when the motion to dismiss was  
15 granted.

16 10. Plaintiffs' counsel also retained four expert witnesses on a variety of subjects  
17 including source code and machine learning (as relevant to the functionality of LinkedIn's ad  
18 auction), social-media and internet marketing, economics, and forensic accounting.

19 ***Settlement Efforts***

20 11. While this matter was on appeal, I participated in many conferences with the  
21 assigned Ninth Circuit Mediator and counsel for LinkedIn.

22 12. The parties' first joint conference with the Circuit Mediator took place on March 4,  
23 2022. The parties were unable to make meaningful progress toward a settlement during that  
24 conference, and the case was released from the Ninth Circuit's mediation program shortly  
25 thereafter.

26 \_\_\_\_\_  
27 <sup>1</sup> Sahil Patel, *LinkedIn Finds Measurement Errors That Inflated Video and Ad Metrics*,  
28 Wall Street Journal (Nov. 12, 2020), <https://www.wsj.com/articles/linkedin-finds-measurement-errors-that-inflated-video-and-ad-metrics-11605228577>.

1           13.     After the parties finished briefing the appeal and oral argument was scheduled, the  
2 parties renewed their settlement discussions. After making progress, the parties scheduled a full-  
3 day, private mediation with Randall W. Wulff of Wulff Quinby Sochynsky, on March 31, 2023.  
4 In addition to counsel, Noirefy's CEO personally attended the mediation, while TopDevz's former  
5 CEO participated throughout the day by phone.

6           14.     Near the end of the mediation, Mr. Wulff made a mediator's proposal. The parties  
7 each separately accepted the proposal, and the parties reached agreement in principle on the terms  
8 of their class action settlement.

9           15.     Following the mediation, the parties continued to work with the Circuit Mediator  
10 regarding resolution of the outstanding settlement issues and to ensure procedural compliance with  
11 all Ninth Circuit rules.

12           16.     Since the mediation, the parties have continued to work through several complex  
13 issues, including the standard drafting and exchange of revisions to the settlement agreement,  
14 collection and analysis of class data (including LinkedIn ad-spend data), and working with the  
15 settlement administrator to establish a settlement-distribution framework that is both feasible and  
16 equitable.

17           17.     During those negotiations LinkedIn also agreed to update its Ads Agreement with  
18 advertisers, and the parties negotiated the terms of those revisions, as they concerned specific  
19 language at issue in Plaintiffs' claims. The updated Ads Agreement, including the agreed-upon  
20 language, was implemented on June 14, 2024.

21           18.     Other than the Settlement Agreement, the Addendum, and the updates to the Ads  
22 Agreement, there are no other agreements between the parties relating to the resolution of this  
23 case.

24           19.     Following the Court's grant of preliminary approval, the Settlement Administrator  
25 launched the Settlement Website on September 27, 2024 and is disseminating direct notice on  
26 October 1, 2024.

1 ***Plaintiffs' Efforts***

2 20. Both Plaintiffs have been involved in this litigation from the outset. Each Plaintiff  
3 assisted Class Counsel with the initial investigation and preparation of the first—and all  
4 subsequent—complaints.

5 21. Plaintiffs also assisted Class Counsel with the preparation of responses to  
6 LinkedIn's discovery requests.

7 22. To comply with their preservation obligations, respond to LinkedIn's discovery  
8 requests, and provide the requisite detail for their second amended complaint, both Plaintiffs had  
9 to work with Class Counsel's e-discovery vendor to preserve all ESI source, to provide Class  
10 Counsel with access to their LinkedIn Campaign Manager systems to review their advertising  
11 activity, and to work with Class Counsel to review the advertisements that were purchased, as well  
12 as the representations made prior to and after the purchase of each by LinkedIn.

13 23. Plaintiffs also remained apprised of the litigation throughout its pendency, regularly  
14 checking in with Class Counsel and receiving updates regarding next steps.

15 24. Plaintiffs were also directly involved with the settlement process. In addition to  
16 reviewing all offers made by LinkedIn and approving of all settlement positions, Plaintiffs  
17 participated in the mediation itself. Noirefy Inc.'s CEO traveled from Chicago, Illinois to Napa,  
18 California to attend the mediation in person, and was directly involved in each exchange with the  
19 mediator. Likewise, TopDevz, LLC's former CEO was available by phone throughout the  
20 mediation, and personally approved of each position taken and provided feedback concerning  
21 strategy.

22 25. Plaintiffs committed these substantial resources to the litigation despite facing  
23 substantial risks. In addition to the burdens faced by any class action plaintiff, Plaintiffs faced the  
24 reputational risk of being viewed as litigious by customers, vendors, and other partners. Investors  
25 also questioned the deployment of Plaintiffs' resources to the litigation.

26 ***Time and Expenses***

27 26. To date, Keller Postman has not been compensated for its efforts in this litigation,  
28

1 though it has devoted approximately 2,518 hours prosecuting the case through September 27,  
 2 2024, entailing a lodestar of approximately \$1,802,912.50 based on the firm's typical hourly rates.  
 3 The team members who billed time to this case, along with their roles, hourly rates, and hours  
 4 billed, are shown in the following chart:

5 <b>Team Member</b>	<b>Role</b>	<b>Hourly Rate</b>	<b>Hours Billed</b>	<b>Lodestar</b>
6 Warren Postman	Managing Partner	\$945.00	11.60	\$10,962.00
7				
8 Marquel Reddish Longtin	Partner and Chief Client Officer	\$945.00	5.90	\$5,575.50
9				
10 Jason Zweig	Partner	\$945.00	0.30	\$283.50
11 Nick Larry	Senior Counsel	\$945.00	669.50	\$632,677.50
12 Brooke Smith	Associate	\$650.00	505.70	\$328,705.00
13 Jennifer Hanna	Associate	\$650.00	1.40	\$910.00
14 Patrick Huber	Associate	\$650.00	370.90	\$241,085.00
15 Jason Ethridge	Associate	\$650.00	465.60	\$302,640.00
16				
17 Grant Watson	Senior Staff Attorney and E-Discovery Specialist	\$945.00	245.20	\$231,714.00
18				
19 Andy Ho	Paralegal	\$200.00	53.60	\$10,720.00
20				
21 Marvin Washington	Paralegal	\$200.00	0.80	\$160.00
22				
23 Melissa Spalding	Paralegal	\$200.00	162.50	\$32,500.00
24				
24 Nicole Nowacki	Paralegal	\$200.00	0.40	\$80.00
25				
25 DuVon Floyd	Paralegal	\$200.00	24.50	\$4,900
26				
26 <b>Total</b>			<b>2,517.90</b>	<b>\$1,802,912.50</b>
27				
28				

1           27.     The hourly rates set forth above are based on the attorneys' experience, periodical  
2 review of the rates charged by other attorneys involved in similarly complex litigation, and the  
3 rates charged by counsel's hourly clients.

4           28.     Keller Postman has also advanced approximately \$176,583.70 in litigation  
5 expenses on behalf of the class.<sup>2</sup> Those expenses included filing fees and other court costs; ESI  
6 collection, processing, and hosting costs; expert-witness and consultant costs; travel costs;  
7 mediation expenses; and document printing, binding, and/or delivery costs, as detailed in the  
8 following chart:

Expense Category	Amount
Filing Fees and Other Court Costs	\$1,512.00
ESI Collection, Processing, and Hosting	\$130,601.25
Expert Witnesses and Consultants	\$12,700.00
Travel	\$4,974.12
Mediation	\$10,500.00
Document Printing, Binding, and/or Delivery	\$1,924.02
<b>Total</b>	<b>\$176,583.70</b>

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18           29.     Had Keller Postman not been litigating this case, the attorney time and capital  
19 outlays identified above would have been directed toward other matters.

20           30.     Based on my experience with similar settlements in past cases, I anticipate that  
21 Keller Postman will continue to incur expenses and that its lodestar will continue to increase  
22 through and following final approval of the settlement.  
23  
24

25  
26  
27  
28  
<sup>2</sup> Keller Postman maintained a litigation fund on behalf of Plaintiff's Counsel, with contributions from each of the firms involved. To simplify the math and presentation to the Court, this declaration includes expenses advanced by Keller Postman individually and through the litigation fund, while the other firms' declarations only reflect the expenses paid by those firms directly (i.e., not through the litigation fund).



1 ***Exhibits***

2 31. A true and accurate copy of the firm resume of Keller Postman LLC is attached  
3 hereto as Exhibit A.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
5 1st Day of October, 2024 in Chicago, Illinois.

6  
7 By: s/ J. Dominick Larry  
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# **EXHIBIT A**

# Keller | Postman

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# About Keller Postman

**Keller Postman** is a leading complex litigation firm for plaintiffs, specializing in mass actions. We represent consumers, employees, and veterans in class actions, mass torts, and mass arbitrations, at the trial and appellate levels, in federal and state courts.



## Our Mission

To aggressively pursue our clients' claims, en masse, against the entities that have harmed them by driving innovation in the practice of law, devising cutting-edge strategies that don't follow the standard playbook, conceiving novel arguments, and pursuing unparalleled excellence in everything we do.

## Our Approach

Serving hundreds of thousands of clients in litigation and arbitration, Keller Postman has prosecuted high-profile antitrust, privacy, product-liability, employment, and consumer-rights cases and secured substantial settlements for our clients. Our firm also acts as plaintiffs' counsel in high-stakes public-enforcement actions.

Keller Postman seeks out complicated cases and takes on groundbreaking legal challenges where our legal and strategic counsel can add significant value. Our innovative approach combines high-end legal expertise with best practices in business operations and technology to deliver superlative representation for plaintiffs.

Our greatest asset is our team of smart, dedicated professionals. Keller Postman lawyers honed their skills at AmLaw 100 law firms, national trial boutiques, corporate in-house legal departments, prestigious government posts, and successful business startups. Every member of our team shares a commitment to client service and a spirit of determination, dedication, creativity, and excellence.

### OUR TEAM

**12** PARTNERS

**16** ASSOCIATES

**42** STAFF ATTORNEYS  
& COUNSEL

**28** LEGAL SUPPORT  
TEAM MEMBERS

**88** CLIENT SERVICES &  
CASE MANAGEMENT  
TEAM MEMBERS

**127** BUSINESS,  
OPERATIONS & IT  
TEAM MEMBERS

### OUR OFFICES

CHICAGO, IL

WASHINGTON, D.C.

AUSTIN, TX

BOSTON, MA

CORAL GABLES, FL

LAKE MARY, FL



# About Our Team

Keller Postman is home to one of the most exceptional teams representing plaintiffs in the United States.

We're powered by a talented team with top-notch credentials and real-world experience. Our lawyers have litigated "bet the company" cases for plaintiffs and defendants, studied and taught at some of the top law schools in the country, served at the highest levels of government, and managed more than \$1 billion of litigation-related investments.

THE FIRM COMPRISES OVER  
**FIVE DOZEN LAWYERS**  
AND MORE THAN  
**200 PROFESSIONAL STAFF MEMBERS.**

### CLIENT SERVICES & CASE MANAGEMENT TEAM

We have established large, in-house client-services and case-management teams to serve our clients from the early stages of litigation to the final moments of settlement distributions. We expertly and efficiently cover all aspects of our cases, including client intake, case workup, and litigation at all levels of the judiciary.

### TECHNOLOGY, DATA & ANALYTICS TEAM

Keller Postman operates a dedicated, in-house technology, data, and analytics team. Our firm utilizes cutting-edge technology and processes to ensure successful litigation for thousands of claims at once.

OF KELLER  
POSTMAN'S  
PARTNERS AND  
ASSOCIATES:

## 68%

hail from **national defense-oriented law firms**, and 40% from AmLaw 100 firms and elite trial boutiques.

## 46%

were **law clerks** at a federal court of appeals or district court.

## 57%

attended a **Top 15 U.S. News ranked law school**.

## 4

of Keller Postman's partners were **law clerks at the Supreme Court of the United States**.

# Why Keller Postman

## CLIENTS FIRST APPROACH

Our primary goal is always to achieve exceptional results for our clients—we are tireless in our pursuit of justice on their behalf. We move with speed and efficacy. We genuinely care about each individual client, and we demonstrate that by providing outstanding client service.

## FEARLESS INNOVATION

We drive innovation in the practice of law, sharing an ambition to do things differently—and to do them better. It is not enough merely to advocate for our clients. We prize creativity, develop and harness our own technology, and commit the resources necessary to succeed.

## COMMITTED TO EXCELLENCE

We pursue unparalleled excellence in everything we do. We challenge ourselves to perform at the highest level and deliver outstanding results. At every level of the firm, we take pride in serving as trusted advisors and provide exceptional client service.

## STRENGTH TO WIN

Our team has the skills and resources to go head-to-head with the largest, most well-resourced corporations in the country. Plus, our lawyers have experience on both sides of the courtroom and the negotiating table, allowing us the unique ability to anticipate our opponents' moves.

## Industry Recognition

### THE NEW YORK TIMES

Keller Postman is driven “by a legal reformist spirit and entrepreneurial zeal.”

### WALL STREET JOURNAL

“[Keller Postman is calling] companies on their bluff and saying, ‘You think you’re going to get out of liability by going to arbitration? We’ll show you what the arbitration system can do when you face tens of thousands of claims.’”

### THE AMERICAN LAWYER

“Part of the vision was to make plaintiff-side work attractive to folks with clerkship and Big Law experience like [Keller Postman’s] founders. So far, the approach seems to be working.”

### LAWDRAGON MAGAZINE

“Accelerated by a well-curated culture of excellence, innovation, and service, Keller Postman [leads] litigation across some of the biggest product liability MDLs in history.”





# Awards

We're proud of the recognition we've received as leaders of the plaintiffs' bar.

## ELITE TRIAL LAWYERS LAW FIRM OF THE YEAR

In 2021, the *National Law Journal* named Keller Postman the Trial Strategy Innovation Law Firm of the Year. And in 2022, Keller Postman was named the Privacy & Data Breach Law Firm of the Year.



## ELITE TRIAL LAWYERS RISING STARS & ELITE WOMEN

Our lawyers have been named 2021 & 2022 Elite Trial Lawyers' Rising Stars of the Plaintiffs' Bar and 2022 & 2024 Elite Trial Lawyers' Elite Women of the Plaintiffs' Bar.

## NATIONAL LAW JOURNAL & AMERICAN LAWYER TRAILBLAZERS

Our team has been named 2021 and 2022 Plaintiffs' Lawyers Trailblazers and 2022 Employment Law Trailblazers by the *National Law Journal*. Our lawyers have also been named 2022 Midwest Trailblazers and South Trailblazers by *American Lawyer*.



## LAW360 MVP

Managing Partner **Warren Postman** was named the 2022 Law360 Technology MVP of the Year and the 2021 Law360 Employment MVP of the year.

## KELLER POSTMAN ATTORNEYS NAMED TO MANY EXCLUSIVE LEGAL DIRECTORIES,

including Chambers & Partners, the Legal 500, National Trial Lawyers Top 100 and Top 40 under 40, Super Lawyers, Best Lawyers, and Lawdragon's 500 Leading Lawyers in America, 500 Leading Plaintiff Consumer Lawyers, and Leading Plaintiff Financial Lawyers.



## WOMEN WORTH WATCHING IN LEADERSHIP

Partner **Zina Bash** is named to the 2022 Women Worth Watching in Leadership by *Profiles in Diversity Journal*.



## SUPER LAWYERS®

Nine of Keller Postman's Attorney's were recognized by Illinois Super Lawyer for 2024. Four Partners as Super Lawyers and nine as Rising Stars.





# Practice Areas



# Practice Areas

At Keller Postman, we represent plaintiffs in complex litigation matters. Our diverse team has experience litigating cases across a wide variety of practice areas, which allows us to be flexible and responsive to our clients' needs. Regardless of the substantive claims involved, one thing is true about all our cases: they give us the opportunity to use our unique skills and resources to help our clients solve problems and vindicate their rights.

## Antitrust

We believe competition stimulates innovation, sparks improvements of products and services, and leads to more efficient means of delivery and production. We fight anti-competitive conduct through bringing antitrust claims against some of the largest and best-known corporations in the world—and we are confident in our team's vast experience, knowledge and capabilities to successfully litigate these cases.

## Arbitration

We help our clients level the playing field when contracts written by defendants force them into arbitration. Our team has successfully represented plaintiffs in complex arbitration proceedings throughout the United States, including wage-and-hour disputes, employee misclassification claims, consumer product disputes, and other types of contract-related disputes.

## Consumer Protection

We safeguard consumers from unfair corporate practices, corporate malfeasance, and any type of deceptive business practices. We work to protect consumer rights through arbitration and class action under federal and state laws. And our work specifically focuses on regulating emerging and increasingly dominant tech-based corporations that often push boundaries to take advantage of consumers in new or developing areas of law.

## Privacy

Technology continues to evolve and intertwine itself with our day-to-day. With these technological advances come a greater threat to privacy and data protection. Keller Postman is committed to protecting that fundamental right to privacy. Our attorneys' legal acumen matches our technical expertise, which allows us to skillfully litigate even the most complicated privacy claims.

## Product Liability

With extensive experience handling claims associated with products (including with suppliers, manufacturers, and sellers), our attorneys play key roles in some of the most significant product liability multidistrict litigation proceedings in the country. Our team continues to be selected to lead federal and state product-liability litigation through appointments to leadership positions.

## Public Institutions

We represent States, municipalities, and other government entities as plaintiffs in legal actions for the benefit of their constituents. In line with our commitment to the public good, our practice provides pivotal support—in terms of expert attorneys and resources—to public entities for the benefit of their people. We have developed the expertise to help public institutions navigate the legal landscape they face every day.

# Case Highlights



# Case Highlights

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## AMAZON ALEXA MASS ARBITRATION

As reported by *The Wall Street Journal*, Keller Postman filed roughly 75,000 individual arbitration demands on behalf of Amazon Alexa users who had been recorded without permission. Faced with arbitrating so many individual claims at once, in May 2021, Amazon eliminated its arbitration clause, allowing consumers (for the first time) to pursue their rights in court. Keller Postman's arbitration practice has caused the world's largest retailer to shift away from forced arbitration—a once-unthinkable result that significantly benefits consumers.

After individual and class-action lawsuits against Amazon became permissible, Keller Postman filed a federal antitrust lawsuit against Amazon for the same illegal conduct (the very first lawsuit filed against the company since it began including an arbitration clause into contracts with consumers). In *De Coster et al. v. Amazon.com, Inc.*, Keller Postman represents individual consumers who were charged unfairly high prices by Amazon because of the company's most favored nation clause against third-party merchants. Our firm was also named Co-Lead Class Counsel. In conjunction with the filing of this lawsuit, Keller Postman also separately filed another 75,000 individual arbitration demands for related claims.

The matters have resolved. This matter is significant because of Amazon's move to drop its arbitration clause nationwide and restore access to the courts for over 140 million Amazon consumers. The unprecedented—and astounding—rescission by Amazon of its arbitration requirement marked a significant victory for consumers and access to justice. Across all of Keller Postman's arbitration matters to date, we've secured millions in settlements for more than 500,000 individuals.

## DE COSTER V. AMAZON.COM INC. & FRAME-WILSON V. AMAZON.COM INC.

**Leadership Role:** Keller Postman Partner Zina Bash named Interim Co-Lead Class Counsel in *De Coster v. Amazon.com Inc.*

Keller Postman filed a federal antitrust lawsuit against Amazon—*De Coster et al. v. Amazon.com Inc.*—after the company dropped its arbitration clause as a result of one of Keller Postman's largest arbitration campaigns representing more than 75,000 consumers in simultaneous individual arbitrations. In this lawsuit, Keller Postman represents a proposed class of Amazon shoppers alleging that the Amazon platform's unlawful imposition of 'most favored nation' pricing restrictions against third-party sellers blocks competition from other e-commerce marketplaces and inflates the prices paid by customers. The plaintiffs' allegation is that Amazon has exploited its market power to inflate prices on its own platform—and across the internet. Given the scale of this antitrust violation, the suit has the potential to be one of the largest antitrust cases in history.

Keller Postman later filed *Frame-Wilson v. Amazon.com Inc.* on behalf of individuals who purchased products from Amazon competitors (such as Ebay). These plaintiffs allege that because Amazon distorted market prices on competitor seller sites through its anticompetitive conduct, they paid far higher prices for their merchandise.

## Case Highlights Continued:

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### INTUIT MASS ARBITRATION

Through deceptive web tactics, Intuit tricked thousands of lower-income Americans into paying to file taxes through TurboTax, though they were eligible to file for free. Faced with a putative consumer class action on behalf of 19 million consumers, Intuit compelled the dispute to individual arbitration. Keller Postman then filed individual arbitration demands at AAA for approximately 200,000 of those consumers.

In response, Intuit sought to send most of those consumers to small claims court and delay the arbitrations. In *Intuit, Inc. v. 9,933 Individuals*, the LA Superior Court denied Intuit's motion to force our clients' claims into small-claims court. It also rejected Intuit's argument that California's SB 707—which imposes severe penalties on companies that refuse to comply with their own arbitration agreements—is preempted. At oral argument, Judge Terry Green said Keller [Postman] deserves “a toast. Good work.”

Intuit then tried to propose a settlement in the class action it had already compelled to arbitration. Our firm objected, arguing that Intuit should not be able to use a class-action settlement to frustrate individual class members' efforts to bring individual arbitrations against the company. Intuit's proposed \$40 million class settlement was denied. In his opinion, Judge Charles Breyer directly addressed the significance of this matter: “This case illustrates the urgent need for Congress to reverse the U.S. Supreme Court's arbitration jurisprudence, which gives corporate defendants an unfair advantage over consumers, and undermines the class's ability to secure a more significant monetary result.”

Furthermore, this is Keller Postman's largest “mass arbitration” matter to date – and an unprecedented number of simultaneous individual arbitrations against a single defendant. As litigation continued throughout 2021, the American Arbitration Association also implemented new arbitral rules for “multiple consumer filings” as a result of Keller Postman's ability to arbitrate so many matters simultaneously.

### BARR V. DRIZLY, LLC F/K/A DRIZLY, INC. ET AL

This class action lawsuit was filed in August 2020 against Drizly, the largest online alcohol delivery marketplace in North America. The complaint alleged that Drizly's security measures were deficient in protecting consumers' personal information and that the company was slow to report the breach. As a result of the data breach, customers were exposed to fraud, identity theft, and other injuries.

Drizly moved to compel arbitration. However, after Keller Postman made an appearance with co-counsel, Drizly agreed to settlement terms within a week. This matter further emphasizes how Keller Postman's innovative strategy in arbitration has come to the aid of consumers whose private information was stolen. We've leveled up our arbitration strategy through making appearances with co-counsel partners after defendants compelled arbitration. We're extremely proud that our firm's reputation in mass arbitration has helped to swiftly secure favorable resolutions for both consumers and employees—and has also prevented defendants from using arbitration to evade liability.

## Case Highlights Continued:

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### STATE OF TEXAS V. GOOGLE LLC

**Leadership Role:** Partner Zina Bash & Partner Ashley Keller are Co-Lead Counsel for our State clients

Keller Postman represents the States of Texas, Idaho, Indiana, Mississippi, North Dakota, South Dakota, and South Carolina in the States' antitrust litigation against Google. Filed in the U.S. District Court for the Eastern District of Texas (and subsequently centralized in the Southern District of New York with similar private cases), the suit alleges that Google monopolized products and services used by advertisers and publishers in online-display advertising. The complaint also alleges that Google engaged in false, misleading, and deceptive acts while selling, buying, and auctioning online-display ads. Google also entered into an unlawful agreement with rival Facebook to maintain control of the marketplace for header bidding. These anticompetitive and deceptive practices demonstrably diminished publishers' ability to monetize content, increased advertisers' costs to advertise, and directly harmed consumers.

Google sought dismissal of the entire case, arguing that its conduct was lawful and that its success was merely a "product of innovation," among other forced justifications. But on September 13, 2022—after Keller Postman Partner Ashley Keller delivered a momentous oral argument—the Court largely rejected those arguments, allowing the States' claims of monopolization, attempted monopolization, and tying to proceed to discovery. We are proud of this result, and eager and ready to push these claims forward on behalf of the States to discover and expose the full magnitude of Google's wrongdoing and restore free competition to the multibillion-dollar ad display marketplace.

### STATE OF TEXAS V. META PLATFORMS INC.

**Leadership Role:** Partner Zina Bash is Lead Counsel for the State of Texas

Keller Postman represents the State of Texas in a lawsuit against Facebook parent Meta Platforms Inc. for its decade-long use of facial-recognition technology to exploit Texans' biometric information in violation of Texas law. The suit—*State of Texas v. Meta Platforms LLC, f/k/a Facebook, Inc.*—alleges that the social media giant, formerly known as Facebook, unlawfully captured Texans' biometric identifiers for a commercial purpose without informed consent, disclosed those identifiers to others, and failed to destroy them within a reasonable time—all in violation of the Texas Capture or Use of Biometric Identifier Act ("CUBI"). The State also alleges that Facebook engaged in false, misleading, and deceptive acts and practices in violation of the Texas Deceptive Trade Practices-Consumer Protection Act. The suit seeks civil penalties in the hundreds of billions of dollars.

According to the complaint, for more than a decade, Facebook built an artificial-intelligence empire on the backs of Texans by deceiving them while capturing their most intimate data, thereby putting their well-being, safety, and security at risk. Filed in the state district court in Marshall, TX, the suit seeks civil penalties in the hundreds of billions of dollars.

Attorney General Ken Paxton emphasized the significance of this matter in his statement: "Facebook has been secretly harvesting Texans' most personal information—photos and videos—for its own corporate profit... Texas law has prohibited such harvesting without informed consent for over 20 years. While ordinary Texans have been using Facebook to innocently share photos of loved ones with friends and family, we now know that Facebook has been brazenly ignoring Texas law for the last decade."

## Case Highlights Continued:

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### TOPDEVS, LLC ET AL V. LINKEDIN CORPORATION

Keller Postman filed a class action against LinkedIn—*TopDevs, LLC et al v. LinkedIn Corporation*—on behalf of users of LinkedIn’s advertising platform. LinkedIn admitted in August 2019 that it had inflated video view and ad impression metrics for more than 418,000 advertisers, who overpaid for their campaigns as a result. The suit alleges that LinkedIn was aware of these metric errors and, in fact, reports rampant non-genuine metrics that inflate the prices for all types of advertising across the LinkedIn platform. Specifically, the suit alleges that, despite aggressively marketing its platform as a premium product that allows marketers to advertise to highly engaged audiences of working professionals, LinkedIn’s platform is plagued by automated, fraudulent, mistaken, and miscalculated engagement with LinkedIn ads, which inflates the prices for all types of advertising on the LinkedIn platform.

This lawsuit is intended to not only stop LinkedIn’s allegedly unfair and fraudulent business practices but also increase transparency into whether LinkedIn’s advertising metrics truly reflect user engagement with paid advertisements. The matter therefore raises important issues regarding overall transparency in online marketing.

### FISHON ET AL V. PELOTON INTERACTIVE, INC.

To secure beneficial network effects in a nascent and growing industry of home-based studio classes, Peloton promised consumers an “ever-growing” library. But Peloton was forced to remove the majority of its content in March 2019 following a copyright infringement lawsuit by members of the National Music Publishers Association. Keller Postman filed approximately 2,700 individual arbitrations on behalf of customers who were promised an “ever-growing” class library. Several arbitrations moved forward, and decisions were issued in favor of the plaintiffs. In response, Peloton refused to abide by the terms of its own arbitration clause and ignored the American Arbitration Association’s requirement that it pay filing fees for demands seeking less than \$10,000.

AAA barred Peloton from using its arbitral forum and announced that “either party may choose to submit its dispute to the appropriate court for resolution.” Keller Postman, in partnership with attorneys from DiCello Levitt Gutzler, filed a class-action lawsuit in the U.S. District Court for the Southern District of New York, *Fishon et al v. Peloton Interactive, Inc.*

Judge Lewis Liman denied Peloton’s motion to dismiss the case. This matter is important, because Peloton affirmatively chose to disregard its own arbitration agreement and opted instead for the class action. That move reflects the company’s true intention behind the arbitration clause within its Terms of Service: not as an effective method for customers to pursue claims, but as an escape route from liability. Keller Postman’s ability to push forward arbitrations on a mass scale led to Peloton’s decision to voluntarily submit itself to class action litigation. And now the firm can pursue consumer-protection remedies on behalf of all affected Peloton subscribers.

## Case Highlights Continued:

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### MITCH OBERSTEIN ET AL V. LIVE NATION ENTERTAINMENT, INC. ET AL & SKOT HECKMAN ET AL V. LIVE NATION ENTERTAINMENT INC. ET AL

Quinn Emanuel Urquhart & Sullivan filed a class-action lawsuit, *Mitch Oberstein et al v. Live Nation Entertainment, Inc. et al* (formerly *Olivia Van Iderstine et al v. Live Nation Entertainment, Inc. et al*). Ticketmaster customers allege that Ticketmaster and Live Nation used their dominance to inflate ticket prices. After Ticketmaster moved to force consumers to individually arbitrate their disputes, Keller Postman joined as co-counsel with Quinn Emanuel. Later, the district court granted Ticketmaster's motion to compel arbitration, and the order compelling arbitration is on appeal to the Ninth Circuit.

Ticketmaster next published a new arbitration clause for consumers in its terms and conditions that designated a new dispute resolution forum called New Era ADR. Keller Postman filed a new class action against Ticketmaster in January 2022—*Skot Heckman et al. v. Live Nation Entertainment Inc. et al.*—on behalf of individuals subject to the new arbitration agreement. Ticketmaster moved to compel arbitration under the new arbitration agreement. This matter is significant, because we believe the new arbitration agreement is unconscionable given that New Era ADR adopts practices that are unfair to consumers. The court granted our motion for discovery into whether a valid arbitration agreement exists. After we completed that discovery, we opposed Ticketmaster's motion to compel arbitration to New Era ADR, and the court ruled for our clients, holding that the New Era ADR terms are unconscionable. Ticketmaster is now appealing that decision to the Ninth Circuit.

### BIPA LITIGATION OVERVIEW

Keller Postman represents thousands of clients in the state of Illinois who assert violations of the Illinois Biometric Information Privacy Act (BIPA). Our clients' biometric information has been wrongfully captured without consent by employers and technology platforms. We have been litigating cases against numerous entities, including against MOD Pizza, Vonachen Service, Inc., Heartland Beef, Inc., Wireless Vision LLC, and Sydell Hostel Manager LLC, d/b/a Freehand Chicago.

BIPA is one of the country's most stringent biometric privacy laws, prohibiting private companies from capturing, obtaining, storing, transferring, and/or using the biometric identifiers and/or information (such as fingerprints) of another individual for any purpose without first providing such individual with certain written disclosures and obtaining written consent. BIPA requires anyone who records biometric information to get informed consent before doing so and to create a publicly available retention policy so people can be assured that their sensitive biometric data won't be disclosed without their knowledge.

Although BIPA has existed for more than a decade, companies are still capturing biometric information (which can easily be used to perpetrate identity fraud in the wrong hands) in Illinois without explaining the implications of that capture to their employees and customers. While corporations often loosely interpret new laws, Keller Postman is actively influencing the enforceability of these laws, setting a clear path forward for those seeking reprieve from improper collection and storage of private information.

#### Results:

- *Soper v. Sydell Hostel Manager LLC*: Secured \$250,000 settlement for class of ~300
- *Pratz v. MOD Super Fast Pizza, LLC*: Secured \$1.3 million settlement for class of ~1,134
- *Corey v. Wireless Vision, LLC*: Secured \$279,000 settlement for class of ~300



## Case Highlights Continued:

### DATA BREACH LITIGATION OVERVIEW

Keller Postman is leading numerous class actions on behalf of hundreds of thousands of individuals whose sensitive personal information—including social security numbers, health/medical records, and financial information—has been stolen. The lawsuits accuse defendants of negligently handling consumers' personal data and private information. Defendants failed to take appropriate precautions to protect this data, did not appropriately and speedily resolve data breach occurrences, and also failed to adequately recompense the plaintiffs.

#### These class actions include:

- *William Biscan v. Shields Health Care Group Inc.* (Named Interim Co-Lead Class Counsel)
- *Gilbert v. AFTRA Retirement Fund et al.*
- *Greco v. Syracuse ASC, LLC d/b/a Specialty Surgery Center of Central New York*
- *Harrington v. Elekta, Inc.*
- *Miller v. Syracuse University*
- *Valencia v. North Broward Hospital District d/b/a Broward*
- *Esposito et al v. Refuah Health Center, Inc.*
- *Garner v. Missouri Delta Medical Center*
- *Abbott et al v. Taylor County Hospital District Health Facilities Corporation d/b/a Taylor Regional Hospital*
- *Cain et al v. Lavaca Medical Center; Crawford v. Ascension Michigan*
- *Crawford v. Ascension Michigan*
- *Shepherd v. Cancer and Hematology Centers of Western Michigan, P.C.*

#### Results:

- *Hestrup et al. v. DuPage Medical Group. Ltd. d/b/a DuPage Medical Group*: Secured \$3 million settlement; Partner Seth Meyer was named Interim Class Counsel
- *Alexander, et al. v. Otis R. Bowen Center for Human Services, Inc.*: Received preliminary approval for \$1.55 million settlement
- *Hall, et al. v. AspenPointe, Inc., et al.*: Secured \$1.3 million settlement

### ZANTAC (RANITIDINE) MULTIDISTRICT LITIGATION

**Leadership Role:** Partner Ashley Keller chairs the Law & Briefing Committee and is a member of the Plaintiffs' Executive Committee

In late 2019, public watchdogs discovered that ranitidine (branded as “Zantac”) degrades into the cancer-causing compound NDMA. The FDA pulled it from the market. The Zantac MDL coordinates suits accusing Pfizer Inc., Sanofi SA, Boehringer Ingelheim Pharmaceuticals Inc., and GlaxoSmithKline LLC—as well as generic makers, distributors, pharmacies, and others in the supply chain—of causing thousands of plaintiffs to develop cancer. The importance of this matter lies in the severity of the plaintiffs' claims and the number of injured plaintiffs given the widespread use of these drugs before they were pulled from the shelves.

The Keller Postman team has briefed and argued four rounds of motions to dismiss; amended the master complaints; litigated three appeals through oral argument; briefed and argued key discovery fights; and briefed and argued *Daubert* motions on general causation. We have also worked up bellwethers for trial, collecting their medical records, responding to discovery, and so forth.

## Case Highlights Continued:

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### ZANTAC STATE COURT LITIGATION

In the Zantac MDL, plaintiffs' leadership has made a conservative choice to only pursue claims for plaintiffs who suffer from at least one of five designated cancers allegedly caused by Zantac consumption (including bladder, gastric, esophageal, liver, and pancreatic cancer). But Keller Postman is leading the charge on aggressive litigation in state court, largely for plaintiffs who suffer from non-designated cancers—and have no other avenue to pursue their claims. We also represent a number of clients with designated cancers in state court. Our firm has filed claims in California, Delaware, Illinois, and Pennsylvania. No other plaintiffs' firm involved in state-side Zantac litigation has attempted to take on such a large number of claimants in this many jurisdictions.

During a hearing on August 9, 2022 in the Illinois case *Bayer v. Boehringer Ingelheim Pharm.*, Keller Postman received a favorable *Frye* decision when the court denied defendants' motions to exclude Keller Postman's expert on general causation for esophageal and kidney cancer. This is the first ruling in the country on causation and is especially important in vindicating our firm's decision to bring kidney cancer cases, a non-designated cancer.

### 3M COMBAT ARMS EARPLUGS MULTIDISTRICT LITIGATION

**Leadership Role:** Partner Nicole Berg sits on the Law & Briefing Subcommittee; Partner Ashley Keller is Counsel of Record on the first two appeals

The 3M Combat Arms Earplugs MDL involves claims by military servicemembers against 3M for hearing loss and tinnitus caused by faulty earplugs. Roughly 270,000 servicemembers have lodged claims against 3M related to the earplugs, making this the largest MDL in history.

The court appointed Keller Postman Partner Nicole Berg to the plaintiffs' leadership team as a member of the Law & Briefing Subcommittee. Berg and her team represented one of the 25 bellwether plaintiffs at trial and have played an integral role in drafting responses to MDL-wide dispositive motions and in briefing key legal issues in many bellwether trials. Keller Postman is counsel of record on 3M's appeals of bellwether verdicts. With the bellwether trials complete, the Court ordered four "waves" of 500 cases each to proceed to trial. Keller Postman is currently preparing wave cases for trial.

In July 2022, several "Aearo" subsidiaries—but not 3M itself—filed for bankruptcy, seeking an injunction in favor of 3M to halt litigation in the MDL entirely. Keller Postman responded creatively and aggressively. Specifically, we won a preliminary injunction under the All Writs Act from the MDL Court preventing 3M from trying to relitigate long-settled MDL rulings in bankruptcy. We participated in the bankruptcy court, presenting an expert witness who testified that 3M was facing \$100 billion in liability, arguing that if 3M obtained an injunction to halt MDL litigation, it should also be enjoined from issuing dividends and share buybacks. The bankruptcy court fully denied 3M's injunction request.

Keller Postman continued the fight against 3M on appeal in the Eleventh Circuit in 2023. Partner Ashley Keller argued bellwether appeals for the first four plaintiffs' verdicts in the Eleventh Circuit in May, 2023, against noted appellate advocate Paul Clement. Press reports opined that the "Eleventh Circuit panel ... seemed open to affirming four veterans' hearing-loss verdicts."

The next month, also in the Eleventh Circuit partner J.J. Snidow defended the preliminary injunction at oral argument, also against Paul Clement. Facing pressure from the upcoming wave trials, the Eleventh

## Case Highlights Continued:

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Circuit's decisions on the bellwether and preliminary injunction appeals, and the failure of its bankruptcy strategy, 3M came to the bargaining table.

3M and Plaintiffs' Leadership reached a historic \$6 billion global settlement in August, 2023. The appeals have been stayed by the agreement of the parties until the settlement is consummated.

### ACETAMINOPHEN —ASD-ADHD MULTIDISTRICT LITIGATION

**Leadership Role:** Partner Ashley Keller is Co-Lead Counsel and a member of the Plaintiffs' Executive Committee along with Partner Ashley Barriere, who leads the Law and Briefing Subcommittee.

Studies over the last decade have shown that consuming acetaminophen while pregnant increases a child's risk for autism spectrum disorder (ASD), attention deficit hyperactivity disorder (ADHD), and other developmental disorders related to infant exposure during pregnancy. Parents on behalf of their injured children are bringing claims against makers of generic store brand acetaminophen for failing in their duty to adequately warn of the hazards of prenatal exposure to acetaminophen.

According to the complaints, acetaminophen has long been marketed as the safest, and the only appropriate, over-the-counter pain relief drug on the market for pregnant women. However, increasing experimental and epidemiological research shows that prenatal exposure to acetaminophen alters fetal development, which significantly increases the risks of neurodevelopmental disorders. For example, in a study at Johns Hopkins School of Public Health, the risk of autism was three times higher for children whose mothers took the most Acetaminophen. Since 2013, there have been six European birth cohort studies examining over 70,000 mother-child pairs, showing the association between prenatal use of acetaminophen and ASD. And numerous studies over the last decade have shown that long-term maternal use of acetaminophen during pregnancy is substantially associated with ADHD.

Given the strong science, Keller Postman has filed claims in Nevada, California, and Washington, with far more claims to be filed in the following weeks and months. This matter is significant, because more than 65% of women in the United States use acetaminophen during pregnancy and have been reassured repeatedly of its safety (despite the widespread, long-term scientific evidence showing the high risk of developmental disorders because of consuming when pregnant). We anticipate that this will be one of the largest multidistrict litigations in the history of the United States.

Keller Postman has been at the forefront of this fast-growing mass tort since our team first uncovered the Consensus Statement in *Nature* highlighting the increasing evidence linking prenatal acetaminophen exposure to autism and ADHD. Our team also recently defeated Walmart's motion to dismiss on preemption grounds, overcoming the single largest barrier to plaintiffs' ultimate recovery.

### NECROTIZING ENTEROCOLITIS/INFANT-FORMULA LITIGATION

Keller Postman is leading the state-side litigation against Abbot and Mead—the makers of Enfamil and Similac infant formula and fortifiers—for their role in causing preterm infants to develop necrotizing enterocolitis (NEC), a dangerous inflammation of the intestines that can lead to rupture and death. The lawsuits allege that defendants (including Mead Johnson & Company LLC, Mead Johnson Nutrition Company, and Abbot Laboratories) falsely marketed their infant formulas as “medically endorsed” and “nutritionally equivalent” to mother's breast milk when the formulas are linked to the development of necrotizing enterocolitis.

## Case Highlights Continued:

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We are bringing claims on behalf of families in state courts across the country, with cases filed in Illinois (Madison County, Cook County, and St. Clair County), as well as in state courts in California, Pennsylvania, and Missouri. This underscores the vast scope of the harm that the defendants have inflicted on these most vulnerable victims throughout the United States.

This matter is significant, namely due to the obvious vulnerability of the young victims and the severity of NEC and its long-term effects. Despite mounting legal claims against the companies based on scientific evidence and research that has existed for decades, as well as safer alternatives like donor milk and human-milk based formula, these defendants continue to sell these products and encourage them to be distributed to premature infants across the country. Through this litigation and other advocacy efforts, we hope to shed more light on the dangers of these products and to equip other parents with the information they need to avoid putting their infants' health at risk.

On March 14, 2024, Keller Postman achieved a monumental victory, securing a \$60 million jury verdict in the very first trial to hold manufacturers of cow's-milk based formula accountable for causing NEC in premature infants. In this landmark case, a St. Clair, Illinois jury unanimously found in favor of our client, proving that Mead Johnson's Enfamil formula caused her son to tragically die from NEC.

### CAMP LEJEUNE WATER CONTAMINATION LITIGATION

**Leadership Role:** Partner Zina Bash appointed Co-Lead Counsel and Government Liaison

Keller Postman represents thousands of veterans, military family members, and other civilians who were poisoned by the water at U.S. Marine Corps Base Camp Lejeune. As a result of consuming, bathing in, cooking with, and swimming in this contaminated water, our clients allege that they have developed diseases and chronic conditions, including cancers of the bladder, kidney, and liver, non-Hodgkin's lymphoma, Parkinson's disease, and multiple myeloma - among many other ailments.

Keller Postman also played a significant role in lobbying for the passage of The Camp Lejeune Justice Act, which was signed into law by the President on August 10, 2022. Keller Postman Partner Zina Bash played a particularly meaningful role in advancing the Justice Act. Having previously worked at the highest levels of the government, Bash leveraged her connections in Washington to help the bill make its way through Congress. And within minutes of the bill-signing, Keller Postman began filing actions against the U.S. government under the Camp Lejeune Justice Act.

This matter is significant, because over one million individuals were exposed to the toxic water at Camp Lejeune over a 30-year period, from the 1950s to the 1980s. Though the government became aware of the contamination in the early 1980s, it took years to remedy it and decades to warn individuals who had been exposed. Camp Lejeune's poisonous water has also been linked to widespread birth defects and high rates of stillborn babies. In fact, there were so many stillborn babies in Camp Lejeune during that time that a cemetery near the base became known as "Baby Heaven." What happened at Camp Lejeune is a terrible tragedy that could have been prevented. The Camp Lejeune Justice Act has been a long time coming, and it is our privilege to fight for justice on behalf of our clients.

Keller Postman has played a leading role in advocating for the passage of the Camp Lejeune Justice Act. After the Act became law, our firm helped clients sign up for claims under the Act and file them with the Navy and in Court. In fact, within minutes of the bill-signing, we filed the first actions against the government under the Justice Act to obtain compensation for victims.

## Case Highlights Continued:

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### PARAGARD IUD MULTIDISTRICT LITIGATION

**Leadership Role:** Partner Nicole Berg sits on the Plaintiffs' Executive Committee

The Paragard IUD MDL coordinates suits accusing Teva Pharmaceuticals USA, Inc., Teva Women's Health, Inc., The Cooper Companies Inc., and CooperSurgical Inc. of failing to warn users of the risks posed by the Paragard copper intrauterine device (IUD). The plaintiffs allege that their Paragard IUDs broke apart, leaving behind pieces of the device, which sometimes embedded in their uterus. The breakage caused serious complications and injuries, including surgeries to remove the broken pieces of the device, infertility, and pain.

In September 2021, Partner Nicole Berg argued against defendants' motion to dismiss the claims of plaintiffs in this MDL. Two months later, Judge Leigh Martin May sided with plaintiffs and denied defendants' motion on preemption, shotgun pleading, Rule 12, and Rule 9(b), finding that "factual underpinnings for the design defect claims and detailed allegations about the defendants' failure to warn" were sufficient to state a claim. The discovery process has begun.

### ONGLYZA AND KOMBIGLYZE XR MULTIDISTRICT LITIGATION

**Leadership Role:** Partner Ashley Barriere appointed to the Plaintiffs' Steering Committee and leads the Law & Briefing Committee

This MDL involves individuals who took Onglyza (saxagliptin) and Kombiglyze XR (saxagliptin and metformin) to treat Type 2 diabetes. The plaintiffs represented by Keller Postman allege that the drugs caused serious cardiac complications. Defendants Bristol-Myers Squibb and AstraZeneca began selling the drugs in 2009 and 2010, before completing a cardiac risk study recommended by the U.S. Food and Drug Administration. The study was completed in 2013 and showed that saxagliptin users had a significantly increased risk of hospitalization due to heart failure.

We're proud of Partner Ashley Barriere's position on plaintiffs' leadership in this MDL. Our firm values empowering both young attorneys and female leaders to take on pivotal roles.

### IN RE JOHNSON & JOHNSON AEROSOL SUNSCREEN MARKETING, SALES PRACTICES & PRODUCTS LIABILITY LITIGATION

**Leadership Role:** Keller Postman named Interim Class Counsel

Keller Postman filed a class action against Johnson & Johnson subsidiary Johnson & Johnson Consumer, Inc. (J&J)—*Dominguez et al v. Johnson & Johnson Consumer*—on behalf of purchasers of certain Aveeno and Neutrogena sunscreens that have dangerous and unacceptable levels of the known cancer-causing chemical, benzene. Benzene, which is often found in crude oil and identified by the smell associated with gasoline, is classified as a human carcinogen by the United States Department of Health and Human Services, and a Group 1 compound (i.e. "carcinogenic to humans") by the World Health Organization and the International Agency for Research on Cancer.

In October 2021, the Judicial Panel on Multidistrict Litigation approved centralizing in Florida the federal court lawsuits accusing Johnson & Johnson of selling sunscreen products tainted with benzene. The consolidated litigation is *In re Johnson & Johnson Aerosol Sunscreen Marketing, Sales Practices & Products Liability Litigation*.

# Attorney Biographies







# Warren Postman

## *Managing Partner*

Warren combines a deep understanding of the civil litigation system with broad substantive expertise to solve complex litigation challenges for the firm's clients.

Warren is a champion for plaintiffs in mass action litigation. His vision to boldly employ cutting-edge technology and innovation to empower plaintiff-side litigants has given hundreds of thousands of ordinary Americans a realistic avenue to vindicate their rights.

Warren spearheaded the development of the firm's revolutionary mass arbitration practice, which pursues individual arbitrations for thousands of individuals whose claims are subject to arbitration clauses with class-action waivers. The firm aggressively pursues individual arbitrations for tens of thousands of clients simultaneously and, as described by the *New York Times*, has left defendants "scared to death." Warren has won numerous precedent-setting victories requiring defendants to comply with their obligation to arbitrate under agreements they drafted.

Due in large part to the arbitration practice Warren has built at Keller Postman, the rise of "mass arbitrations" has been one of the most significant recent developments in civil litigation. In the last four years alone, Keller Postman has secured millions in settlements for more than 500,000 individual clients.

Before joining Keller Postman, Warren was Vice President and Chief Counsel for Appellate Litigation at the U.S. Chamber Litigation Center. In that role, he managed appellate strategy for the U.S. Chamber of Commerce, which participates in more than 150 cases each year to shape the law on a wide range of issues affecting businesses. Working closely with senior in-house lawyers at some of the world's largest companies, Warren gained unique insight into the dynamics and trends that shape business litigation.

Warren was previously an attorney in the Issues & Appeals practice at Jones Day, where he helped guide trial and appellate strategy in some of the firm's most complex and high-stakes cases.

Warren served as a law clerk for Justice David H. Souter at the Supreme Court of the United States and Judge William A. Fletcher at the U.S. Court of Appeals for the Ninth Circuit. He graduated *magna cum laude* from Harvard Law School, where he was Articles Editor on the *Harvard Law Review*, and graduated *magna cum laude* and Phi Beta Kappa from Brandeis University.

### EDUCATION

J.D., Harvard Law School  
B.S., Brandeis University

### CLERKSHIPS

Hon. David H. Souter, Supreme Court of the United States  
Hon. William A. Fletcher, U.S. Court of Appeals for the Ninth Circuit

### AWARDS

*Chambers & Partners* Band 1 District of Columbia Ranking (2022-2024)  
*Law360* Technology MVP of the Year (2022)  
*Law360* Employment MVP of the Year (2021)  
*National Law Journal's* Plaintiffs' Lawyers Trailblazers (2021)  
*Lawdragon's* 500 Leading Lawyers in America (2021-2024)  
*Lawdragon's* Leading Plaintiff Financial Lawyers (2021-2024)  
*National Trial Lawyers'* Top 100 (2021-2024)  
*Super Lawyers* D.C. (2022-2024)

### CONTACT

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202.918.1870



# Nick Larry

## *Senior Counsel*

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Nick is Senior Counsel at Keller Postman LLC. He possesses a deep understanding of privacy laws, and an ability to identify and develop novel claims on behalf of individuals, businesses, and governments.

### EDUCATION

J.D., Northwestern University Pritzker School of Law  
B.A., Michigan State University

### AWARDS

Best Lawyers: Ones to Watch (2023)

### CONTACT

nl@kellerpostman.com  
312.948.8472

At Keller Postman, Nick's practice focuses on privacy, false advertising, and other consumer-protection claims. He is focused on the research and development of claims, law and briefing practice, and litigation of class and public-client actions. During his time at Keller Postman, Nick's notable matters have included representing the State of Texas in its biometric privacy suit against Meta Platforms, representing a putative class of advertisers in an unfair-competition case against LinkedIn, as well as the firm's Amazon Alexa wiretapping class action and arbitrations, its TurboTax arbitrations against Intuit, and its consumer-protection arbitrations against DraftKings and FanDuel. Nick also helped develop the firm's biometric-privacy practice.

Before joining Keller Postman, Nick represented corporate clients and consumers in plaintiffs' matters at Benesch Friedlander Coplan & Aronoff LLP, and represented class-action plaintiffs at Edelson PC. During that time, Nick helped develop and litigate novel claims under the federal Video Privacy Protection Act, Michigan's Preservation of Personal Privacy Act, and Illinois's Biometric Information Privacy Act. Nick also took a lead role in the consumer class action against LinkedIn arising from its well-publicized 2014 data breach.

Nick graduated from the Northwestern University Pritzker School of Law, cum laude, where he was a senior editor of the Journal of International Law and Business. Nick graduated with honors from the Honors College at Michigan State University, where he played on the school's rugby team.



1 David Neiman (*pro hac vice*)  
dneiman@rblaw.net  
2 **ROMANUCCI & BLANDIN, LLC**  
321 N. Clark Street, Suite 900  
3 Chicago, IL 60654  
Phone: (312) 458-1000  
4 Facsimile: (312) 458-1004

5 *Attorneys for Plaintiffs TopDevz, LLC, and*  
6 *Noirefy, Inc.*

7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN JOSE DIVISION**

9 )  
10 ) Case No.: 5:20-cv-08324-SVK  
11 *In re LinkedIn Advertising Metrics* ) **DECLARATION OF DAVID NEIMAN**  
*Litigation* ) **IN SUPPORT OF MOTION FOR**  
12 ) **ATTORNEYS' FEES, COSTS, AND**  
13 ) **INCENTIVE AWARDS**  
14 )  
15 )  
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**DECLARATION OF DAVID NEIMAN**

Pursuant to 28 U.S.C. § 1746, I, David Neiman, hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of Illinois, and before this Court *pro hac vice*. I am a partner at Romanucci & Blandin, LLC, which has been retained to represent Plaintiffs TopDevz, LLC and Noirefy, Inc. in this matter. I am over the age of 18 and am fully competent to make this declaration. This declaration is based upon my personal knowledge, except where expressly noted otherwise. If called to testify regarding the matters asserted herein, I could and would do so.

2. A true and accurate copy of Romanucci & Blandin’s firm resume is attached hereto as Exhibit A.

3. The attorneys at Romanucci & Blandin have extensive experience handling complex litigation, class action cases, and multi-district litigation throughout the U.S., including district and federal courts, matters in the insurance, products liability, pharmaceutical, and medical device industries. In addition, Romanucci & Blandin has gained a national reputation for representing victims in civil rights and police misconduct cases, including but not limited to the Estate of George Floyd against the Minneapolis Police Department, among others.

4. Moreover, Romanucci & Blandin has built an impressive practice prosecuting complex commercial insurance disputes, representing hundreds of policyholders in claims in state and federal courts across the country.

5. Since its founding in 1998, Romanucci & Blandin has recovered over \$1 billion on behalf of its clients. Notable recoveries include \$21.3 million for a 37-year-old mother of five killed in a car accident with a Chicago Police Department vehicle; acting on the steering committee representing over 70 individuals in litigation relating to the Las Vegas mass shooting, which recovered over \$735 million in total; representing approximately 30 individuals in the Pulse night club shooting litigation; acting as co-lead counsel in a class action against the City of Chicago regarding its red-light camera policy, which recovered \$35 million, and more.

1           6. Romanucci & Blandin has committed extensive resources to this case. To date, the  
 2 firm has devoted over 320 hours to this case, resulting in a lodestar of \$286,525.50. The team  
 3 members who billed time to this case, along with their roles, hourly rates, and hours billed, are  
 4 shown in the following chart:

5 <b>Team Member</b>	<b>Role</b>	<b>Hourly Rate</b>	<b>Hours Billed</b>	<b>Lodestar</b>
6 Antonio Romanucci	Founding Partner	\$1,250	92.15	\$115,187.50
7 David Neiman	Partner	\$750	228.5	\$171,375.00
8 <b>Total</b>			<b>320.65</b>	<b>\$286,562.50</b>

9  
 10  
 11           7. In addition to its contributions to Plaintiff's counsel's litigation fund, my firm has  
 12 also advanced unreimbursed expenses of \$1,608.00, as detailed in the following chart:

13 <b>Expense Category</b>	<b>Amount</b>
14 Postage	\$23.00
15 Filing Fees	\$1,585.00
16 <b>Total</b>	<b>\$1,608.00</b>

17  
 18 I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
 19 1<sup>st</sup> day of October, 2024 in Chicago, Illinois.

20 By:   
 21 David Neiman

# **EXHIBIT A**

## Representative Cases and Attorney Experience

**Romanucci & Blandin, LLC ("R&B") is a Chicago-based Plaintiffs' litigation/ personal injury law firm. Antonio M. Romanucci and Stephan D. Blandin founded the firm in 1998, which currently consists of more than 15 trial attorneys. Since 1998, R&B has achieved verdicts and settlements in excess of \$1 billion on behalf of its clients in various areas, including large-scale, aggregate litigation cases.**

### REPRESENTATIVE CASES AND CLASS ACTIONS

Notably, R&B has been retained for and led some of the largest, high-profile aggregate cases in Illinois and the country:

- Romanucci was one of the lead counsel in the Cook County State Court litigation against Sterigenics, a medical sterilization company based in the western suburbs of Chicago. Romanucci & Blandin was appointed to the Plaintiff Executive Committee by the Circuit Court of Cook County, and Mr. Romanucci was appointed as the Plaintiffs' Lead Counsel. (Cook County, IL, Case No. 18-L-010475). A global settlement of over \$400 million was reached, including \$150 million for R&B clients.
- R&B is currently representing victims of the Boeing Airlines crash in Ethiopia on March 10, 2019. Mr. Romanucci and Mr. Neiman are both members of the Plaintiffs' Executive Committee. (NDIL, Case No. 1:19-CV-02170).
- R&B is representing numerous people who developed cancer after living near metal processing plants in the Village of Union, Illinois, in McHenry County, alleging the plant owners knowingly polluted the surrounding communities with cancer-causing chemicals for decades.
- R&B Partner David A. Neiman was named to the Plaintiff's Steering Committee in the multi-district hair relaxer litigation (*In re: Hair Relaxer Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 3060, Case No. 1:23-cv-818 (Northern District of IL)). R&B also represents clients in the state court hair relaxer litigation proceeding *Janita Hayes, et al. v. L'Oreal USA, Inc., et al.*, 22-L-11132 (Circuit Court of Cook County, IL).
- R&B is co-counsel representing a class of plaintiffs in litigation against Ann & Robert H. Lurie Children's Hospital of Chicago in a proposed class action alleging it failed to put systems in place to detect the improper access of medical records, leading to two undetected data breaches that exposed the information of at least 8,000 patients.
- R&B's mass torts team currently represents clients in three Biometric Information Privacy Act cases: *Davis v. Wirco, Inc.*, 21-cv-02279 (Central District of IL); *Curry v. County Materials Corp., et al.*, 22-cv-02015 (Central District of IL); and *Clow v. The Sygma Network*, 22-cv-1094 (Central District of IL).
- R&B attorneys were appointed to the Interim Plaintiffs Steering Council for the class action litigation related to the Chemtool chemical plant fire and explosion in Rockton, Illinois on June 14, 2021.
- R&B represented over 70 individuals in the October 1 Shooting Litigation in Las Vegas, Nevada, arising from the Mandalay Bay Shooting on October 1, 2017, with Mr. Romanucci serving on the litigation's Steering Committee, which brokered a Settlement Agreement with a value in excess of \$735 million. (Clark County, NV, Case No. A-18-769752-C).
- R&B represented approximately 30 individuals in the Pulse Night Club Litigation, resulting in a recovery of the entire insurance policy for all affected. (Palm Beach County, FL, No Case Number).



## Representative Cases and Attorney Experience

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- R&B served as Co-Lead Counsel in a Class Action against the City of Chicago for their unconstitutional red-light camera policy, which resulted in a \$35 million settlement on behalf of thousands of class members.
- R&B is representing numerous victims who have suffered devastating financial and property loss as the result of Edenville and Sanford Dams located in Michigan overflowing, flooding hundreds of homes and buildings in May 2020.
- R&B was lead counsel representing nearly 30 individuals who sustained respiratory injuries following an ammonia chemical spill that occurred in Beach Park, Illinois, on April 25, 2019. A settlement was reached in the case.
- R&B represented numerous governmental entities and individuals in lawsuits against JUUL Labs, Inc., related to its allegedly deceptive marketing practices causing addiction and physical injuries to America's youth.
- R&B handled numerous class actions filed on behalf of Illinois automobile insurance policyholders against numerous insurance companies for failing to provide fair and appropriate insurance premium relief due to significantly reduced miles traveled during the COVID-19 pandemic.
- R&B represented a putative class of LinkedIn advertisers, alleging that LinkedIn consistently overcharges its users by inflating advertising metrics businesses rely on when placing bids to purchase advertising on the networking site.

## Romanucci & Blandin's experienced roster of attorneys

R&B attorneys are recognized as best in their field by prominent legal publications, including Super Lawyers and Leading Lawyers magazines, and are AV-Rated by Martindale Hubbell. In addition, the firm's attorneys have been named Top 10 attorneys in Illinois, included in the National Trial Lawyers 40 Under 40 list, and identified in the *Best Lawyers in America* publication. Beyond recognition from legal publications, the firm's attorneys have contributed to the legal community through scholarship and speaking engagements.

## David A. Neiman

Partner

312-253-8810 / dneiman@rblaw.net

Paralegal: Kaitlyn Boelter-Eberhardt

312-253-8785 / kboelter@rblaw.net



### Practice Areas

Birth Injuries

Environmental & Toxic Torts

Mass Torts & Class Actions

Medical Malpractice

Premises Liability

Product Liability

Transportation & Car Accidents

Wrongful Death

### Education & Certifications

- J.D., William and Mary School of Law and Northwestern University School of Law, 2009
- B.A., Kenyon College, Gambier, OH, 2005

### Jurisdictions Admitted to Practice

Illinois, 2009

S. District Court for the Northern District of Illinois, 2009; Member of the Trial Bar, 2013

S. District Court for the Eastern District of Wisconsin, 2020

Superior Court of the State of California for the County of Los Angeles, 2020 (*Pro Hac Vice*)

S. District Court for the Middle District of Florida, 2020 (*Pro Hac*)

Partner David A. Neiman is a personal injury and consumer rights attorney who has successfully litigated a variety of cases throughout the country. David has spent much of his career representing victims and their families in cases involving medical malpractice, premises liability, transportation accidents, including automobile crashes and aviation disasters, and civil rights matters. Most recently, he has focused his practice on mass tort and class action litigation, including gun violence prevention cases, consumer protection matters involving insurance products, data and privacy cases, chemical toxic exposure cases, and product liability cases.

David is known for taking on powerful cases with national implications. He, alongside Romanucci & Blandin, LLC Founding Partner Antonio Romanucci, is currently leading the firm's representation of shooting victims in landmark cases against gun manufacturers and distributors that produce, market, and advertise assault rifles used in mass shootings. Notably, David is representing dozens of shooting victims across the country, including children injured in the mass shooting at Robb Elementary School in Uvalde, Texas on May 24, 2022; dozens of people injured and killed in the Highland Park, Illinois parade shooting that occurred on July 4, 2022; patrons of Club Q in Colorado Springs, Colorado on November 19, 2022; and several victims of the Old National Bank Shooting in Louisville, Kentucky on April 10, 2023.

David's reputation for finding meaningful and creative solutions in tough cases has led to his appointment to leadership positions in several mass tort and class action cases. David served as lead counsel in *In re: Beach Park Chemical Spill*, in which more than 60 residents, passersby, and first responders sustained injuries from an ammonia chemical spill that occurred in Beach Park, Illinois on April 25, 2019. More recently, David was appointed to the Plaintiffs Steering Committee in *In re: Hair Relaxer Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 3060, Case No. 1:23-cv-818 (Northern District of IL) and the Plaintiffs Executive Committee in the parallel consolidated state court litigation in Cook County, Illinois where he is actively representing women who developed cancer through their use of chemical hair straightening products. He is also concurrently serving on the Plaintiffs Steering Council representing property owners in and around Rockton, IL who sustained damage following the Chemtool chemical plant fire explosion that occurred on June 14, 2021. David further serves on the Plaintiff's Steering Committee in *In re: Ethiopian Airlines Flight ET 302 Crash* representing victims in the case against The Boeing Company following the crash of Ethiopian Airlines Flight 302 that occurred on March 10, 2019. Lastly, David has further served as co-lead counsel in several data

Vice)

S. District Court for the Northern  
District of California, 2021

S. Court of Appeals, Seventh Circuit,  
2021

S. District Court for the Central  
District of Illinois, 2021

S. Court of Appeals, Eleventh Circuit,  
2021

S. Court of Appeals, Ninth Circuit,  
2022

S. District Court for the Eastern  
District of Michigan, 2023

S. District Court for the Western  
District of Texas, Del Rio, 2023 (*Pro  
Hac Vice*)

breach and privacy cases, including cases alleging violations of the Illinois Biometric Information Privacy Act.

Before joining Romanucci & Blandin, LLC, David was a partner at Baizer Kolar Neiman P.C. In his last two trials at that firm, David earned verdicts on behalf of his clients totaling \$70 million. In May 2018, David was part of the trial team with Bob Baizer and Joe Kolar that obtained a \$25 million verdict for the wrongful death of a 43-year-old woman for failure to identify and remove an ovarian mass ultimately leading to a terminal cancer diagnosis. In March 2019, David first-chaired a trial in which he obtained a \$45 million verdict for the family of a woman who was killed in a car crash in Lake County, Illinois.

David's work on behalf of plaintiffs has been recognized by prestigious ranking directories, including Law Bulletin Media, which named him "40 Illinois Attorneys Under Forty" to Watch for 2022. Law Bulletin Publishing Company has separately identified David as an Emerging Lawyer from 2017-2022. David has also proudly been named one of The Best Lawyers in America® for 2021 through 2023 and an Illinois Super Lawyer for 2022 and 2023 (after previously being named an Illinois' Rising Stars by Super Lawyers® for the years 2015-2021).

David received his Bachelor of Arts degree from Kenyon College in Gambier, Ohio majoring in American Studies. He then attended law school at William and Mary School of Law and Northwestern University School of Law. While in law school, David worked at the Cook County State's Attorney's Office. Following law school, he served as a judicial extern for the Honorable Judge John Daniel Tinder with the United States Court of Appeals for the 7th Circuit.

David is involved with several community non-profit organizations. David currently serves on the Board of Directors of Lambs Farm, an organization that provides vocational and residential services for over 250 adults with developmental disabilities. He is also on the Board of Directors for the Deerfield Park Foundation, which offers financial assistance to those in the community in need.

## Experience

\$1,450,000 Settlement – Motorcycle Accident

\$975,000 Settlement – Party Bus Accident

## Awards & Recognition

- *Certificate of Recognition*, American Association for Justice, 2023
- Law Bulletin Media *40 Illinois Attorneys Under Forty to Watch*, 2022
- *Super Lawyer* by Illinois Super Lawyers®, 2022-Present
- *Rising Star* by Illinois Super Lawyers®, 2015-2021
- Named one of *The Best Lawyers in America*®, 2021-Present
- *Emerging Lawyer* by Law Bulletin Publishing Company, 2017-Present
- National Trial Lawyers Association "*Top 40 Trial Lawyers under 40*" in Illinois, 2013



## Legal Activities & Leadership

- Illinois State Bar Association
  - Member, Tort Law Section Council, 2022-Present
  - Member, Young Lawyers Division Board Council, 2013-2022
  - General Assembly Representative for the 19th Judicial Circuit, 2016
- Illinois Trial Lawyers Association
  - AAJ State Delegate, 2022-Present
  - Board of Managers, 2020-Present
  - Board of Advocates, 2016-2019
- American Association for Justice
  - Membership Oversight Committee, 2022-Present
  - Public Education Committee, 2022-Present
  - Publications Committee, 2022-Present
  - Press Advisory Board, 2022-Present
  - Committee on the Judiciary, 2022-Present
  - Publications Committee for the New Lawyers Division, 2017-2019
  - NLD Advocate, 2016-2018
- Lake County Bar Association

## CHARITABLE INVOLVEMENT

- The North Suburban Legal Aid Clinic, f/k/a Highland Park-Highwood Legal Aid Clinic
  - Chairman of the Board of Directors of the North Suburban Legal Aid Clinic, 2017-2019
- Deerfield Park Foundation
  - Served on the Board of Directors for the Deerfield Park Foundation, which offers financial assistance to those in the community in need, 2018-2021
- Lambs Farm
  - Serve on the Board of Directors for Lambs Farm, which is a non-profit organization that serves adults with developmental disabilities, charged with oversight of financial reporting, disclosure, and management, 2023-present
  - Served on the Audit and Finance Committee reporting to the Board of Directors, 2017-present
  - Founded the Metropolitan Division of Lambs Farm, intending to plan and promote fundraising events to support Lambs Farm
- Anti-Defamation League
  - Completed The Glass Leadership Institute in 2014, which is a nationally recognized young leadership development program for the Anti-Defamation League

## Notable Cases

### REPRESENTATIVE MATTERS

- David serves (or has served) as lead or co-lead counsel in:
  - *In Re Beach Park Chemical Spill*, 19 L 369 (Circuit Court of Lake County, IL)
  - *Baby Doe, et al. v. Ann & Robert H. Lurie Children's Hospital of Chicago*, 2020-CH-04123 (Circuit Court of Cook County, IL)
  - *Davis v. Wirco, Inc.*, 21-cv-02279 (Central District of IL)
  - *Curry v. County Materials Corp., et al.*, 22-cv-02015 (Central District of IL)
  - *Clow v. The Sygma Network*, 22-cv-1094 (Central District of IL)
- David also serves as a leadership member in:
  - *In re: Ethiopian Airlines Flight ET 302 Crash*, 19-cv-02170 (Northern District of IL) (Plaintiffs Steering Committee)
  - *Grasley, et al. v. Chemtool Incorporated*, 2021-L-0000162 (Circuit Court of Winnebago County, IL) (Plaintiffs Steering Council)
  - *In re: Hair Relaxer Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 3060, Case No. 1:23-cv-818 (Northern District of IL)(Plaintiff's Steering Committee)
  - *Janita Hayes, et al. v. L'Oreal USA, Inc., et al.*, 22-L-11132 (Circuit Court of Cook County, IL)

## In the News

Lawsuits expand to accessories sold by River City Firearms to Old National Bank shooter  
*WAVE*, April 11, 2024

July 4 parade gun suits belong in state court, panel holds  
*Chicago Daily Law Bulletin*, April 10, 2024

Inside the court fight over the safety of hair relaxers and Black hair care  
*Chicago Sun-Times*, April 4, 2024

Jessica Barrick describes tragic moments she learned her husband was killed at Old National Bank  
March 19, 2024

The hero: Rich Fierro fought in America's war on terror. Then terror found him at home.  
*Washington Post*, March 16, 2024

Federal data reveals gun stores whose firearms have been used in many crimes  
*NBC Nightly News with Lester Holt*, February 23, 2024

Gun shops that sell the most guns used in crime revealed in new list  
*USA TODAY*, February 15, 2024

Old National Bank mass shooting widow vows to make a change  
*WAVE 3 News*, January 23, 2024

Families sue Kentucky gun shop that sold AR-15 used in 2023 bank shooting that killed 5  
*AP News*, January 23, 2024

Trial for accused Highland Park shooter to begin in February; Crimo III to represent himself  
*WGN9*, December 11, 2023

Louisville bank shooter killed 5 people to highlight gun laws, police report shows  
*The Washington Post*, November 22, 2023

LMPD closes investigation into Old National Bank shooting. Here are the findings  
*Louisville Courier Journal*, November 21, 2023

“The world stops to care”: Club Q survivors reflect on what’s changed — and what still needs fixing  
*The Colorado Sun*, November 17, 2023

The Survivors  
*them*, November 17, 2023

Victim's families, survivors of Old National Bank shooting consider suing gun company  
*WLKY*, October 31, 2023

Co-workers knew he was struggling. They didn't expect he'd buy an AR-15.  
*Washington Post*, October 30, 2023

Old National Bank shooting victims, families to file suit against gun manufacturer  
*Louisville Courier Journal*, October 30, 2023

Judge Rejects Gunmaker's Attempt To Remove Highland Park Shooting Suit  
*Patch*, September 30, 2023

Judge: Lawsuits vs Smith & Wesson over Highland Park massacre belong in Lake County, not federal court  
*Cook County Record*, September 28, 2023

Gun maker must face Highland Park parade suits in state court  
*Chicago Daily Law Bulletin*, September 28, 2023

Club Q shooting victims file notices to sue El Paso County  
*The Gazette*, June 5, 2023

‘This could be the case that helps cultivate that change’: Lawsuit filed on behalf of Robb Elementary survivor  
*KSAT-TV*, May 24, 2023

Uvalde survivor Mayah Zamora making a difference with life she nearly lost  
*CBS Texas*, May 22, 2023

Uvalde victims' families seek to hold gunmaker accountable, accuse it of marketing to youth  
*CBS Texas*, May 22, 2023

Highland Park parade shooting survivors find hope after tragedy  
*TODAY*, May 4, 2023

Committee hears testimony on King's raise-the-age bill  
*Uvalde Leader-News*, April 23, 2023

Two Children, a Burst of Gunfire and the Year That Came After  
*New York Times*, April 17, 2023

Biden calls for investigation of gun makers selling weapons to minors  
*Business News (biz.crastr.net)*, March 15, 2023

A Visit to Lambs Farm with Deerfield's David Neiman  
*Deerfield Neighbors*, March 14, 2023

Geico can't end class action claiming its Covid savings plan didn't cut rates enough  
*Cook County Record*, February 9, 2023

Durbin, Schneider announce firearm safe storage legislation alongside Highland Park shooting survivors  
*Chicago Tribune*, February 3, 2023

IL Supreme Court: Biometrics class actions can include claims over five years, not just one  
*Cook County Record*, February 2, 2023

Boeing pleads not guilty to fraud charge in 737 MAX arraignment  
*Reuters - yahoo!finance*, January 26, 2023

Romanucci & Blandin earns high national marks  
*Fra Noi*, January 16, 2023

Assault weapon sales now illegal in Illinois: 'This will save lives,' Pritzker says after signing bill into law  
*Chicago Sun-Times*, January 10, 2023

'A year unlike any other': Highland Park shooting victims continue to deal with grief, anger and pain  
*Daily Herald*, January 4, 2023

Pain remains fresh, push for change strong six months after Highland Park massacre  
*CBS Chicago*, January 4, 2023

Illinois is poised to pass an assault weapons ban. Will it withstand court challenges?  
*WGN9*, January 3, 2023

Survivors of mass shootings in Highland Park, East Garfield Park voice support for proposed assault weapon ban  
*Chicago Tribune*, December 13, 2022

Lawyers for Accused Highland Park Parade Shooter Ask for More Time to Review 'Volume' of Evidence  
*Chicago Sun-Times*, November 2, 2022

Highland Park shooting victims say they are fighting back as they cope day-by-day  
*WBEZ Chicago*, October 21, 2022

Mass Shooting Victims Are Suing Gun Manufacturers  
*Newsy*, October 17, 2022

3 Takeaways From The First BIPA Verdict  
*Law360*, October 13, 2022

Gun industry faces a new wave of lawsuits that could reshape how firearms are sold  
*CNBC*, October 6, 2022

Taking gun manufacturers to court can save lives  
*Chicago Sun-Times*, October 5, 2022

Highland Park shooting victims sue Smith & Wesson, gun shops, alleged shooter and his father over July 4 parade mass shooting  
*Chicago Tribune*, September 30, 2022

Smith & Wesson is accused of marketing guns to 'disturbed young men' in suit by July 4 victims  
*ABA Journal*, September 29, 2022

Highland Park Shooting Victims File Lawsuit Against Gun Maker and Others, Targeting their Marketing  
*NBC 5 Chicago*, September 28, 2022

Highland Park Fourth of July massacre: First lawsuits filed, call attack 'predictable and preventable'  
*Chicago Sun-Times*, September 28, 2022

Editorial: Lessons from the Sterigenics case. Why allow harmful emissions so close to homes and schools?  
*Chicago Tribune*, September 27, 2022

Latest suit from Chief derailment claims Amtrak, BNSF 'placed profits over safety'  
*Trains*, July 11, 2022

Lawsuit filed on behalf of an injured passenger in Amtrak train derailment  
*NBC - 8 KOMU*, July 9, 2022

David A. Neiman Named Partner at Romanucci & Blandin  
*ISBA's The Bar News*, February 25, 2022

Family of man who died after falling from moving party bus reaches settlement with company  
*Chicago Sun-Times*, January 21, 2022

## Blog Posts

Gun Violence Now Leading Cause of Death for Kids: What We Can Do About It  
*Romanucci & Blandin Blog*, October 6, 2023

Eye in the Sky: Drones Will Allow for More Safety and Security at Illinois Public Events  
*Romanucci & Blandin Blog*, June 29, 2023

Biometric Privacy and Workers' Rights  
*Romanucci & Blandin Blog*, February 15, 2022

BIPA and Enhanced Protections for Illinois Workers  
*Romanucci & Blandin Blog*, January 18, 2022

Auto Insurance Premium Relief in the COVID-19 Era: Is your insurance company really looking out for you?  
*Romanucci & Blandin Blog*, September 22, 2021

The Need for Medical Monitoring in Illinois  
*Romanucci & Blandin Blog*, July 30, 2021

Flying Public, Pay Attention to the Plane You Book  
*Romanucci & Blandin Blog*, February 10, 2021

Covid-19 Business Interruption Lawsuits – Where Do They Stand?  
*Romanucci & Blandin Blog*, September 23, 2020

## Speaking Engagements

- Lake County Bar Association, Presenter, *JUUL LABS, INC.: Litigation on Behalf of Lake County, Illinois*, Lake County, Illinois, May 2023
- Chambers of Commerce for Evanston, Skokie, Lincolnwood, Morton Grove, and the Greater Wheeling Area (Illinois), Speaker, *Know Your Options Small Business Webinar: Business Interruption Insurance Claims*, May 2020
- 25th Ward - City of Chicago, Speaker, *Know Your Options Small Business Forum: Insurance Claims for Lost Revenue, Government Loans and Grants, and other Legal Options in the Face of Coronavirus*, May 2020
- Illinois State Bar Association, Moderator, *Legal Malpractice Pitfalls for Young Lawyers*, April 2015

## Publications

- Illinois State Bar Association, Young Lawyers Division Section Newsletter, *Avoiding legal malpractice claims*, February 2016.
- Illinois State Bar Association, Young Lawyers Division Section Newsletter, *Tips for lawyers looking to network and market themselves*, August 2014

1 Joshua E. Fruchter (*pro hac vice*)  
2 [jfruchter@wohlfruchter.com](mailto:jfruchter@wohlfruchter.com)

3 **Wohl Fruchter LLP**  
4 25 Robert Pitt Drive, Suite 209G  
5 Monsey, NY 10952  
6 Phone: (845) 290-6818  
7 Facsimile: (718) 504-3773

8 *Attorneys for Former Plaintiff Synergy RX*  
9 *PBM LLC*

10  
11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN JOSE DIVISION**

14 *In re LinkedIn Advertising Metrics*  
15 *Litigation*

)  
) Case No.: 5:20-cv-08324-SVK  
)  
) **DECLARATION OF JOSHUA E.**  
) **FRUCHTER IN SUPPORT OF MOTION**  
) **FOR ATTORNEYS' FEES, COSTS, AND**  
) **SERVICE AWARDS**  
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**DECLARATION OF JOSHUA E. FRUCHTER**

Pursuant to 28 U.S.C. § 1746, I, Joshua Fruchter, hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of New York, and before this Court *pro hac vice*. I am a partner at Wohl & Fruchter LLP (“Wohl Fruchter”), which was retained to represent former plaintiff Synergy RX PBM LLC in this matter. I am over the age of 18 and am fully competent to make this declaration. This declaration is based upon my personal knowledge, except where expressly noted otherwise. If called to testify regarding the matters asserted herein, I could and would do so.

2. Since being founded in 2011, Wohl Fruchter has successfully litigated complex class actions in federal and state courts across the country, recovering over \$350 million for its clients together with its co-counsel. A true and correct copy of Wohl Fruchter’s firm resume is attached hereto as Exhibit A.

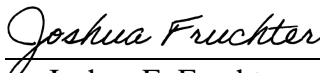
3. Wohl & Fruchter has committed extensive resources to this case. To date, the firm has devoted 297.85 hours to the litigation, resulting in a lodestar of \$327,635.00. The team members who billed time to this case, along with their roles, hourly rates, and hours billed, are shown in the following chart:

Team Member	Role	Hourly Rate	Hours Billed	Lodestar
Joshua Fruchter	Partner	\$1,100.00	294.58	\$324,038.00
Ethan Wohl	Partner	\$1,100.00	3.27	\$3,597.00

4. The firm has also advanced unreimbursed expenses of \$166.60, as detailed in the following chart:

Expense Category	Amount
PACER fees	\$166.60

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 30th day of September, 2024 in Monsey, New York.

By:   
Joshua E. Fruchter



# EXHIBIT A

RECENT REPRESENTATIVE MATTERS

- Appointed co-lead counsel in a securities fraud class action asserting insider trading claims in the Southern District of New York, *David E. Kaplan, et al. v. S.A.C. Capital Advisors, L.P., et al.*, Case No. 12-cv-9350-VM; case settled for **\$135 million**.
- Served as co-lead counsel in a derivative action on behalf of the public shareholders of New Senior Investment Group challenging a self-dealing transaction, *Cumming v. Edens et al.*, C.A. No. 13007-VCS, in the Delaware Court of Chancery; case settled for **\$53 million** (the largest recovery in Delaware history as a percentage of market cap), and corporate governance reforms.
- Appointed co-lead counsel in a class action on behalf of policyholders of Harleysville Mutual Insurance Company in the Philadelphia Court of Common Pleas, *In re Harleysville Mutual*, Case No. 02137, Nov. Term, 2011; case settled for **\$26 million**.
- Appointed co-lead counsel for a class of present and former employees of Zynga Inc. challenging the discriminatory waiver of lockup agreements class members entered into in connection with Zynga's December 15, 2011 initial public offering in the Delaware Court of Chancery, *Wendy Lee, et al. v. Mark Pincus, et al.* C.A. No. 8458-CB; case settled for **\$10 million**.
- Appointed co-lead counsel in a class action on behalf of minority public shareholders of NTS Realty Holdings, L.P., Case No. 13-CI-00452, in the Jefferson County Circuit Court of the Commonwealth of Kentucky; case settled for a cash payment of \$9.25 per unit, which

## R E C E N T R E P R E S E N T A T I V E M A T T E R S

represented a 23% increase over the \$7.50 per unit consideration approved by the Special Committee of the NTS board of directors under the merger agreement announced in December 2012. Total value of increase was **\$7.4 million**.

- Appointed co-lead counsel in a securities fraud class action in the Southern District of New York, *In re Gerova Fin. Group Ltd. Sec. Litig.*, Case No. 11-md-2275; case settled for **\$1.37 million**.
- Appointed class counsel in a securities fraud class action in the District of Delaware, *In re China Natural Gas, Inc.*, C.A. No. 15-00299-RGA; case settled for **\$1.15 million**.
- Appointed co-lead counsel in securities fraud class action in the Southern District of Florida, *Vargas v. Citrix Systems, Inc. et al.*, Case No. 22-cv-62367-RAR; settlement of **\$17.5 million** preliminarily approved.
- Appointed co-lead counsel for class in securities class action *Zappia v. Myovant Sciences, Ltd.*, Case No. 23-cv-8097-JSR, in the Southern District of New York; appeal pending before Second Circuit.
- Serving as proposed co-lead counsel for class in *In re Cedar Realty Trust, Inc. Preferred Shareholder Litigation*, Case No. 22-cv-1103-GLR, in the District of Maryland; appeal pending before Fourth Circuit.

We have also served, or are presently serving, as additional plaintiff's counsel in the following cases:

- *Gregg Kiken v. Lumber Liquidators Holdings, Inc., et al.*, Case No. 13-cv-00157, in the Eastern District of Virginia;

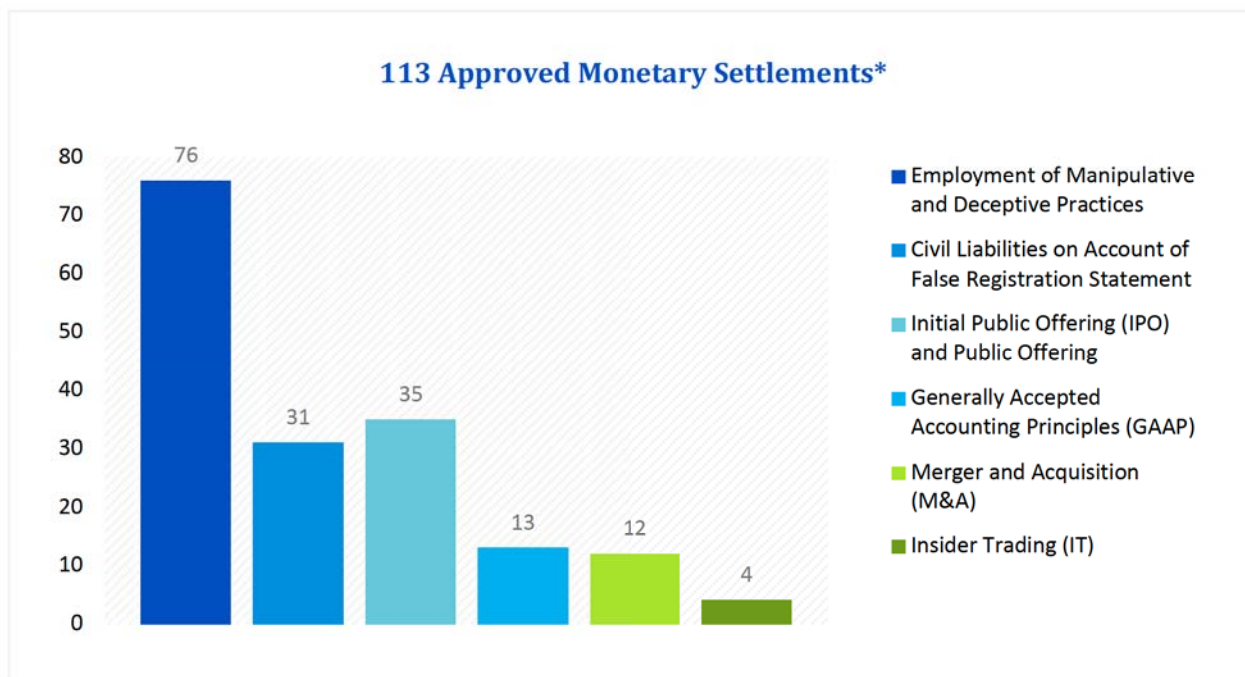
## R E C E N T R E P R E S E N T A T I V E M A T T E R S

case settled for \$26 million, plus 1 million shares, for a total consideration of approximately **\$44 million**.

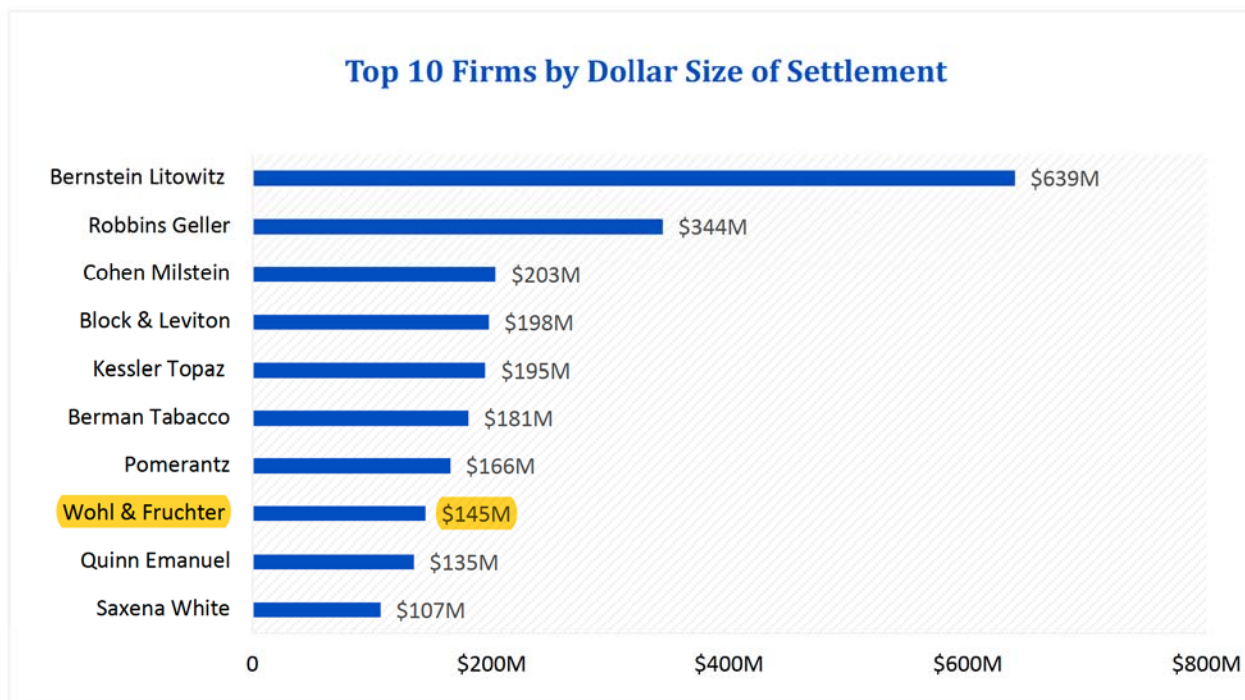
- *Keith Thomas, et al. v. MagnaChip Semiconductor Corp., et al.*, Case No. 14-cv-1160, in the Northern District of California; two settlements totaling **\$29.7 million**.
- *Ivan Nibur, et al. v. Sandridge Mississippian Trust I et al.*, Case No. 15-cv-0634-G, in the Western District of Oklahoma; settlement against certain defendants for **\$13.9 million** approved.
- *In re Parametric Sound Corporation Shareholders' Litigation*, Lead Case No. A-13-686890-B, in the Eighth Judicial District Court, Clark County, Nevada; case settled for **\$9.65 million**.
- *Scott Bruce v. Suntech Power Holdings Co. Ltd, et al.*, Case No. 12-cv-04061, in the Northern District of California; case settled for **\$5 million**.
- *Charles J. Fitzpatrick v. Uni-Pixel, Inc. et al.*, Case No. 13-cv-01649, in the Southern District of Texas; case settled for **\$4.5 million**.
- *In re Atossa Genetics, Inc. Securities Litigation*, Case No. 13-cv-01836, in the Western District of Washington; case settled for **\$3.5 million**.
- *In re LinkedIn Advertising Metrics Litigation*, Case No. 20-cv-08324-SVK, in the Northern District of California; settlement pending preliminary approval.

R E C E N T R E P R E S E N T A T I V E M A T T E R S

- *Callen v. Resonant, Inc. et al.*, Case No. 22-cv-03403-FLA-AS, in the Central District of California; at motion to dismiss stage.
- *In re Rite Aid Securities Litigation*, Case No. 22-cv-04201-KBH, in the Eastern District of Pennsylvania; at motion to dismiss stage.
- *In re: DLocal Securities Litigation*, Index No. 151778/2023, in the Supreme Court of the State of New York; at motion to dismiss stage.
- *Sunil Soni et al. v. SAP SE, et al.*, C.A No. 2023-1050, in the Delaware Court of Chancery; at motion to dismiss stage.
- *Amethyst Arbitrage International Master Fund et al. v. Mikkel Svane et al.*, C.A. No. 2023-1139, in the Delaware Court of Chancery; at motion to dismiss stage.



\*The totals exceed 113 as settlements can have multiple allegations.



# WOHL & FRUCHTER LLP

## PEOPLE

### JOSHUA E. FRUCHTER

direct 845 290 6818

fax 718 504 3773

jfruchter@wohlfruchter.com

#### EDUCATION

J.D., *cum laude*, New York  
University School of Law, 1993

B.A., *summa cum laude*,  
Yeshiva University, 1990

#### ADMISSIONS

State of New York

U.S. Court of Appeals, 2d Cir.

U.S. Court of Appeals, 4th Cir.

U.S. District Court, S.D.N.Y.

Josh has been practicing commercial litigation for nearly 30 years. He presently focuses on representing investors on the plaintiff's side in securities fraud, derivative and M&A litigation, and consumers and small businesses in class actions.

Josh graduated *cum laude* from New York University School of Law, and received his B.A. in English Literature, *summa cum laude*, from Yeshiva University. He is also an ordained rabbi.

Josh began his legal career with Kaye Scholer LLP (now Arnold & Porter Kaye Scholer LLP) in New York, where he was a member of the bankruptcy department and handled a broad array of matters in federal bankruptcy and New York state courts, including fraudulent transfer and preference actions, confirmation of Chapter 11 plans of reorganization, "clawback" litigation in connection with Ponzi schemes, administration of mass tort claims, and representation of indentured trustees in state court litigation alleging breach of fiduciary duties.

Josh has concentrated his practice in the fields of investor class action litigation, and has represented and advised individual investors on claims involving a wide range of matters, including securities fraud, mergers and acquisitions, and breaches of fiduciary duty.

Josh has authored articles analyzing sections of the Bankruptcy Code: *Bankruptcy Code Section 502(d): Back Door to Avoidance*, 28 UCC L.J. 73 (1995) (with Arthur Steinberg), and *To Bind or Not to Bind – Bankruptcy Code § 365(d)(3): Statutory Minefield*, 68 Am. Bankr. L.J. 437 (1994) (cited in *In re Montgomery Ward Holding Corp.*, 268 F.3d 205 (3d Cir. 2001), and other cases).

He has also published a 2-volume work on the Talmud consisting of essays exploring the ethical and moral principles underlying Jewish law.

## **ETHAN D. WOHL**

direct 212 758 4097

fax 212 758 4004

ewohl@wohlfruchter.com

### **EDUCATION**

J.D., *magna cum laude*, New York University School of Law, 1993

B.A., with honors, University of Chicago, 1989

### **ADMISSIONS**

States of Florida, New Jersey and New York

U.S. Courts of Appeal, 2d Cir. and 4<sup>th</sup> Cir.

U.S. District Courts, D.N.J., E.D.N.Y., S.D. Fla. and S.D.N.Y.

Ethan has been practicing commercial litigation for nearly 30 years. He focuses on representing investors and consumers in cases involving securities fraud, breaches of fiduciary duty, complex commercial disputes, and consumer class actions.

Ethan graduated *magna cum laude* from New York University School of Law, where he was a member of the Order of the Coif, and received his B.A. in political science, with honors, from the University of Chicago.

Ethan began his legal career as law clerk to the Honorable Denis R. Hurley, United States District Judge in the Eastern District of New York, and was then associated with Wachtell, Lipton, Rosen & Katz, where he handled both transactional and litigation matters. He later joined Labaton Sucharow LLP, where he focused on the representation of plaintiffs in shareholder litigation.

Ethan has concentrated his practice in the fields of investor class action litigation, and has represented and advised institutional clients and individuals on claims involving a wide range of matters, including securities fraud, stock options backdating, market manipulation, mergers and acquisitions, and self-dealing transactions by corporate executives. In the past, he has led trial teams in the Delaware Court of Chancery and New York Supreme Court in commercial and shareholder disputes.

Ethan has authored articles on a range of topics relevant to investor and class action litigation. Recent publications include: *Death of the Worldwide Class?* in BNA's Securities Regulation & Law Report; *The Bulwark of Private Enforcement*, in Pensions Age magazine; *Executive Compensation – Despite Reforms, Pay Is Less Transparent and Shareholder-Friendly Than in the Past*, in the New York Law Journal; *When Does a Company Intend to Lie?*, in Andrews Securities Litigation & Regulation Reporter, and *Confidential Informants in Private Litigation: Balancing Interests in Anonymity and Disclosure*, in the Fordham Journal of Corporate & Financial Law (12 Fordham J. Corp. & Fin. Law 551 (2007)).



PRACTICE AREAS

**COMPLEX  
COMMERCIAL  
LITIGATION**

We actively prosecute complex multi-jurisdiction litigation involving many parties, large volumes of documents and witnesses, extensive motion practice on dispositive issues, expedited proceedings for preliminary injunction or early trial, and outcome-determinative technical or scientific expert analysis.

Complex litigation presents special challenges for plaintiffs, who bear the risks associated with delay and case management problems. We emphasize early factual and legal analysis, including overall case strategy, choice of legal claims, selection of defendants, and choice of jurisdiction and venue. We also give priority to litigation management and the efficient collection, integration and presentation of facts and legal issues through effective project management and use of information and presentation technology.

**MERGER &  
ACQUISITION  
LITIGATION**

We litigate claims based on inadequate price, process defects, and other breaches of fiduciary duty arising from merger and acquisition transactions. We intensively prosecute preliminary injunction motions where fiduciary breaches cannot be adequately compensated by damages, and actively pursue post-closing damages claims, through trial where necessary.

We concentrate our M&A practice on cases where members of management face conflicts of interest that prevent them from acting in the best interests of shareholders. Conflicts of interest arise in a variety of circumstances, including the following:

**Minority Squeeze-Outs.** When a controlling shareholder seeks to acquire the shares held by the public, the controlling shareholder's broad control over the company and its board of directors is recognized to present the inherent risk that shareholders will accept inadequate terms, based on the fear that the controlling shareholder might force a sale on worse terms or chose to operate the company to serve its own interests. Similar issues are presented by transactions in which controlling shareholders structure sales to provide themselves with benefits different from those received by the minority.

**Management and Private Equity-Led Buy-Outs.** Management's interests often also conflict with public shareholders' interests when they or an affiliated private equity firm conduct a buy-out. In such circumstances, the financial benefits obtained through accelerated payment of equity grants, other change-in-control payments, and the prospect of employment by the acquirer on better terms all provide strong incentives to accept less than full price.

## PRACTICE AREAS

### SHAREHOLDER DERIVATIVE ACTIONS

**Management Entrenchment.** Corporate managers' interest in retaining their positions and status can also lead them to resist acquisition offers that would be in the best interests of public shareholders. In such situations, the board's use of antitakeover devices, such as a "poison pill," must be closely scrutinized.

We represent shareholders in derivative actions that seek to hold corporate fiduciaries responsible for many kinds of misconduct, including excessive executive compensation, self-dealing transactions, and failures of oversight leading to major violations of environmental, health and safety, anti-bribery and securities laws.

Derivative actions are subject to a unique procedural hurdle, the "demand requirement," which obligates a plaintiff to show that corporate directors are incapable or unwilling to pursue the wrongdoing, and subjects the case to an unusually high level of scrutiny at its outset. Consistent with our commitment to early investment, we utilize "books and records" demands, consulting experts, and independent investigation to develop the strongest complaint possible prior to initial filing.

### SECURITIES FRAUD

We represent investors injured by securities frauds ranging from misrepresentations and omissions by corporate managers, to false descriptions of investment products by financial advisors and stock market manipulation. We litigate cases on both a class and individual basis.

The high hurdles for adequately pleading securities fraud make our emphasis on early investment and investigation crucial, and the scale of the litigation and number of parties in many cases also place a premium on efficient case management, a focus of our approach to litigation.

### BOOKS AND RECORDS LITIGATION

We litigate demands to inspect internal corporate documents – one of the most powerful tools for enforcing corporate accountability and exposing misconduct by insiders. "Books and records" demands are an essential precursor to shareholder derivative actions, and can also play an important role in efforts to achieve governance reform outside of litigation by prompting voluntary remedial measures, deterring future misconduct, and galvanizing collective shareholder action.

The foundation of effective books and records litigation is a carefully drafted demand letter – a statutory prerequisite to litigation – that seeks a narrowly-drawn, targeted document set (in contrast to the typical expansive discovery requests used in general litigation). The demand letter must also articulate one or more "proper purposes" for the demand, and must ordinarily provide sufficient detail to support the finding of a credible basis for mismanagement, waste or wrongdoing. Our emphasis on pre-

P R A C T I C E   A R E A S

**CONSUMER AND  
SMALL  
BUSINESS  
CLASS ACTIONS**

filing analysis is particularly important for books and records actions because there is ordinarily no ability to amend the grounds for demand after filing, and the delay associated with a new demand often limits the utility of any production ultimately ordered.

We represent classes of consumers and small businesses injured by deceptive or other wrongful corporate misconduct, including false advertising, imposition of undisclosed or unfair fees, violations of contract rights, the sale of unsafe or defective products, and infringement on rights to privacy.

Successfully litigating consumer and small business class claims depends on a clear understanding of how the policy or practice at issue affects consumers or small businesses as a group; claims can be litigated on a class-wide basis only when the defendant's conduct has a similar impact on enough people to justify collective action, and when the representative plaintiff has claims typical of the other members of the class.

Consistent with our commitment to investing in cases early, we conduct thorough pre-filing investigations, engage experts to perform preliminary analysis, and work to locate and interview multiple class members to fully understand the relevant policy or practice.

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

*In re LinkedIn Advertising Metrics  
Litigation*

)  
) Case No.: 5:20-cv-08324-SVK  
)  
) **DECLARATION OF JORDAN LURIE**  
) **IN SUPPORT OF MOTION FOR**  
) **ATTORNEYS' FEES, COSTS, AND**  
) **SERVICE AWARD**  
)  
)  
)

**DECLARATION OF JORDAN LURIE**

Pursuant to 28 U.S.C. § 1746, I, Jordan Lurie, hereby declare and state as follows:

1. I am an attorney admitted to practice in the State of California and in this Court. I am a partner at Pomerantz LLP, which was retained to represent former plaintiff Synergy RX PBM LLC in this matter. I am over the age of 18 and am fully competent to make this declaration. This declaration is based upon my personal knowledge, except where expressly noted otherwise. If called to testify regarding the matters asserted herein, I could and would do so.

2. Pomerantz is one of the most respected law firms in the United States and is dedicated to representing investors in securities fraud actions and consumers in actions that seek to recover monetary and injunctive relief on behalf of class members while also advocating for important consumer rights. We have offices in Los Angeles, New York, Chicago, and Paris.

3. Pomerantz has been a Legal 500 Tier 1 Firm since 2021. In 2020, Pomerantz was named Plaintiff Firm of the Year by Benchmark Litigation, ranked among the top plaintiff firms by Chambers USA and The Legal 500, and honored with European Pensions' Thought Leadership Award. In 2019, Pomerantz received Benchmark Litigation's National Case Impact Award for *In re Petrobras Securities Litig.* In 2018, Pomerantz was a Law360 Securities Practice Group of the Year and a finalist for the *National Law Journal's* Elite Trial Lawyers award. Among other accolades, many of our attorneys have been chosen by their peers, year after year, as Super Lawyers® Top-Rated Securities Litigation Attorneys and Rising Stars.

4. Our attorneys have successfully litigated claims involving California's Unfair Competition Law, California's Consumers Legal Remedies Act, the Song Beverly Consumer Warranty Act and the Song Beverly Credit Card Act. Pomerantz has successfully prosecuted and resolved consumer claims focusing on unfair competition, false advertising, illegal background checks, privacy rights and consumer finance related actions. In all of these actions, Pomerantz achieved significant modifications to defendants' business behavior as key components of settlement.

5. I am the head of the Firm's Strategic Consumer Litigation practice. The Strategic

1 Consumer Litigation practice group has pioneered litigation to establish claims for public  
2 injunctive relief under California’s unfair business practices statute. For example, Pomerantz has  
3 filed cases seeking to prevent major auto manufacturers from unauthorized access to, and use of,  
4 drivers’ vehicle data without compensation, and seeking to require the auto companies to share  
5 diagnostic data extracted from drivers’ vehicles. Other consumer matters handled by Pomerantz’s  
6 Strategic Consumer Litigation practice group include actions involving cryptocurrency, medical  
7 billing, price fixing, and false advertising of various consumer products and services.

8 6. Throughout its history, courts have repeatedly acknowledged Pomerantz’s ability  
9 to vigorously pursue and successfully litigate actions on behalf of consumers. As Judge Jed S.  
10 Rakoff of the Southern District of New York wrote in approving a \$2.9 billion settlement in *In re*  
11 *Petrobras Securities Litigation* in June 2018, “[T]he Court finds that Class Counsel’s performance  
12 was in many respects exceptional;” [T]he lawyers in this case [are] some of the best lawyers in the  
13 United States, if not in the world.”

14 7. Numerous other courts have noted Pomerantz’s skill and effectiveness and have  
15 acknowledged Pomerantz’s abilities to vigorously pursue and successfully litigate actions on  
16 behalf of consumers. For example:

- 17
- 18 • District Judge Noel L. Hillman, in approving the *In re Toronto-Dominion*  
19 *Bank Securities Litigation* settlement in October 2019, stated:

20 I commend counsel on both sides for their hard work, their very  
21 comprehensive and thoughtful submissions during the motion practice  
22 aspect of this case. ... It’s clear to me that this was comprehensive,  
23 extensive, thoughtful, meaningful litigation leading up to the settlement. ...  
24 This settlement appears to have been obtained through the hard work of the  
25 Pomerantz firm. ... It was through their efforts and not piggybacking on  
26 any other work that resulted in this settlement.

- 27 • In approving the settlement in *Strougo v. Barclays PLC* in June 2019,  
28 Judge Victor Marrero of the Southern District of New York wrote:

Let me thank counsel on both sides for the extraordinary work both sides  
did in bringing this matter to a reasonable conclusion. As the parties have  
indicated, the matter was intensely litigated, but it was done in the most

1 extraordinary fashion with cooperation, collaboration, and high levels of  
2 professionalism on both sides, so I thank you.

- 3 • In certifying two Classes in *In re Petrobras Securities Litigation* in  
4 February 2016, Judge Rakoff wrote:

5 [O]n the basis not only of USS’s counsel’s prior experience but also the  
6 Court’s observation of its advocacy over the many months since it was  
7 appointed Lead Counsel, the Court concludes that Pomerantz, the proposed  
8 class counsel, is “qualified, experienced and able to conduct the litigation.”  
9 ... [T]he Pomerantz firm has both the skill and resources to represent the  
10 Classes adequately.

- 11 • In approving the settlement in *Thorpe v. Walter Investment Management*  
12 *Corp.*, No. 14-cv-20880, 2016 U.S. Dist. LEXIS 144133 (S.D. Fla. Oct. 14,  
13 2016) Judge Ursula Ungaro wrote: “Class Counsel has developed a  
14 reputation for zealous advocacy...”

- 15 • In approving a \$24 million settlement in *In re Force Protection, Inc.*, No.  
16 08 CV 845 (D.S.C. 2011), Judge C. Weston Houk described the Firm as  
17 “attorneys of great ability and great reputation” and commended the Firm  
18 for having “done an excellent job.”

- 19 • In approving the settlement in *In re Comverse Technology, Inc. Securities*  
20 *Litigation*, No. 06-CV-1825 (E.D.N.Y.) in June 2010, Judge Nicholas G.  
21 Garaufis stated:

22 As outlined above, the recovery in this case is one of the highest ever  
23 achieved in this type of securities action. ... The court also notes that,  
24 throughout this litigation, it has been impressed by Lead Counsel’s acumen  
25 and diligence. The briefing has been thorough, clear, and convincing, and  
26 ... Lead Counsel has not taken short cuts or relaxed its efforts at any stage  
27 of the litigation.

- 28 • In *Steinberg v. Nationwide Mutual Insurance Co.* (E.D.N.Y. 2004), Judge  
Spatt, granting class certification and appointing the Firm as class counsel,  
observed: “The Pomerantz firm has a strong reputation as class counsel and  
has demonstrated its competence to serve as class counsel in this motion  
for class certification.” (224 F.R.D. 67, 766.)

- In *Mercury Savings & Loan*, No. 90-cv-00087 LHM (C.D. Cal. 1993),  
Judge McLaughlin commended the Firm for the “absolutely extraordinary  
job in this litigation.”

8. Pomerantz’s class action record is enviable. On January 3, 2018, in *In re*  
*Petrobras Sec. Litig.*, No. 14-cv-9662 (S.D.N.Y. 2018), in a significant victory for investors,

1 Pomerantz, as sole Lead Counsel for the class, achieved a historic \$2.95 billion settlement with  
2 Petróleo Brasileiro S.A. and its related entity, Petrobras International Finance Company, as well  
3 as certain of Petrobras' former executives and directors. On February 2, 2018, Pomerantz  
4 reached a \$50 million settlement with Petrobras' auditors, PricewaterhouseCoopers Auditores  
5 Independentes, bringing the total recovery for Petrobras investors to \$3 billion. In August 2019,  
6 in *Pirnik v. Fiat Chrysler Automobiles N.V. et al.*, No. 1:15-cv-07199-JMF (S.D.N.Y.),  
7 Pomerantz, as Lead Counsel, achieved final approval of a \$110 million settlement for the Class  
8 in a high-profile securities class action which alleged that Fiat Chrysler concealed from  
9 investors that it improperly outfitted its diesel vehicles with "defeat device" software designed  
10 to cheat NOx emissions regulations in the U.S. and Europe, and that regulators had accused Fiat  
11 Chrysler of violating the emissions regulations.

12 9. Over its long history, Pomerantz has achieved other significant settlements in  
13 numerous cases, a sampling of which is listed below:

- 14 • ***In re Yahoo! Inc. Sec. Litig.***, No. 17-cv-00373 (N.D. Cal. 2018)  
15 \$80 million settlement of securities class action in which Pomerantz was Co-  
16 Lead Counsel.
- 17 • ***In re Libor Based Financial Instruments Antitrust Litig.***, 1:11-md-2262  
18 \$31 billion partial settlement with three defendants in this multi-district litigation  
19 in which Pomerantz represents the Berkshire Bank and the Government  
20 Development Bank for Puerto Rico.
- 21 • ***Kaplan v. S.A.C. Capital Advisors, L.P.***, No. 12-cv-9350 (S.D.N.Y. 2017)  
22 \$135 million settlement of class action in which Pomerantz was Co-Lead  
23 Counsel.
- 24 • ***In re Groupon, Inc. Sec. Litig.***, No. 12-cv-02450 (N.D. Ill. 2015)  
25 \$45 million settlement of class action in which Pomerantz was sole Lead  
26 Counsel.
- 27 • ***In re Elan Corp. Sec. Litig.***, No. 05-cv-2860 (S.D.N.Y. 2005)



1 \$75 million settlement in class action arising out of alleged accounting  
2 manipulations.

- 3 • ***In re Safety-Kleen Corp. Stockholders Litig.***, No. 00-cv-736-17 (D.S.C. 2004)  
4 \$54.5 million in total settlements in class action alleging accounting  
5 manipulations by corporate officials and auditors; last settlement reached on eve  
6 of trial.
- 7 • ***Duckworth v. Country Life Ins. Co.***, No. 1998-CH-01046 (Ill. Cir. Ct., Cook  
8 Cty. 2000)  
9 \$45 million recovery.
- 10 • ***Snyder v. Nationwide Ins. Co.***, No. 97/0633 (N.Y. Sup. Ct. Onondaga Cty.  
11 1998)  
12 Settlement valued at \$100 million in derivative case arising from injuries to  
13 consumers purchasing life insurance policies.
- 14 • ***In re National Health Lab., Inc. Sec. Litig.***, No. CV 92-1949 (S.D. Cal. 1995)  
15 \$64 million recovery.
- 16 • ***In re First Executive Corp. Sec. Litig.***, No. 89-cv-07135 (C.D. Cal. 1994)  
17 \$102 million recovery for the class, exposing a massive securities fraud arising  
18 out of the Michael Milken debacle.
- 19 • ***In re Boardwalk Marketplace Sec. Litig.***, MDL No. 712 (D. Conn. 1994)  
20 Over \$66 million benefit in securities fraud action.
- 21 • ***In re Telerate, Inc. S'holders Litig.***, C.A. No. 1115 (Del. Ch. 1989)  
22 \$95 million benefit in case alleging violation of fiduciary duty under state law.

23 10. Not only has Pomerantz established a long track record of obtaining substantial  
24 monetary recoveries for our clients; whenever appropriate, we also pursue corporate governance  
25 reforms on their behalf. In *In re Chesapeake Shareholders Derivative Litigation*, No. CJ-2009-  
26 3983 (Okla. Dist. Ct., Okla. Cty. 2011), for example, the Firm served as Co-Lead Counsel,  
27 representing a public pension client in a derivative case arising from an excessive compensation  
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1 package granted to Chesapeake's CEO and founder. This was a derivative action, not a class  
 2 action. Yet it is illustrative of the results that can be obtained by an institutional investor in the  
 3 corporate governance arena. There we obtained a settlement which called for the repayment of  
 4 \$12.1 million and other consideration by the CEO. The Wall Street Journal (Nov. 3, 2011)  
 5 characterized the settlement as "a rare concession for the 52-year old executive, who has run the  
 6 company largely by his own rules since he co-founded it in 1989." The settlement also included  
 7 comprehensive corporate governance reforms.

8 11. Pomerantz LLP has committed extensive resources to this case. To date, the firm  
 9 has incurred a lodestar of \$182,985.00, based on information provided to me. The team members  
 10 who billed time to this case, along with their roles, current hourly rates, and hours billed, are shown  
 11 in the following chart:

12 Team Member	13 Role	14 Hourly Rate	15 Hours Billed	16 Lodestar
Jordan L. Lurie	Attorney (Senior Partner)	\$1,100	135	\$148,500.00
Ari Y. Bassar	Attorney (Senior Counsel)	\$825	41.80	\$34,485.00

17 12. In addition my firm's contribution (\$15,000) to Plaintiff's counsel's litigation fund  
 18 as set forth in Lead Counsel's declaration, my firm has also advanced the following unreimbursed  
 19 expenses to date based on information provided to me, as detailed in the following chart:

20 Expense Category	21 Amount
Filing Fees	\$75.00
Computer Research	\$3.13

22 I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
 23 30th day of September, 2024 in Los Angeles, California

24  
 25  
 26 By:   
 27 Jordan Lurie