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HONDA MOTOR CO., INC.  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

12 ALEX SOTO and VINCE EAGEN, on  
behalf of themselves and all others  
13 similarly situated,

14 Plaintiffs,

15 v.

16 AMERICAN HONDA MOTOR CO.,  
INC.,

17 Defendant.  
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) Case No. 3:12-CV-01377-SI  
) Assigned to Hon. Susan Illston  
) Courtroom 10

) **DECLARATION OF  
SETTLEMENT ADMINISTRATOR  
REGARDING CLASS NOTICE  
MAILING AND CLAIM  
ADMINISTRATION**

) Hearing Date: March 21, 2014  
) Hearing Time: 9:00 a.m.

**DECLARATION OF SETTLEMENT ADMINISTRATOR**

I, GREG ROMER, declare as follows:

1. I am the Manager of the Chino, California Customer Support Center of American Honda Motor Co., Inc. (“AHM”), which serves as the Settlement Administrator pursuant to the Class Action Settlement Agreement and Release (“Settlement Agreement”) (Dkt. # 73-1) and this Court’s October 9, 2013 Preliminary Approval Order (Dkt. # 89) in the above-captioned action.<sup>1</sup>

2. I submit this declaration in connection with the Motion for Final Approval of Class Action Settlement, filed on January 10, 2014. The following statements are based upon my personal knowledge and upon information provided to me by other AHM employees working under my supervision. If called upon to do so, I could and would testify competently thereto.

**INTRODUCTION**

3. Pursuant to the Preliminary Approval Order (at ¶ 8) and the Settlement Agreement (at Section IV(A)(2)), the Settlement Administrator is responsible for the following administrative tasks: (i) mailing or arranging for the mailing by first-class mail, postage prepaid of the Class Notice and Claim Form from the information compiled from the Class List to each Settlement Class Member on the Class List; (ii) the creation and maintenance of the Website; (iii) developing processes and procedures for handling returned mail and deficient Claim Forms; (iv) providing to Class Counsel and Honda’s Counsel within ten (10) business days of receipt copies of notices of intention to appear and requests for exclusion from the Settlement Class; (v) preparing a list of the Settlement Class Members requesting exclusion and submitting a declaration to the Court before the Final Approval Hearing attesting to the accuracy of that list; (vi) providing true and

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the same meanings as ascribed to them in the Class Action Settlement Agreement And Release.

1 correct copies of all objections to the settlement submitted to the Settlement  
2 Administrator by Settlement Class Members who are not represented by counsel  
3 and submitting a declaration to the Court attesting to the copies of all such  
4 objections have been provided; (vii) maintaining a P.O. Box to which Settlement  
5 Class Members can send requests for exclusion, objections, Claim Forms and other  
6 correspondence; and, (viii) processing Claim Forms submitted.

7 4. The following is a report on the current status of each of these  
8 administrative tasks.

9 **CLASS NOTICE MAILING**

10 5. On or about September 18, 2013, Honda provided R.L. Polk & Co.  
11 (“R.L. Polk”) with data containing lists of all vehicle identification numbers (VINs)  
12 for the Class Vehicles. Honda then directed R.L. Polk to obtain the names and most  
13 current addresses of the Settlement Class Members through the appropriate state  
14 government agencies.

15 6. Through R.L. Polk and our own efforts, a total of 1,877,390 Class  
16 Members were reasonably identified as being current and former owners and lessees  
17 of Settlement Class Vehicles and therefore eligible to receive the Class Notice and  
18 Claim Form (hereinafter, the “Notice Packet”).

19 7. Prior to mailing the Notice Packet, R.L. Polk conducted an address  
20 search using the National Change of Address (“NCOA”) database and updated  
21 addresses accordingly. R.L. Polk formatted the Notice Packet, and caused it to be  
22 printed, personalized with the name and address of each known Settlement Class  
23 Member, and commenced mailing on November 1, 2013. A true and correct copy  
24 of representative samples of the Notice Packet contents is attached hereto as  
25 Exhibit A.

26 8. R.L. Polk advises me that the mailing of the Notice Packet to all of the  
27 identified Settlement Class Members was completed on December 30, 2013.

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**SETTLEMENT WEBSITE**

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2 9. The Settlement Administrator has established and continues to  
3 maintain a website dedicated to this Settlement (EngineMisfireSettlement.com) for  
4 access by Settlement Class Members and other interested persons. The website  
5 contains: (a) instructions on how to obtain reimbursement of Out-of-Pocket  
6 Expenses; (b) instructions on how to contact the Settlement Administrator, Honda  
7 and Class Counsel; (c) downloadable copies of the Claim Form, Class Notice,  
8 Settlement Agreement and other relevant court documents; and (d) frequently  
9 asked questions (“FAQs”) relating to other information deemed relevant to the  
10 Settlement by Honda and Class Counsel. The website became operational on  
11 October 23, 2013, and is accessible 24 hours per day, seven days per week.

12 **HANDLING RETURNED MAIL AND DEFICIENT CLAIM FORMS**

13 10. Notice Packets that were returned by the U.S. Postal Service with  
14 forwarding address information were promptly re-mailed using the updated address  
15 information received from the U.S. Postal Service. As of January 8, 2014, R.L. Polk  
16 has re-mailed 1,910 Notice Packets to updated addresses received from the U.S.  
17 Postal Service.

18 **NOTICES OF INTENT TO APPEAR**

19 11. To date, the Settlement Administrator has not received any notices of  
20 intent to appear at the Final Approval Hearing.

21 **OPT-OUTS AND REQUESTS TO EXCLUDE**

22 12. Paragraph 12 of the Class Notice informed Settlement Class Members  
23 that any requests for exclusion must be made in writing and postmarked no later  
24 than February 24, 2014. As of January 6, 2014, the Settlement Administrator has  
25 received 97 requests from Settlement Class Members to be excluded from the  
26 Settlement. Honda’s counsel advises me that a copy of these letters was provided  
27 to Class Counsel on January 6, 2014.

28 13. On or before March 10, 2014, and pursuant to the Paragraph 19 of the

1 Preliminary Approval Order, the Settlement Administrator will submit to the Court  
2 a list identifying each Settlement Class Member who submitted an exclusion  
3 request together with copies of the exclusion requests and a declaration attesting to  
4 the completeness and accuracy thereof.

5 **OBJECTIONS TO THE SETTLEMENT**

6 14. Paragraph 18 of the Class Notice informed Settlement Class Members  
7 that any objections to the Settlement must be submitted in writing and postmarked  
8 no later than February 24, 2014. As of January 6, 2014, the Settlement  
9 Administrator has received no written objections to the Settlement. Honda's  
10 counsel advises me that it has received one objection letter, dated December 28,  
11 2013, and that the Court received (and thereafter publicly filed) an objection letter  
12 dated November 25, 2013. Honda's counsel advises me that a copy of these letters  
13 was provided to Class Counsel on January 6, 2014.

14 15. On or before March 10, 2014, and pursuant to the Paragraph 14 of the  
15 Preliminary Approval Order, the Settlement Administrator will submit to the Court  
16 a list identifying each Settlement Class Member who submitted an objection to the  
17 Settlement together with copies of the objection letters and a declaration attesting  
18 to the completeness and accuracy thereof.

19 **OUT-OF-POCKET CLAIMS RECEIVED**

20 16. Class Members who desire to participate in the Settlement and who  
21 seek receive reimbursement for eligible Out-of-Pocket Expenses for Engine Misfire  
22 repairs are required to complete and submit a Claim Form in accordance with the  
23 instructions contained therein and in the Class Notice, mail the Claim together with  
24 any supporting documentation showing proof of repair expenses relating to the  
25 Class Vehicle Form so that it is postmarked on or before April 10, 2014. As of  
26 January 6, 2014, the Settlement Administrator has received 4,385 Claim Forms.

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**MAINTAINING A P.O. BOX**

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2 17. Pursuant to the Preliminary Approval Order (¶ 8), the Settlement  
3 Administrator established and is maintaining a Post Office Box (P.O. Box 2722,  
4 Torrance, CA 90509) dedicated to this Settlement to receive Claim Forms, requests  
5 for exclusions, objections, notices of intention to appear, and any other  
6 correspondence concerning the Engine Misfire Settlement.

**PROCESSING CLAIM FORMS**

7  
8 18. Pursuant to the Preliminary Approval Order and Settlement  
9 Agreement, the Settlement Administrator is responsible for processing Claim  
10 Forms. As set forth in Paragraph 8 of the Class Notice, the deadline for Class  
11 Members to Submit their Claim Forms is April 10, 2014. As of January 6, 2014,  
12 the Settlement Administrator has received a total of 4,385 Claim Forms. The  
13 Settlement Administrator has established procedures for processing these Claim  
14 Forms in accordance with the Preliminary Approval Order, the Settlement  
15 Agreement, and the Class Notice, and is currently working to process these Claim  
16 Forms. The Settlement Administrator will provide a further report to the Court  
17 regarding the processing of Claim Forms prior to the March 21, 2014 Final  
18 Approval Hearing.

**MAINTAINING A TOLL FREE NUMBER**

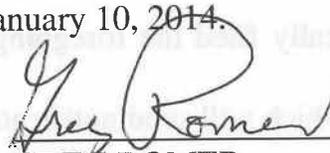
19  
20 19. The Settlement Administrator established and is maintaining a toll free  
21 telephone number with live agent support and pre-recorded frequently asked  
22 questions dedicated to this Settlement, 1-888-888-3082, to respond to inquiries  
23 concerning the Engine Misfire Settlement. As of January 6, 2014, the Settlement  
24 Administrator has received a total of 2,465 calls to the toll free number. The  
25 Settlement Administrator has and will continue to accommodate Class Member  
26 inquiries.

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

Executed at Chino, California on January 10, 2014.



GREG ROMER

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VINCE EAGEN, on behalf of himself and  
all others similarly situated,  
  
Plaintiff,  
  
v.  
  
AMERICAN HONDA MOTOR CO.,  
INC.,  
  
Defendant.

Case No.: 3:12-cv-01377-SI

Assigned to Hon. Susan Illston  
Courtroom: 10

**DECLARATION OF  
STEVEN N. BERK IN SUPPORT OF  
PLAINTIFF’S UNOPPOSED  
MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT  
& AWARD OF ATTORNEYS’ FEES  
& EXPENSES**

CLASS ACTION

Complaint Filed: March 19, 2012  
Hearing: March 21, 2014

I, STEVEN N. BERK, declare as follows:

1. I am a member in good standing of the State Bars of the District of Columbia and Illinois and am the principal in the law firm of Berk Law PLLC (“Berk Law”), one of the law firms serving as Plaintiff’s counsel and which the Court preliminarily appointed as Class Counsel in the above-captioned action against Defendant American Honda Motor Co., Inc. (“Honda”).

2. I submit this Declaration in support of Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement & Award of Attorneys’ Fees & Expenses, and the Parties’ Class Action Settlement Agreement and Release dated September 5, 2013 (“Settlement Agreement”), a true and correct copy of which has been filed with the Court (Dkt. 73-1).

- Berk Law’s work in connection with the prosecution of this Action included:  
conducting extensive legal research and factual analysis to assess the viability of the Plaintiffs’ and class members’ legal claims;
- collaborating with automotive experts to identify and confirm the defect;

- 1 • communicating extensively with members of the then-putative Class, including
- 2 compiling and analyzing data concerning their experiences with their then-putative
- 3 Class Vehicles;
- 4 • researching, drafting, and filing pleadings;
- 5 • drafting discovery requests;
- 6 • reviewing and analyzing hundreds of pages of material produced by AHM in response
- 7 to discovery requests;
- 8 • preparing Named Plaintiffs Alex Soto and Vince Eagen to be deposed and defending
- 9 their depositions;
- 10 • researching and drafting responses to AHM's motion to compel arbitration;
- 11 • negotiating and drafting settlement terms;
- 12 • drafting mediation briefing and participating in a day-long mediation;
- 13 • twice deposing AHM's Fed. R. Civ. P. 30(b)(6) representative;
- 14 • drafting and revising the Class Notice;
- 15 • filing the preliminary approval brief and supporting documentation;
- 16 • conferring with, *and continuing to confer with*, numerous Settlement Class Members
- 17 by telephone and e-mail about the proposed settlement throughout the notice period;
- 18 and
- 19 • drafting and filing the final approval brief and supporting documents.

20 3. The total number of hours Berk Law's attorneys and other professional support  
21 staff expended on this litigation from inception through January 10, 2014 is 1,884.5. The total  
22 lodestar for Berk Law for that period is \$1,060,284.80. Attached as Exhibit A is a summary  
23 report that lists the time spent by each attorney and professional support staff of Berk Law who  
24 was involved in this litigation, including the number of hours worked, hourly rates, and lodestar  
25 values based on current billing rates.

26 4. Berk Law's compensation for the services it has rendered in this matter has been  
27 entirely contingent. Any attorneys' fees and expenses that Berk Law receives in connection with  
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1 the pending motion for award of attorneys' fees and expenses will only partially compensate it for  
2 its time and the risk undertaken in the prosecution of these cases.

3 5. As detailed in Exhibit B, Berk Law also incurred \$[EXPENSES] in unreimbursed  
4 expenses in connection with this case. These expenses are reflected on Berk Law's accounting  
5 books and records maintained in the ordinary course of business.

6 6. This Declaration only details the fees and expenses that Berk Law has incurred  
7 through January 10, 2014. The firm will incur additional fees and expenses in connection with  
8 preparation for the Final Approval Hearing, ongoing conferral with Class Members during the  
9 Notice and Claims Periods, and any post-judgment matters.

10 7. Attached hereto as Exhibit C is a compendium of true excerpts of written  
11 communications received by Berk Law through January 6, 2014, from apparent Settlement Class  
12 Members in response to the Class Notice. (Portions of the written communications have been  
13 omitted in the interest of protecting the privacy and financial account information of the  
14 individuals who submitted them.)

15 8. Among these aforesaid written communications are four (4) objections to the  
16 settlement, two (2) of which do not appear to reflect all of the information required of objections  
17 by the Class Notice.

18 9. Among the aforesaid written communications are exclusion requests from three (3)  
19 individuals that do not appear to have also been addressed to the Settlement Administrator and  
20 otherwise do not appear to comply requirements for opting-out stated in the Class Notice. Berk  
21 Law has attempted, and continues to attempt, to contact these individuals to advise them about  
22 how they can opt-out of the settlement.

23 10. None of the aforesaid written communications contain notice that any Settlement  
24 Class Member intends to attend the Final Approval Hearing.

25 I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th  
26 day of January 2014, at Washington, DC.

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**EXHIBIT A****SUMMARY TIME REPORT****INCEPTION THROUGH JANUARY 10, 2014**

<b>ATTORNEYS/STATUS<sup>1</sup></b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
Steven N. Berk (P)	905.4	\$753 per hour	\$681,766.20
Matthew J. Bonness (P)	492.5	\$554 per hour	\$272,845.00
Lauren E. Connell (P)	181.0	\$312 per hour	\$56,472.00
<b>Additional Staff</b>			
Zachary Kady (PL)	287.4	\$161 per hour	\$46,271.40
David Martin (PL)	4.1	\$161 per hour	\$660.10
Chloe Colbert (PL)	14.1	\$161 per hour	\$2270.10
<b>TOTAL</b>	<b>1884.5</b>		<b>\$1,060,284.80</b>

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<sup>1</sup> Partner (P); Of Counsel (OC); Associate (A); Paralegal (PL)

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**EXHIBIT B**  
**SUMMARY EXPENSE REPORT**  
**INCEPTION THROUGH JANUARY 10, 2014**

<b>EXPENSE</b>	<b>TOTAL (\$)</b>
<b>TOTAL UNREIMBURSED EXPENSES</b>	<b>\$12,420.21</b>

1 MICHAEL F. RAM (SBN 104805)  
[mram@rocklawcal.com](mailto:mram@rocklawcal.com)  
2 KARL OLSON (SBN 104760)  
[kolson@rocklawcal.com](mailto:kolson@rocklawcal.com)  
3 RAM, OLSON, CEREGHINO & KOPCZYNSKI  
4 555 Montgomery Street, Suite 820  
San Francisco, California 94111  
Telephone: (415) 433-4949  
5 Facsimile: (415) 433-7311

6 *Attorneys for the Plaintiff Class*

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 VINCE EAGEN, on behalf of himself and all  
10 others similarly situated,

11 Plaintiffs,

12 v.

13 AMERICAN HONDA MOTOR CO., INC.,

14 Defendant.

NO. 3:12-cv-01377-SI

**DECLARATION OF MICHAEL  
F. RAM IN SUPPORT OF  
MOTION FOR ATTORNEYS'  
FEES AND REIMBURSEMENT  
OF EXPENSES**

Date: March 21, 2014  
Time: 9:00 a.m.  
Place: Courtroom 10, 19<sup>th</sup> Floor  
[Hon. Susan Illston]

Action Filed: March 19, 2012  
Trial Date: None set

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21 I, Michael F. Ram, declare as follows:

22 1. I am a partner with Ram, Olson, Cereghino and Kopczynski LLP (“ROCK”) and  
23 submit this Declaration in support of ROCK’s motion for attorney fees and reimbursement of  
24 expenses in this matter.

25 2. I am a member of good standing of the bar of California. I have personal  
26 knowledge of the facts included in this Declaration.  
27

1           3.       I am one of the co-counsel for the Plaintiff Class in this case. My partners and I  
2 have a great deal of experience in consumer class actions involving automobiles. I have  
3 attached our firm resume as Exhibit 1.

4           4.       As co-counsel on this case, ROCK has expended time performing work  
5 including, but not limited to: factual and legal research; discussing strategy; analyzing the case;  
6 corresponding with class members and co-counsel; discussing defense motions including the  
7 motion to compel arbitration and the class certification motion; preparing for and participating  
8 in meetings with opposing counsel; reviewing state and federal statutes; analyzing affirmative  
9 defenses; attending litigation meetings regarding strategy; working on case management and  
10 procedural issues; analyzing court orders; drafting briefs; reviewing disclosures; taking  
11 depositions; inspecting numerous documents; reviewing and drafting motions; preparing for  
12 and attending case management conferences; preparing for and attending settlement meetings.

13           5.       The chart attached to this declaration as Exhibit 2 is a summary of time spent on  
14 this litigation, and the lodestar calculation based on ROCK's current billing rates. The chart  
15 includes the name of each attorney who has worked on the matter, the current hourly billing  
16 rate, and the hours expended by each individual. The total number of hours spent on this action  
17 by ROCK as of January 7, 2014, is 201.95. The total lodestar amount for the attorney time  
18 based on ROCK's current rates is \$ 145,939.14. Our confidential daily time records are  
19 available to the Court upon request.

20           6.       ROCK's current rates are appropriate in the light of prevailing rates for similar  
21 legal services provided by lawyers of reasonably comparable skill, experience, and reputation  
22 and have been approved in similar class actions.

23           7.       The chart attached to this declaration as Exhibit 2 also provides a summary of  
24 the unreimbursed expenses incurred by ROCK during the course of this litigation. The chart  
25 was prepared using contemporaneous time records kept by ROCK. With respect to the  
26 unreimbursed expenses, ROCK has spent a total of \$7,810.64 for this litigation, including  
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1 necessary costs associated with research, filing fees, and mail.

2 8. Based upon my experience, I believe that the proposed settlement is fair,  
3 reasonable and adequate and that it treats Class members equitably and provides them with  
4 significant benefits.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed on January 9, 2014 in San Francisco, California.

7  
8 /s/ Michael F. Ram

9 MICHAEL F. RAM (SBN 104805)  
10 RAM, OLSON, CEREGHINO & KOPCZYNSKI  
11 555 Montgomery Street, Suite 820  
12 San Francisco, California 94111  
13 Telephone: (415) 433-4949  
14 Facsimile: (415) 433-7311

15 *Attorneys for the Plaintiff Class*

# EXHIBIT 1

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RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP  
ATTORNEYS

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**RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP**

Ram, Olson, Cereghino & Kopczynski LLP is a class action, media law, and construction defect litigation law firm founded by experienced class action and media lawyers who began their careers in 1982 at Morrison & Foerster in San Francisco. They reunited after pursuing diverse and successful litigation practices, culminating in partnerships at other San Francisco firms. The partners' practical experience and excellent reputation among the bench and bar allow the firm to provide high-caliber legal services with small firm responsiveness and efficiency. The firm's partners have consistently achieved the highest ratings for legal ability and ethics.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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### KARL OLSON

Karl Olson specializes in defending news media clients and individuals against defamation and "SLAPP suits" (Strategic Lawsuits Against Public Participation). He has successfully defended dozens of such cases, disposing of most of them at a very early stage. He also specializes in handling cases involving access to government records. In 2005, he received the James Madison Award from the Northern California Society of Professional Journalists given annually to one legal counsel. In 2007, he won a landmark California Supreme Court case involving public access to public employee salaries. He is currently handling a variety of media law and other cases.

Mr. Olson's practice has also emphasized consumer and employment class action litigation, employment law, insurance coverage and bad faith litigation, construction defect and real estate litigation, and other commercial litigation matters. He has been counsel in cases recovering millions of dollars for consumers, employees and corporate insureds. He has extensive experience in both the trial and appellate courts and has been counsel in dozens of reported appellate decisions. He has been named a "Northern California Super Lawyer" and as one of the "Best Lawyers in America." Mr. Olson's practice has also focused on pre-publication and pre-broadcast counseling; intellectual property matters such as copyright and trademark infringement claims; and trade secret litigation. He has authored numerous articles on media law issues and lectured widely on defamation and First Amendment topics for both professional journalists and lawyers.

From 1982 to 1983, Mr. Olson was a research attorney for Justice Joseph Grodin of the California Supreme Court. He worked as an associate at Morrison & Foerster from 1983 to 1986 and was at Cooper, White & Cooper as an associate from 1986 to 1989 and as a partner from 1990 to 1997 before starting Levy, Ram & Olson in 1997 and Ram & Olson in 2009.

For several years running Mr. Olson has been named a "Northern California Super Lawyer" and has been named one of the Best Lawyers in America.

Mr. Olson was born, raised and still lives in San Francisco.

#### **Education:**

- University of California's Hastings College of the Law, 1982 (magna cum laude, Order of the Coif)
- Articles Editor, Hastings Law Journal

#### **Professional Associations and Memberships:**

- ABA Forum on Communications Law

## RAM, OLSON, CEREHINO & KOPCZYNSKI LLP

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### **Bar Admissions:**

- Mr. Olson is admitted to practice in the Supreme Court of the United States, the 9th Circuit Court of Appeals, the U.S. District Courts for the Northern, Eastern and Central Districts of California, and in the State of California.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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### MICHAEL F. RAM

Michael F. Ram is a consumer class action lawyer with 31 years of experience at both the trial and appellate court levels. He is admitted to practice before the Supreme Court of the United States and various state and federal courts. He graduated cum laude from Harvard Law School in 1982. In 1992 he was a co-recipient of the Trial Lawyer of the Year Award given by Trial Lawyers for Public Justice. He is currently co-lead counsel in an electronic privacy class action, *Whitaker v. Health Net of California, Inc., and International Business Machines Corp*, No. 2:11-cv-0910 KJM DAD (E.D. Cal. 2011), and liaison counsel in another, *In Re Google Buzz User Privacy Litigation*, No. 10-Cv-00672-Jw (N.D. Cal. 2011).

From 1993 through 1997, Mr. Ram was a partner with Lieff, Cabraser, Heimann and Bernstein where he participated in representing plaintiffs in several major class actions, including:

- *Cox v. Shell*, Civ. No 18,844 (Obion County Chancery Court, Tennessee (Chancellor Maloan). A nationwide class of approximately six million owners of property equipped with defective polybutylene plumbing systems and yard service lines. The settlement has paid out a billion dollars in compensation to consumers.
- *In re Louisiana-Pacific Inner-Seal Litigation*, No. 95-cv-879 (Dist. Oregon filed June 19, 1995). A nationwide class of homeowners with defective exterior siding on their homes.
- *ABS Pipe Litigation*, Judicial Council Coordination Proceeding No. 3126 (Contra Costa County Superior Court). A nationwide class of homeowners with defective ABS pipes.

In 1997, Mr. Ram reunited with lawyers he practiced with in the early 1980s to found Levy, Ram & Olson, now Ram, Olson, Cereghino & Kopczynski ("ROCK"). With ROCK, he continues to focus on consumer class actions. He is currently, and has been, co-lead counsel in a number of consumer class actions including a national certified class of half a million owners of allegedly dangerous glass pane gas fireplaces in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal. filed June 5, 2003), a class action involving defective intake manifolds that generated four published opinions, including one by the Ninth Circuit, and settled one court day before the class trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, including:

- *Richison v. American Cemwood Corp.*, San Joaquin Superior Court Case No. 005532. Mr. Ram served as co-counsel for a multistate class of tens of thousands of owners of homes and other structures on which defective Cemwood Shakes were installed.

## RAM, OLSON, CEREHINO & KOPCZYNSKI LLP

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- *Williams v. Weyerhaeuser*, San Francisco Superior Court Case No. 995787. Mr. Ram served as co-counsel on behalf of a nationwide class of hundreds of thousands or millions of owners of homes and other structures with defective Weyerhaeuser hardboard siding.
- *Naef v. Masonite*, Mobile County, Alabama Circuit Court Case No. CV-94-4033. Mr. Ram served as co-counsel on behalf of a nationwide class of homeowners with defective hardboard siding on their homes. Settlement payments are approaching a billion dollars.
- *Keilholtz v. Superior Fireplace Co.*, No. 08-cv-00836 (N.D. Cal. 2008). Co-Lead Counsel in a certified class action representing 500,000 owners of allegedly defective glass pane glass fireplaces.
- *Chamberlan v. Ford Motor Co.*, 402 F.3d 952 (9th Cir. 2005) (affirming class certification; Ram & Olson-co-lead counsel).
- *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998) (approving class action settlement).
- *McAdams v. Monier, Inc.* (2010) 182 Cal. App. 4th 174 (reversing denial of class certification in consumer class action).
- *Gardner v. Stimson Lumber Co.* (King County Wash. No. 2-17633-3-SEA) (nationwide consumer class action involving defective siding).
- *Rosenberg v. U-Haul* (Santa Cruz Superior Ct. No. CV-144045 (certified consumer class action for false and deceptive conduct tried successfully to judgment).
- *In re Google Buzz User Privacy Litigation*, No. 10-cv-00672-JW (N.D. Cal. 2011) (approving class action settlement).
- *Whitaker v. Health Net of California, Inc., and International Business Machines Corp.*, No. 2:11-cv-0910 KJM DAD (E.D. Cal. 2011) (electronic privacy class action under the California Confidentiality of Medical Information Act).

Over the years, Ram & Olson's and ROCK's cases have helped shape the law in the consumer class action area, to the benefit of consumers. In addition to vindicating the rights of numerous classes of consumers in particular cases by successfully certifying class actions by way of contested motions, several of Ram & Olson's cases have gone on to become landmark appellate decisions.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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For example, in *McAdams v. Monier* (2010) 182 Cal. App. 4th 174, Mr. Ram represents a class of consumers who allege that the defendant/manufacturer affirmatively represented that its roof tiles had a 50-year lifetime, that their color was permanent, and that they were maintenance-free. *Id.* In reversing the denial of class certification, the Court of Appeal held that an inference of common reliance was adequate to show causation as to each class member.

In *Chamberlan v. Ford Motor Co.*, 402 F.3d at 952, the Ninth Circuit denied Ford's petition to appeal class certification in a case alleging that Ford had made material omissions to consumers, and underscored that review of district courts' rulings certifying class actions should be a "rare occurrence." *Id.*

And in *Hanlon v. Chrysler Corp.*, 150 F.3d at 1011 – a case cited in many class action approval papers filed in federal court – the Ninth Circuit approved a settlement negotiated on behalf of a class of owners of 1984 through 1994 minivans with defective rear latches on 1984-1994.

Over the past several years, as co-lead counsel, Mr. Ram has helped to certify numerous class actions by way of contested motions. These cases include:

- *Naef v. Masonite*, No. CV-94-4033 (Mobile County, Alabama Circuit Court);
- *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal. filed June 5, 2003);
- *Mazza v. Amer. Honda*, 254 F.R.D. 610 (C.D. Cal. 2009);
- *Amico v. General Motors Corp.* (Maricopa County Ariz. Super Ct. No. 2004-092816);
- *McAdams v. Monier, Inc.*, 182 Cal. App. 4th 174 (2010) (reversing denial of class certification in consumer class action);
- *Richison v. American Cemwood Corp.* (San Joaquin Civil Action No. 005532);
- *Gross, et al., v. Mobil Oil Corp., et al.*, No. 95-cv-01237 (N.D. Cal. filed April 12, 1995);
- *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. filed February 6, 2008);
- *National Association of Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal. filed April 13, 1983); and

RAM, OLSON, CEREHINO & KOPCZYNSKI LLP

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- *Rosenberg v. U-Haul Co. of California* (Santa Cruz Sup. Ct. No. CV144045).

For several years running Mr. Ram has been named a “Northern California Super Lawyer” by Law & Politics.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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### JEFFREY CEREGHINO

#### Areas of Practice:

Jeffrey B. Cereghino is a partner at Ram, Olson, Cereghino & Kopczynski LLP, located in San Francisco, California. His practice area primarily focuses upon complex litigation and class actions. He represents consumers in class action matters as well as property owners in complex construction and product liability actions.

He has been or is a class counsel on *Blangeras v. Stimson Lumber Company* (exterior siding), King County Superior Court, Washington; *Trinity Properties v. Central Sprinkler Company* (fire sprinklers), United States District Court, Eastern District of Pennsylvania; *The Sutterfield Owners Association v. Tyco International* (fire sprinklers), San Francisco Superior Court, California; *Weiner v. Shake Company of California* (roofing tiles), Contra Costa County Superior Court, California; *Whitley, et al. v. Perfection Corporations, et al.* (hot water heaters), United States District Court, Western District of Missouri; *Sun v. Mexalit, SA* (roofing tiles), Los Angeles County Superior Court, California; *Vega v. Mallory* (rent overcharges), Sacramento County Superior Court, California; *Shah v. Recon* (roofing tiles), Contra Costa County Superior Court, California; *In Re Elevator Litigation* (anti-trust), United States District Court, Southern District of New York; *Wallace v. Monier Company* (roofing tiles), Placer County Superior Court, California; *Ruyack v. Del Webb* (soil and foundations), Maricopa County Superior Court, Arizona; *Garner v. State Farm* (underpayment of claims), United States District Court, Northern District of California; *Ward v. Ipex, Inc.* (water pipes), United States District Court, Central District of California; *Fliss v. Ipex, Inc.* (water pipes), United States District Court, Western District of Washington, *Lyle J. Muenzenberger, et al. v. North Salinas Partners, LLC, et al.* (product liability), Monterey County Superior Court, and; *Milligan v. Toyota Motor Co.*, United States District Court, Northern District of California. He is presently class counsel for the administration of the *Forestex Siding* claims program which provides recovery for thousands of property owners in seven states.

#### Legal History:

Previously a Partner at Merrill, Nomura & Molineux, LLP and Principal at Berding & Weil, LLP, Mr. Cereghino has been practicing law since 1982, and has settled or tried over 90 complex multi-family construction, class action, single family home and/or product defect cases, resulting in a recovery in excess of \$345 million.

Mr. Cereghino has been retained on several occasions as counsel to Building Owners and Managers Association (BOMA) to represent the interests of BOMA members in nationwide building product defect claims. Mr. Cereghino has been a frequent lecturer to various real estate industry groups, including common interest development organizations, BOMA, real estate organizations, and state and local health officials involved in "toxic mold" issues. He has spoken at the National Multi-Housing Council on mold and mold related issues. He is admitted to numerous Federal District Courts, the Ninth Circuit Court of Appeals and multiple state courts.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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### JAN A. KOPCZYNSKI

Jan A. Kopczynski is one of the founding partners of Ram, Olson, Cereghino, & Kopczynski LLP in San Francisco, California. He specializes in handling complex construction-defect cases, consumer and product-liability class actions, as well as business litigation and real-estate disputes. He also provides general counsel to the firm's commercial and community-association clients.

During his fourteen years of practice, Mr. Kopczynski has negotiated millions of dollars in settlements for his clients as a result of successful mediations, arbitrations, and court trials. He has also been involved in the litigation and settlement of many product-liability class actions, including *Richison et al. v. American Cemwood Corporation* (San Joaquin Superior Court); *Carr et al. v. Stimson Lumber Company* (Alameda County Superior Court); *Melvin Weiner v. Cal-Shake, Inc.* (Contra Costa County Superior Court); and *Trinity Properties v. Central Sprinkler Company of California* (Contra Costa Superior Court).

#### Education

Mr. Kopczynski received his Juris Doctor degree in 1998 from Santa Clara University School of Law in Santa Clara, California. He received his Bachelor of Arts degree, *Magna Cum Laude*, in political science from the University of California at San Diego in 1992 as well as a Masters Degree, *with honors*, in 1993. He is a recipient of two Research Scholar awards (1991 and 1992) from the University of California at San Diego. In addition to studying law at Santa Clara University, he participated in the law school's Moot Court Competition and was selected as a member of the Trial Team, which competed in two elite trial competitions during his final year of law school.

#### Bar Admissions

Mr. Kopczynski is a member of the State Bar of California (1999) and is admitted to practice before the United States District Court for the Northern District of California (1999) and the United States Court of Appeals for the Ninth Circuit (2005). He is also a member of the Bar Association of San Francisco.

#### Publications

Mr. Kopczynski has published numerous articles regarding legal issues involving community associations, the construction process, class actions, energy deregulation, and community-association management. His most recent articles include *Helping Lambs Slay Lions* (ECHO Journal, October 2010), *The Right to a Jury Trial in Disputes with Developers* (ECHO Journal, January 2009), *What Does it Mean for a Board Member to be a Fiduciary* (ECHO Journal, October 2008), *The Myth of Public Agency Protection in the Building Permit Process* (ECHO Journal, June 1999). All of Mr. Kopczynski's articles can be found on the ROCK website.

## RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

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### **SUSAN BROWN**

Susan S. Brown is an associate with Ram, Olson, Cereghino, & Kopczynski LLP (“ROCK”). Her practice primarily focuses on complex litigation and class actions. Prior to joining ROCK, she practiced with one of Canada’s top 10 civil litigation boutiques and with a consumer and employment class action firm in Mill Valley, California. She has been class counsel on numerous investment fraud and financial services class actions, and has represented individual plaintiffs in employment, investment fraud, and consumer litigation. She also serves as a pro bono attorney with the Bar Association of San Francisco’s Consumer Debt Clinic.

#### **Education**

Ms. Brown received her Juris Doctor degree in 2009 from the University of Toronto in Ontario, Canada. She received her Bachelor of Arts degree, with first class honors, from the University of Alberta, and her Masters Degree from the University of Toronto, also with honors. While studying law at the University of Toronto, she earned first class honors in the moot court program and served as an advocate at the student community legal aid clinic, where she represented clients in a variety of civil and administrative matters.

#### **Bar Memberships**

Ms. Brown is a member of the State Bar of California and is admitted to practice before the United States District Court for the Northern District of California. She is also licensed to practice in Ontario, Canada, and is a member of the Bar Association of San Francisco, the National Association of Consumer Attorneys, the Consumer Attorneys of California, and the San Francisco Trial Lawyers Association.

# **EXHIBIT 2**

**ROCK LLP**

**Time and Expense in Soto v. Honda Accord  
Incurred from 1/01/2012 - 1/07/2014**

**Recorded Hours, Rates, Expenses and Lodestar Calculations**

<b>Ram &amp; Olson LLP</b>	<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
<b>PARTNERS</b>				
	M. Ram	157.90	\$ 800.00	\$ 126,320.00
	K. Olson	6.15	\$ 800.00	\$ 4,920.00
	J. Cereghino	0.83	\$ 600.00	\$ 498.00
	<b>TOTAL</b>	<b>164.88</b>		<b>\$ 131,738.00</b>
<b>ASSOCIATES</b>				
	S. Brown	0.27	\$ 500.00	\$ 135.00
		<b>0.27</b>		<b>\$ 135.00</b>
<b>PARALEGALS/LAW CLERKS</b>				
	Mark Ram	30.30	\$ 185.00	\$ 5,605.50
	D. Blum	6.50	\$ 100.00	\$ 650.00
		<b>36.80</b>		<b>\$ 6,255.50</b>
	<b>TOTAL</b>	<b>201.95</b>		<b>\$ 138,128.50</b>
<b>TOTAL FEES</b>				<b>\$ 138,128.50</b>
<b>EXPENSES</b>				<b>\$ 7,810.64</b>
<b>GRAND TOTAL</b>		<b>201.95</b>		<b>\$ 145,939.14</b>

1 Michael F. Ram, CSB #104805  
 Email: mram@rocklawcal.com  
 2 Karl Olson, CSB #104760  
 Email: kolson@rocklawcal.com  
 3 RAM, OLSON, CEREGHINO & KOPCZYNSKI  
 4 555 Montgomery Street, Suite 820  
 San Francisco, California 94111  
 5 Telephone: (415) 433-4949  
 Facsimile: (415) 433-7311  
 6

7 Beth E. Terrell, CSB #178181  
 Email: bterrell@tmdwlaw.com  
 8 TERRELL MARSHALL DAUDT & WILLIE PLLC  
 9 936 North 34th Street, Suite 300  
 Seattle, Washington 98103-8869  
 Telephone: (206) 816-6603  
 10 Facsimile: (206) 350-3528

11 [Additional Counsel Appear on Signature Page]

12 *Attorneys for Individual and Representative*  
 13 *Plaintiffs Alex Soto and Vince Eagen*

14 UNITED STATES DISTRICT COURT  
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 ALEX SOTO and VINCE EAGEN, on behalf  
 of themselves and all others similarly situated,

17 Plaintiffs,

18 v.

19 AMERICAN HONDA MOTOR CO., INC.,

20 Defendant.  
 21  
 22  
 23  
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 25  
 26  
 27

Case No. 3:12-cv-01377-SI

**DECLARATION OF BETH E.  
 TERRELL IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR  
 ATTORNEYS' FEES AND COSTS**

Date: March 21, 2014  
 Time: 9:00 a.m.  
 Place: Courtroom 10, 19th Floor

Honorable Susan Illston

CLASS ACTION

Complaint Filed: March 19, 2012

1 I, Beth E. Terrell, declare as follows:

2 1. I am a member of the law firm of Terrell Marshall Daudt & Willie PLLC  
3 (“TMDW”), counsel of record for Plaintiffs in this matter. I am admitted to practice before this  
4 Court and am a member in good standing of the bars of the States of California and  
5 Washington. I respectfully submit this declaration in support of Plaintiffs’ Motion for  
6 Attorneys’ Fees and Costs in the above-captioned class action. Except as otherwise noted, I  
7 have personal knowledge of the facts set forth in this declaration, and could testify competently  
8 to them if called upon to do so.

9 2. TMDW is a law firm in Seattle, Washington, that focuses on complex civil and  
10 commercial litigation with an emphasis on consumer protection, product defect, employment,  
11 real estate, and personal injury matters. The attorneys of TMDW have extensive experience in  
12 class actions, collective actions, and other complex matters. They have been appointed lead or  
13 co-lead class counsel in numerous cases at both the state and federal level. They have  
14 prosecuted and defended a variety of multi-million-dollar disputes involving consumer fraud,  
15 wage and hour, securities fraud, and product defect. The defendants in these cases have  
16 included companies such as Wal-Mart, Microsoft, Best Buy, Toyota, Sallie Mae, Comcast,  
17 ABM Industries, Inc., AT&T, T- Mobile USA, Weyerhaeuser, Behr Products, American  
18 Cemwood, Bank of America, Discover Financial Services (“Discover”), and Capital One. I  
19 detailed TMDW’s extensive class action experience in my prior declaration (Dkt. No. 75-2)  
20 and incorporate that information herein.

21 3. I am the lead attorney from TMDW in the instant litigation. A founding  
22 member of TMDW, I concentrate my practice in complex litigation, including the prosecution  
23 of consumer, defective product, and wage and hour class actions. I have served as co-lead  
24 counsel on numerous multi-state and nationwide class actions. I also handle a variety of  
25 employment issues including employment discrimination, restrictive covenant litigation, and  
26 pre-litigation counseling and advice.

1           4.       I received a B.A., magna cum laude, from Gonzaga University in 1990. In  
2 1995, I received my J.D. from the University of California, Davis School of Law, Order of the  
3 Coif. Prior to forming TMD in May 2008, I was a member of Tousley Brain Stephens PLLC. I  
4 am a frequent speaker at legal conferences on a wide variety of topics including consumer class  
5 actions, employment litigation, and electronic discovery, and I have been awarded an “AV”  
6 rating in Martindale Hubble by my peers.

7           5.       I am actively involved in several professional organizations and activities. For  
8 example, I currently serve as a Vice President for the Washington State Association of Justice  
9 (“WSAJ”), and serve on the WSAJ Executive Committee. I am also the current Chair of the  
10 WSAJ’s Consumer Protection Section. I am the current Vice Chair of the Washington  
11 Employment Lawyers Association and a member of the Public Justice Foundation’s Board of  
12 Directors. I serve on the Foundation’s Development, Case Evaluation, Membership, and Class  
13 Action Preservation Committees.

14           6.       I have been repeatedly named to the annual Washington Super Lawyers list  
15 (2005, 2010, 2011, 2012, and 2013) and the Top 50 Women Super Lawyers list (2012 and  
16 2013) by *Washington Law & Politics* Magazine.

17           7.       Kimberlee L. Gunning, a former member of Terrell Marshall Daudt & Willie  
18 PLLC, also performed substantial work on this matter. Ms. Gunning graduated from the  
19 University of Washington School of Law in 2004. Before joining the firm, Ms. Gunning had a  
20 solo practice focused on consumer class actions, employment law and appeals in all areas of  
21 civil and administrative law and was also an associate at Tousley Brain Stephens PLLC for 4  
22 years. Ms. Gunning has extensive experience in complex civil litigation and has acted as co-  
23 counsel in several consumer class actions, including *Spafford v. EchoStar; Hartman, et al. v.*  
24 *Comcast; Seraphin v. AT&T Internet Services, Inc., et al; Vernon, et al. v. Qwest, and*  
25 *Grosvenor v. Qwest and Godoy v. AT&T Wireless*. In 2011 and 2012, Ms. Gunning was named  
26 a Washington “Rising Star” by *Washington Law & Politics* Magazine. Ms. Gunning is now a  
27

1 senior trial attorney in the Washington State Attorney General's Consumer Protection Division.

2 8. This lawsuit has consumed my time, along with the time of my former partner  
3 Kimberlee L. Gunning and various staff members as detailed below. Such time could  
4 otherwise have been spent on other fee-generating work. Because the representation in this  
5 matter is on a contingency-fee basis, TMDW shouldered the risk of expending substantial costs  
6 and time in litigating the action without any monetary gain in the event of an adverse outcome.  
7 This action was especially risky, given that Honda attempted to enforce an arbitration clause  
8 with a class action ban. That issue was pending on appeal when the parties settled. My firm  
9 took the lead in briefing the arbitration issues.

10 9. TMDW sets its rates for attorneys and staff members based on a variety of  
11 factors, including among others: the experience, skill, and sophistication required for the types  
12 of legal services typically performed; the rates customarily charged in similar matters; the rates  
13 customarily charged by other lawyers of similar skill and experience; and the experience,  
14 reputation, and ability of TMDW's attorneys and staff members.

15 10. The regular practice at TMDW is for all attorneys and staff to keep  
16 contemporaneous time records, maintained on a daily basis, and describing tasks performed in  
17 0.1 hour increments. Firm policy requires all staff to enter their time into an electronic  
18 timekeeping system on a daily basis.

19 11. I was the attorney primarily responsible for reviewing the work of the TMDW  
20 timekeepers who worked on this matter. I supervised all work to encourage efficiency and  
21 ensure there was as little duplication of effort as possible, including limiting the number of  
22 attorneys assigned to this case. I also reviewed the billing records and reduced or eliminated  
23 time where necessary. I can therefore confidently assert that the lodestar and hours reported in  
24 this declaration are reasonable, particularly in light of our efforts and accomplishments in this  
25 litigation.

1           12.     The work performed by Mr. Kinsey, Ms. Nordby, Ms. Boschen, Ms. Bohannon,  
2 and Ms. Buckendorf was work that required sufficient knowledge of legal concepts and that I  
3 or another attorney would have had to perform absent such assistance. Mr. Kinsey, Ms.  
4 Nordby and Ms. Boschen are qualified to perform substantive legal work based on their  
5 training and past experience working for attorneys, including attorneys outside of TMDW's  
6 offices.

7           13.     Through January 9, 2014, TMDW has worked a total of 517.6 hours in this  
8 action, with a total lodestar of \$257,717.5.

9           14.     TMDW will incur additional fees and costs between now and the close of this  
10 litigation, including overseeing the settlement process, addressing class member inquiries, and  
11 briefing and attending the hearing for final approval of the settlement.

12           15.     The following table lists the TMDW attorneys and professional personnel and  
13 their current hourly rates. The hourly rate shown for any attorney or paralegal who: (a) is no  
14 longer employed with TMDW; or (b) has been promoted, reflects the last rate that applied at  
15 the time of their employment in that position. The chart also details the time each of these  
16 attorneys and litigation assistants worked on this case and their contribution to TMDW's total  
17 lodestar:

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
<b>ATTORNEYS</b>				
<b>Beth E. Terrell</b> Partner at Terrell Marshall Daudt & Willie PLLC J.D. from Univ. of California, Davis School of Law, Order of the Coif, 1995	Researched and analyzed various legal and factual issues; worked on pleadings and memoranda; worked on expert and discovery matters; worked on the response to the motion to compel arbitration; prepared for and attended Defendant's 30(b)(6) depositions and depositions of Plaintiffs; prepared for mediations; attended those mediations; negotiated and worked on the settlement agreement and supporting documents; worked on settlement administration issues.	\$700	170.4	\$119,280.00
<b>Kimberlee L. Gunning</b> Partner at Terrell Marshall Daudt & Willie PLLC from 2009 to 2013. J.D. from Univ. of Washington School of Law, 2004	Worked on pleadings, memoranda and correspondence; analyzed various legal and factual issues regarding motion to compel arbitration, motion for reconsideration and appeal; worked on discovery matters; worked on class certification issues; worked on settlement issues.	\$500	219.4	\$109,700.00
<b>Samuel J. Strauss</b> Associate at Terrell Marshall Daudt & Willie PLLC from Sept. 2013 to present. Law Clerk at TMDW from June 2012 to June 2013. J.D. from Univ. of Washington School of Law, 2012.	Researched legal issues; worked on pleadings and memoranda.	\$250	26.6	\$6,650.00
<b>PARALEGALS</b>				
<b>Bradford Kinsey</b> Paralegal at Terrell Marshall Daudt & Willie PLLC since October 2009. AA as a legal assistant from Edmonds Community College, 1989. 23 years of	Drafted and worked on pleadings; filed and served pleadings and discovery-related documents; prepared correspondence; factual and legal research.	\$200	29.8	\$5,960.00

NAME AND POSITION	DESCRIPTION OF WORK PERFORMED	RATE	HOURS BILLED	TOTAL
experience working in civil litigation representing both plaintiffs and defendants.				
<b>Jennifer J. Boschen</b> Paralegal at Terrell Marshall Daudt & Willie PLLC from May 2008 – January 2009 & March 2010 - present. BA from Rutgers University, 1998.	Worked on electronic discovery matters and document production; reviewed and analyzed document production; factual research; worked on deposition preparation; worked on Court filings.	\$250	27.0	\$6,750.00
<b>Eden B. Nordby</b> Paralegal at Terrell Marshall Daudt & Willie PLLC since June 2008 BA. Sarah Lawrence College, 2005.	Worked on pleadings and correspondence; worked on case deadline management; interviewed potential class members regarding class action allegations; factual research; telephone conferences and correspondence with class members regarding case status; coordinated Plaintiffs' deposition transcript review.	\$225	39.5	\$8,887.50
<b>Cassandra L. Bohannon</b>	Telephone conferences with class members; factual investigation.	\$100	2.3	\$230.00
<b>Hannah J. Buckendorf</b>	Telephone conferences with class members.	\$100	2.6	\$260.00
<b>TOTAL:</b>			517.6	\$257,717.5

16. TMDW has incurred \$20,022.88 in expenses, which includes travel costs associated with my participation in depositions and mediation (\$6,219.73); other hard costs such as contributing to the cost fund (\$5,000.00); transcript costs (\$2,328.16); research on Westlaw and PACER (\$4,705.73); messenger service, FedEx, or postage charges (\$697.61); court filing fees (\$655.00); and internal costs such as printing and copying (\$416.65).

17. Since the beginning of this case, TMDW has worked with no guarantee of being compensated for its time and efforts. Payment of TMDW's fees has always been contingent on successfully obtaining relief for the Plaintiffs and Class members. As a result, there was a

1 substantial risk of non-payment. Work on this case has necessarily been to the exclusion of  
2 work on other matters that likely would have generated fees. TMDW has also been denied use  
3 of the fees it earned over the course of this case.

4 18. I was involved in negotiating the proposed settlement in this case. I believe the  
5 settlement provides an excellent result for Class members and is fair, adequate, and reasonable.  
6 Plaintiffs and their counsel have considered the risks inherent to litigation and the various  
7 defenses available to Honda. The reality that Plaintiffs and class members could end up  
8 recovering only a fraction of the settlement benefits or even losing at certification or trial was  
9 significant enough to convince Plaintiffs and their counsel that the settlement reached with  
10 Honda outweighs the gamble of continued litigation.

11 I declare under penalty of perjury of the laws of the State of Washington and the United  
12 States of America that the foregoing is true and correct, and that this declaration was executed  
13 in Seattle, Washington, on this 10th day of January, 2014.

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16 By: /s/ Beth E. Terrell, CSB #178181  
17 Beth E. Terrell, CSB #178181  
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participating in settlement negotiations and strategies; and reviewing and revising settlement documents.

4. The total number of hours Berger attorneys and other professional support staff expended on this litigation from inception through January 6, 2014 is 412. The total lodestar for Berger for that period is \$211,562.56. Attached as Exhibit A is a summary report that lists the time spent by each attorney and professional support staff of Berger who was involved in this litigation, including the number of hours worked, hourly rates, and lodestar values based on current billing rates.

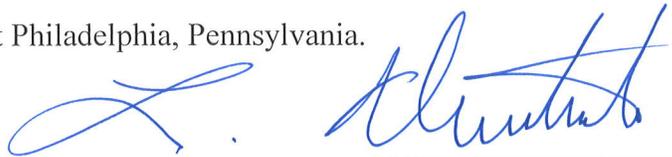
5. Berger's compensation for the services it has rendered since January 4, 2012 has been entirely contingent. Any attorneys' fees and expenses which Berger receives in connection with the pending motion for award of attorneys' fees and expenses will only partially compensate the firm for its time and the risk undertaken in the prosecution of these cases.

6. As detailed in Exhibit B, Berger also incurred \$7,844.42 in unreimbursed expenses in connection with this case. These expenses are reflected on Berger's books and records maintained in the ordinary course of business.

7. This declaration only provides the Court with time and expenses through January 6, 2014. Additional time and expenses may be incurred in connection with the final hearing and any post-judgment matters.

8. Attached as Exhibit C, is the firm biography for Berger & Montague, P.C.

I declare under penalty of perjury that the foregoing is true and correct. Executed  
this 9<sup>th</sup> day of January, 2014, at Philadelphia, Pennsylvania.

A handwritten signature in blue ink, appearing to read 'L. Deutsch', is written over a horizontal line.

Lawrence Deutsch, Esquire  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103  
(215) 875-3062  
ldeutsch@bm.net

KAL6298870

**EXHIBIT A****SUMMARY TIME REPORT****INCEPTION THROUGH JANUARY 6, 2014**

<b>ATTORNEYS/STATUS<sup>1</sup></b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
Lawrence Deutsch (P)	158.20	\$650.00	\$102,830.00
Shanon Carson (P)	2.00	\$650.00	\$1,300.00
Russell Henkin (P)	1.00	\$615.00	\$615.00
Eugene Tompkins (A)	205.00	\$475.00	\$97,375.00
<b>Additional Staff</b>			
Karen M. Markert (PL)	3.25	\$250.00	\$812.50
P.V. Telang (PL)	1.00	\$250.00	\$250.00
Mark Stein (PL)	19.00	\$215.00	\$4,085.00
William Mecoli (PL)	19.20	\$215.00	\$4,128.00
Sandy McCollum (PL)	.60	\$ 57.50	\$34.50
Alex Turta (PL)	2.25	\$ 49.36	\$111.06
Arun Rajendran (PL)	.50	\$ 43.00	\$21.50
<b>TOTAL</b>	<b>412.00</b>		<b>\$211,562.56</b>

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<sup>1</sup> Partner (P); Of Counsel (OC); Associate (A); Paralegal (PL)

**EXHIBIT B****SUMMARY EXPENSE REPORT****INCEPTION THROUGH JANUARY 6, 2014**

<b>EXPENSE</b>	<b>TOTAL (\$)</b>
Filing and Miscellaneous Fees	\$915.00
Photocopies and reproduction costs	\$270.75
Processing and Hosting of Electronic Discovery Materials	\$773.80
Telephone	\$10.97
Travel	\$473.25
Postage /Delivery & Freight	\$28.61
Computer Research	\$372.04
Advanced Costs for the Litigation Fund	\$5,000.00
<b>TOTAL UNREIMBURSED EXPENSES</b>	<b>\$7,844.42</b>

**EXHIBIT C**

**Berger & Montague, P.C.**  
ATTORNEYS AT LAW

Dated: January 9, 2014

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

**THE FIRM:**

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

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

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

The firm has been involved in a series of notable cases, some of them among the most important in the last 40 years of civil litigation. For example, the firm was one of the principal counsel for plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the

late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger & Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$300 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger & Montague was also lead/liaison counsel in the *Three Mile Island Litigation* arising out of a serious nuclear incident.

In antitrust litigation, the firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 40 years, including *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), the *Brand Name Prescription Drug* price fixing case (settlement of more than \$700 million), the *State of Connecticut Tobacco Litigation* (settlement of \$3.6 billion), the *Graphite Electrodes Antitrust Litigation* (settlement of more than \$134 million), and the *High-Fructose Corn Syrup Litigation* (\$531 million). The firm has also played a leading role in cases in the pharmaceutical arena, especially in cases involving the delayed entry of generic or other rival drug competition, having achieved over \$1 billion in settlements in such cases over the past decade.

In the area of securities litigation, the firm has represented public institutional investors – such as the retirement funds for the States of Pennsylvania, Connecticut, New Hampshire, New Jersey, Louisiana and Ohio, as well as the City of Philadelphia and numerous individual investors and private institutional investors. The firm was co-lead counsel in the *Melridge Securities Litigation* in the Federal District Court in Oregon, in which jury verdicts of \$88.2 million and a RICO judgment of \$239 million were obtained. Berger & Montague has served as lead or co-lead counsel in numerous other major securities class action cases where substantial settlements were achieved on behalf of investors.

Additionally, in the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

## JUDICIAL PRAISE FOR BERGER & MONTAGUE ATTORNEYS

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

### *Antitrust Litigation*

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

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

\* \* \*

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

*In re Currency Conversion Fee Antitrust Litigation*, 263 F.R.D. 110, 129 (2009).

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

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

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

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

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

*In Re Linerboard Antitrust Litig.*, 2004 WL 1221350, at \*5-\*6 (E.D. Pa. 2004).

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

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

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

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

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

Regarding the work of Berger & Montague in achieving more than \$700 million in settlements with some of the defendants in *In Re Brand Name Prescription Drugs Antitrust Litigation*, 2000 U.S. Dist. LEXIS 1734, at \*3-\*6 (N.D. Ill. Feb. 9, 2000).

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

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

Settlement Approval Hearing, Oct. 28, 1994, in *Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.*, CA No. PJM-92-3624 (D. Md.).

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

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

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

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

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

*In re Art Materials Antitrust Litigation*, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

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

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

*In re Master Key Antitrust Litigation*, 1977 U.S. Dist. LEXIS 12948, at \*35 (Nov. 4, 1977).

*Securities Litigation*

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

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

*In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

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

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

*In re CIGNA Corp. Sec. Litig.*, 2007 U.S. Dist. LEXIS 51089, at \*17-\*18 (E.D. Pa. July 13, 2007).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

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

*Ginsburg v. Philadelphia Stock Exchange, Inc.*, No. 2202 (Del. Ch., Oct. 22, 2007).

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

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

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

*In re Rite Aid Corp. Securities Litigation*, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

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

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

\* \* \*

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

*In Re Melridge, Inc. Securities Litigation*, No. CV 87-1426-FR (D. Ore. April 15, 1996).

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

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

\* \* \*

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

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in *In re Ikon Office Solutions, Inc. Securities Litigation*, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

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

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

\* \* \*

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

Commenting in *In re Revco Securities Litigation*, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

## **PROMINENT JUDGMENTS AND SETTLEMENTS**

The firm has a wide breadth of achievement in many significant areas of complex and business-related litigation. The following is a partial list of some of the more notable judgments and settlements in antitrust and securities litigation.

### **Antitrust Litigation**

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

***Ross, et al. v. Bank of America (USA) N.A., et al.:*** Berger & Montague, as lead counsel for the cardholder classes, obtained final approval of settlements reached with Chase, Bank of America, Capital One and HSBC, on claims that the defendant banks unlawfully acted in concert to require cardholders to arbitrate disputes, including debt collections, and to preclude cardholders from participating in any class actions. The case was brought for injunctive relief only. The settlements remove arbitration clauses nationwide for 3.5 years from the so-called “cardholder agreements” for over 100 million credit card holders. This victory for consumers and small businesses came after nearly five years of hard-fought litigation, including obtaining a decision by the Court of Appeals reversing the order dismissing the case, and will aid consumers and small businesses in their ability to resist unfair and abusive credit card practices. A proposed settlement has been reached with the non-bank defendant arbitration provider (NAF), and, after defeating summary judgment, Berger & Montague is preparing the case for trial against the remaining two bank defendants.

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

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

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

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

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

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

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

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

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

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

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

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

***In re Buspirone Antitrust Litigation:*** The firm served on the court-appointed steering committee in this class action, representing a class of primarily pharmaceutical wholesalers and resellers. The Buspirone class action alleged that pharmaceutical manufacturer BMS engaged in a pattern of illegal conduct surrounding its popular anti-anxiety medication, Buspar, by paying a competitor to refrain from marketing a generic version of Buspar, improperly listing a patent with the FDA, and wrongfully prosecuting patent infringement actions against generic competitors to Buspar. On April 11, 2003, the Court finally approved a \$220 million settlement. (MDL No. 1410 (S.D.N.Y.)).

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

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

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

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

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

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

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

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

***Bogosian v. Gulf Oil Corp.:*** With Berger & Montague as sole lead counsel, this landmark action on behalf of a national class of more than 100,000 gasoline dealers against 13 major oil companies led to settlements of over \$35 million plus equitable relief on the eve of trial. (No. 71-1137 (E.D. Pa.)).

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

#### **Securities Litigation**

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

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

***In re KLA Tencor Securities Litigation:*** The firm, as a member of Plaintiffs' Counsel's Executive Committee, obtained a cash settlement of \$65 million in an action on behalf of

investors against KLA-Tencor and certain of its officers and directors. (No. 06-cv-04065 (N.D. Cal.)).

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

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

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

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

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

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

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

***In re Alcatel Alsthom Securities Litigation:*** In 2001, the firm, as co-lead counsel, obtained a class settlement for investors of \$75 million cash. (MDL Docket No. 1263 (PNB) (E.D. Tex.)).

***In re Rite Aid Corp. Securities Litigation:*** The firm, as co-lead counsel, obtained settlements totaling \$334 million against Rite Aid's outside accounting firm and certain of the company's former officers. (99 CV 1349 (E.D. Pa.)).

***In re Sunbeam Inc. Securities Litigation:*** As co-lead counsel, the firm obtained a settlement on behalf of investors of \$141 million in the action against Sunbeam's outside accounting firm and Sunbeam's officers. (98 CV 8258 (S.D. Fla.)).

***In re Waste Management, Inc. Securities Litigation:*** In 1999, the firm, as co-lead counsel, obtained a class settlement for investors of \$220 million cash which included a settlement against Waste Management's outside accountants. (97 CV 7709 (N.D. Ill.)).

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

***In re Melridge Securities Litigation:*** The firm served as lead counsel and co-lead trial counsel for a class of purchasers of Melridge common stock and convertible debentures. A four-month jury trial yielded a verdict in plaintiffs' favor for \$88.2 million, and judgment was entered on RICO claims against certain defendants for \$239 million. The court approved settlements totaling \$57.5 million. (CV-87-1426 FR (D. Ore.)).

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

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

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

***RJR Nabisco Securities Litigation:*** In this action, Berger & Montague represented individuals who sold RJR Nabisco securities prior to the announcement of a corporate change of control. This securities case settled for \$72 million. (88 Civ. 7905 MBM (S.D.N.Y.)).

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

**Consumer Litigation**

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

***Burgo v. Volkswagen of America, Inc. d/b/a Audi of America, Inc.:*** The firm served as co-lead counsel in litigation brought on behalf of a nationwide class against premises on defendants' defective tires that were prone to bubbles and bulges. Counsel completed extensive discovery and class certification briefing. A settlement was reached while the decision on class certification was pending. The settlement consisted of remedies including total or partial reimbursement for snow tires, free inspection/replacement of tires for those who experienced sidewall bubbles, blisters, or bulges, and remedies for those class members who incurred other costs related to the tires' defects. (Docket No. HUD-L-2392-01 (N.J. Sup. Ct. 2001)).

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

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

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

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

***In re: Countrywide Financial Corp. Customer Data Security Breach Litigation:*** The firm served on the Executive Committee of this multidistrict litigation and obtained a settlement for a class of 17 million individuals whose personal information was at risk when a rouge employee sold their information to unauthorized third parties. Settlement benefits included: (i) reimbursement of several categories of out-of-pocket costs; (ii) credit monitoring and identity theft insurance for 2 years for consumers who did not accept Countrywide's prior offer of credit monitoring; and (iii) injunctive relief. The settlement was approved by the court in 2010. (3:08-md-01998-TBR (W.D. Ky. 2008)).

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

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

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

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

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

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

## THE SHAREHOLDER:

### Lawrence Deutsch

Lawrence Deutsch is a graduate of Boston University (B.A. 1973), George Washington University's School of Government and Business Administration (M.S.A. 1979), and Temple University's School of Law (J.D. 1985). He became a member of the Pennsylvania Bar in 1986 and the New Jersey Bar in 1987. He has also been admitted to practice in Eastern District of Pennsylvania, the First Circuit Court of Appeals, the Second Circuit Court of Appeals, the Third Circuit Court of Appeals, the Fourth Circuit Court of Appeals and the U.S. Court of Federal Claims as well as various jurisdictions across the country for specific cases.

At the Berger firm, Mr. Deutsch has been involved in numerous major shareholder class action cases. He recently served as lead counsel in the Delaware Chancery Court on behalf of Class A shareholders in a corporate governance litigation concerning the rights and valuation of their shareholdings. Defendants in the case were the Philadelphia Stock Exchange, the Exchange's Board of Trustees, and six major Wall Street investment firms. The case settled for \$99 million and also included significant corporate governance provisions. Chancellor Chandler, when approving the settlement allocation and fee awards on July 2, 2008, complimented counsel's effort and results, stating, "Counsel, again, I want to thank you for your extraordinary efforts in obtaining this result for the class." The Chancellor had previously described the intensity of the litigation when he had approved the settlement, "All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this case."

Mr. Deutsch currently is court-appointed Lead Counsel or a primary attorney in numerous complex litigation cases: *George v. Uponor, Inc.*, 12-cv-249 (D.Minn.) MDL 2393; *Fox et al v. Prime Group Realty Trust et al*, No. 12-cv-09350 (N.D.Ill.); one of principal trial counsel for plaintiffs in *Fred Potok v. Floorgraphics, Inc., et al* (Phila Co. CCP 080200944 and Phila Co. CCP 090303768); serving on team of Lead Counsel in *In Re: Certaineed Fiber Cement Siding Litigation* (proposed settlement of \$103 million pending).

Over the 25 years working in complex litigation, Mr. Deutsch has been a lead attorney on many substantial matters. Mr. Deutsch served as one of lead counsel in the *In Re Sunbeam Securities Litigation* class action concerning "Chainsaw" Al Dunlap (recovery of over \$142 million for the class in 2002). As counsel on behalf of the City of Philadelphia he served on the Executive Committee for the securities litigation regarding *Frank A Dusek, et al v. Mattel Inc., et al* (recovery of \$122 million for the class in 2006).

Mr. Deutsch recently served as lead counsel for a class of investors in Scudder/Deutsche Bank mutual funds in the nationwide Mutual Funds Market Timing cases. Mr. Deutsch

served on the Plaintiffs' Omnibus Steering Committee for the consortium of all cases. These cases recovered over \$300 million in 2010 for mutual fund purchasers and holders against various participants in widespread schemes to "market time" and late trade mutual funds, including \$14 million recovered for Scudder/Deutsche Bank mutual fund shareholders.

Mr. Deutsch has also represented plaintiffs in numerous matters of broker/dealer arbitrations, consumer fraud, individual securities disputes and construction litigation.

In addition to his litigation work, Mr. Deutsch has been a member of the firm's Administrative Committee over the past ten years and also manages the firm's paralegals. He has also regularly represented indigent parties through the Bar Association's VIP Program, including the Bar's highly acclaimed representation of homeowners facing mortgage foreclosure.

Prior to joining the Berger firm, Mr. Deutsch served in the Peace Corps from 1973-1976, serving in Costa Rica, the Dominican Republic and Belize. (He presently serves on the Board of Directors of the Friends of the Dominican Republic.) He then worked for ten years at the United States General Services Administration.

**OUR ASSOCIATE**

**Eugene R. Tompkins**

Gene Tompkins graduated from the United States Merchant Marine Academy (B.S.M.E.) and the New York University Graduate School of Business Administration (M.B.A) and Temple University School of Law (J.D.). Mr. Tompkins concentrates on complex, technically-oriented disputes and business-related matters under antitrust, securities, consumer and corporate governance areas of federal and state law. His prior experience in numerous facets of the international transportation and oil and gas industries complements his efforts in many of the areas encountered in increasingly complex litigation.