

BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP
JONATHAN D. USLANER (Bar No. 256898)
jonathanu@blbglaw.com
2121 Avenue of the Stars, Suite 2575
Los Angeles, CA 90067
Tel: (310) 819-3472

*Counsel for Lead Plaintiffs Public School
Teachers' Pension & Retirement Fund of
Chicago and Arkansas Teacher Retirement
System and Lead Counsel for the Class*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE RH, INC. SECURITIES
LITIGATION

Case No. 4:17-00554-YGR

ECF CASE

**DECLARATION OF JONATHAN
D. USLANER IN SUPPORT OF
(I) LEAD PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF
SETTLEMENT AND PLAN OF
ALLOCATION, AND (II) LEAD
COUNSEL'S MOTION FOR
ATTORNEYS' FEES AND
LITIGATION EXPENSES**

Judge: Hon. Yvonne Gonzalez Rogers
Courtroom: 1
Date: October 22, 2019
Time: 2:00 p.m.

TABLE OF CONTENTS**PAGE**

EXHIBIT LIST	iii
I. HISTORY OF THE ACTION	3
A. The Commencement of the Action and the Appointment of Lead Plaintiffs and Lead Counsel	3
B. The Investigation and Filing of the Consolidated Complaint	3
C. Defendants' Motion to Dismiss	5
D. The Parties Conduct Extensive Fact Discovery	8
1. Document Discovery	9
2. Depositions	11
3. Discovery Disputes	13
E. Lead Plaintiffs' Motion for Class Certification	13
F. Work with Experts	14
G. The Parties' Mediation Efforts and the Settlement of the Action	15
H. The Court Grants Preliminary Approval of the Settlement	16
II. RISKS OF CONTINUED LITIGATION	17
A. Risks Concerning Liability	17
1. Falsity	18
2. Scierter	19
B. Risks Related to Loss Causation and Damages	20
C. The Settlement Amount Compared to Likely Damages that Could Be Proved at Trial	21
III. LEAD PLAINTIFFS' COMPLIANCE WITH THE COURT'S PRELIMINARY APPROVAL ORDER REQUIRING ISSUANCE OF NOTICE	21
IV. ALLOCATION OF THE PROCEEDS OF THE SETTLEMENT	23
V. THE FEE AND EXPENSE APPLICATION	26
A. The Fee Application	26

1	1.	Lead Plaintiffs Have Authorized and Support the Fee Application.....	27
2	2.	The Work Performed by Lead Counsel	27
3	3.	The Experience and Standing of Lead Counsel	31
4	4.	Standing and Caliber of Defendants’ Counsel.....	32
5	5.	The Risks of Litigation and the Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Cases	32
6			
7	6.	The Reaction of the Class to the Fee Application.....	33
8	B.	The Expense Application.....	33
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

EXHIBIT LIST

Ex. No.	Description
1	Declaration of Charles A. Burbridge, Executive Director of the Public School Teachers' Pension & Retirement Fund of Chicago, in Support of (I) Lead Plaintiffs' Motion for Final Approval of Settlement and Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Burbridge Decl.")
2	Declaration of Rod Graves, Deputy Director of Arkansas Teacher Retirement System, in Support of (I) Lead Plaintiffs' Motion for Final Approval of Settlement and Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Graves Decl.")
3	Declaration of Eric J. Miller Regarding (A) Mailing of Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date ("Miller Decl.")
4	Summary Chart of Lead Counsel's Hours and Lodestar
5	Summary Descriptions of Work Performed by Lead Counsel's Attorneys
6	Summary of Lead Counsel's Hours and Lodestar by Litigation Category
7	BLB&G's Firm Resume
8	Lead Counsel's Expense Report
9	Cornerstone Research, Securities Class Action Settlements: 2018 Review and Analysis (2019)
10	NERA Economic Consulting, Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review (2019)
11	<i>Hatamian v. Advanced Micro Devices, Inc.</i> , No. 4:14-cv-00226-YGR, slip op. (N.D. Cal. Mar. 2, 2018), ECF No. 364
12	<i>In re The PMI Grp., Inc. Sec. Litig.</i> , No. 3:08-cv-01405-SI, slip op. (N.D. Cal. Dec. 16, 2010), ECF No. 105
13	<i>In re UTStarcom, Inc. Sec. Litig.</i> , No. 5:04-cv-4908 JW, slip op. (N.D. Cal. Aug. 31, 2010), ECF No. 429

1 JONATHAN D. USLANER declares as follows:

2 1. I am a partner of the law firm of Bernstein Litowitz Berger & Grossmann LLP
3 (“BLB&G”). BLB&G was appointed Class Counsel and Lead Counsel for Lead Plaintiffs Public
4 School Teachers’ Pension & Retirement Fund of Chicago (“Chicago Teachers”) and Arkansas
5 Teacher Retirement System (“ATRS”) (collectively, “Lead Plaintiffs”) in the above-captioned
6 action (the “Action”). I have personal knowledge of the matters set forth herein based on my
7 active participation in all aspects of the prosecution and settlement of the Action.¹

8 2. The proposed Settlement before the Court provides for the resolution of all claims
9 in the Action in exchange for a cash payment of \$50,000,000.00, plus interest, for the benefit of
10 the Class. The Settlement Amount has been paid into an escrow account and is earning interest.
11 As detailed herein, the Settlement provides a benefit to the Class by conferring a substantial,
12 certain, and immediate recovery while avoiding the significant risks of continued litigation,
13 including the risk that the Class could recover nothing or less than the Settlement Amount after
14 years of additional litigation, appeals, and delay.

15 3. The proposed Settlement is the result of extensive efforts by Lead Plaintiffs and
16 Lead Counsel, which included, among other things: (i) conducting an investigation into the alleged
17 fraud, including interviews of dozens of former employees of RH and a thorough review of public
18 information such as filings with the U.S. Securities and Exchange Commission (“SEC”), analyst
19 reports, conference call transcripts, and news articles; (ii) drafting the initial complaint in the
20 Action and a detailed consolidated complaint based on Lead Counsel’s investigation;
21 (iii) successfully opposing Defendants’ motion to dismiss through briefing and argument;
22 (iv) engaging in extensive fact discovery, including analyzing and reviewing more than 10 million
23 pages of documents from Defendants and third parties obtained through document requests and
24 subpoenas; (v) taking or defending 15 fact and expert depositions; (vi) successfully moving for
25

26 ¹ All capitalized terms that are not otherwise defined herein shall have the meanings provided in
27 the Stipulation and Agreement of Settlement dated May 6, 2019 (ECF No. 135-1) (the
28 “Stipulation”), which was entered into by and among (i) Lead Plaintiffs, on behalf of themselves
and the Class, and (ii) defendant RH (“RH” or the “Company”) and defendants Gary Friedman and
Karen Boone (collectively, the “Individual Defendants” and, together with RH, “Defendants”).

1 certification of the Class; (vii) successfully opposing Defendants' Rule 23(f) petition to appeal the
2 certification of the Class; (viii) consulting extensively with experts on the home-furnishings
3 industry, market efficiency, and class-wide damages throughout the Action; and (ix) engaging in
4 extended arm's-length settlement negotiations, which included two separate full-day mediation
5 sessions with former United States District Judge Layn R. Phillips, an experienced and highly
6 respected mediator. Due to these efforts, Lead Plaintiffs and Lead Counsel were well informed of
7 the strengths and weaknesses of the claims and defenses in the Action at the time they achieved the
8 proposed Settlement.

9 4. The \$50 million Settlement was based on a mediator's recommendation made by
10 Judge Phillips after the second of the two in-person mediation sessions and several months of
11 arm's-length settlement negotiations.

12 5. Lead Plaintiffs are both sophisticated institutional investors, actively participated in
13 the Action, and closely supervised the work of Lead Counsel and they both endorse the approval of
14 the Settlement. *See* Declaration of Charles A. Burbridge, Executive Director of Chicago Teachers
15 ("Burbridge Decl."), attached hereto as Exhibit 1, at ¶¶ 3-6; Declaration of Rod Graves, Deputy
16 Director of ATRS ("Graves Decl."), attached hereto as Exhibit 2, at ¶¶ 3-7.

17 6. As discussed in further detail below, the proposed Plan of Allocation, which was
18 developed with the assistance of Lead Plaintiffs' damages expert, provides for the equitable
19 distribution of the Net Settlement Fund to Class Members who submit Claim Forms that are
20 approved for payment by the Court on a *pro rata* basis fairly based on losses attributable to the
21 alleged fraud.

22 7. For its efforts in achieving the Settlement, Lead Counsel requests a fee of 15% of
23 the Settlement Fund. As discussed in the Fee Memorandum, the requested fee is well below the
24 25% benchmark for percentage fee awards in the Ninth Circuit and is below the range of
25 percentage fees that courts within this Circuit typically award for similarly-sized settlements. Lead
26 Counsel respectfully submits that the requested fee of 15% of the Settlement Fund is fair and
27 reasonable in light of the result achieved in the Action, the efforts of Lead Counsel, and the risks
28 and complexity of the litigation.

I. HISTORY OF THE ACTION

A. The Commencement of the Action and the Appointment of Lead Plaintiffs and Lead Counsel

8. On February 2, 2017, Lead Counsel filed the initial class action complaint in this matter on behalf of the City of Miami General Employees' & Sanitation Employees' Retirement Trust (ECF No. 1) (the "Initial Complaint"). The Initial Complaint, filed in the United States District Court for the Northern District of California (the "Court"), asserted violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and SEC Rule 10b-5 against RH and the Individual Defendants, and of Section 20(a) of the Exchange Act against the Individual Defendants.

9. In accordance with the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4 (the "PSLRA"), Lead Counsel caused a notice to be published in a national newswire service on February 2, 2017 advising potential class members of the pendency of the action, the claims asserted, and the deadline by which putative class members could move the Court for appointment as lead plaintiff.

10. Chicago Teachers and ATRS, represented by Lead Counsel, moved for appointment as Lead Plaintiffs on April 3, 2017. (ECF Nos. 11-12.) Three other movants (or groups of movants) filed competing motions for appointment as lead plaintiff on the same day. (ECF Nos. 7-8, 15, 17, 21-22.) Chicago Teachers and ATRS had the largest financial interest in the litigation of any of the competing movants. (ECF No. 35 at 1-2.)

11. On April 26, 2017, the Court entered an Order which provided that the case be recaptioned as *In re RH, Inc. Securities Litigation*, Case No. 4:17-cv-00554-YGR (the "Action"); ordered that a related action be consolidated into the Action; appointed Chicago Teachers and ATRS as Lead Plaintiffs for the Action; and approved Lead Plaintiffs' selection of BLB&G as Lead Counsel for the Class. (ECF No. 39.)

B. The Investigation and Filing of the Consolidated Complaint

12. Beginning prior to the filing of the Initial Complaint and continuing through preparation of the consolidated complaint on behalf of Lead Plaintiffs, Lead Counsel undertook an

1 extensive investigation into the alleged fraud and potential claims that could be asserted in the
2 Action. This investigation included a review and analysis of: (a) RH's public filings with the SEC;
3 (b) research reports by securities and financial analysts; (c) videos and transcripts of RH's
4 conference calls with analysts and investors; (d) Company presentations, press releases, and
5 reports; (e) Company marketing materials; (f) news and media reports concerning the Company
6 and other facts related to this action; and (g) price and volume data for RH securities.

7 13. In addition, in connection with its investigation, Lead Counsel and its in-house
8 investigators conducted an extensive search to locate former employees of RH and industry
9 participants who might have relevant information pertaining to the claims asserted in the Action.
10 This included developing a database of over 3,000 potential witness and contacting 219 former RH
11 employees who were believed to have potentially relevant information. Lead Counsel and/or its
12 in-house investigators spoke to over 65 of these individuals. Lead Counsel ultimately included
13 detailed information received from 26 of these former RH employees in the Consolidated
14 Complaint.

15 14. In connection with the preparation of the Consolidated Complaint, Lead Counsel
16 also consulted with Chad Coffman of Global Economics LLC, a Chartered Financial Analyst with
17 substantial experience in providing expert analysis and testimony regarding loss causation and
18 damages in securities class actions. Lead Counsel consulted with Mr. Coffman concerning the
19 impact of Defendants' alleged misstatements and omissions on the market price of RH's common
20 stock, and the damages suffered by RH shareholders.

21 15. On June 12, 2017, Lead Plaintiffs filed and served the Consolidated Class Action
22 Complaint for Violations of the Federal Securities Laws (ECF No. 45) (the "Consolidated
23 Complaint" or "Complaint"). The detailed, 90-page Complaint asserts claims against all
24 Defendants under Section 10(b) of Exchange Act and Rule 10b-5, and against the Individual
25 Defendants under Section 20(a) of the Exchange Act. The Complaint alleges that, from March 26,
26 2015 through June 8, 2016 (the "Class Period"), Defendants made materially false and misleading
27 statements about the launch of RH's new product line, RH Modern, and the Company's inventory
28 levels. The Complaint alleges that Defendants' statements during the Class Period touting the

1 Company's launch of RH Modern, its preparations for the launch, and that it was making
2 investments in RH Modern inventory were false and misleading because, in fact, RH had
3 essentially no RH Modern furniture in stock, which led to lengthy delays in satisfying orders,
4 numerous cancellations, and costly efforts to repair damaged customer relations. The Complaint
5 also alleges that, later in the Class Period, Defendants made false or misleading statements about
6 the success of the RH Modern launch and about the reasons for RH's disappointing financial
7 results, falsely blaming factors such as macroeconomic trends rather than problems relating to
8 delays in production and inventory shortages in RH Modern. The Complaint further alleges that
9 the price of RH common stock was artificially inflated as a result of Defendants' allegedly false
10 and misleading statements and declined when the truth was revealed through a series of partial
11 disclosures beginning on December 10, 2015 and concluding on June 8, 2016.

12 **C. Defendants' Motion to Dismiss**

13 16. On August 2, 2017, Defendants filed and served a motion to dismiss the Complaint.
14 (ECF No. 50.) Defendants argued that the Complaint should be dismissed because Lead Plaintiffs
15 had not alleged any materially false and misleading statements made by Defendants during the
16 Class Period; that certain challenged statements were also non-actionable because they were
17 forward-looking statements; and that the Complaint failed to allege facts giving rise to a strong
18 inference of scienter and failed to adequately plead loss causation. Specifically, Defendants
19 argued that:

- 20 (a) Defendants' statements to investors about the Company's current inventory and
21 expected inventory growth were not false or misleading because the reported total
22 inventory data was accurate, and statements about future inventory were proved
23 correct;
- 24 (b) Defendants' statements to investors about supply chain issues and backlogs were
25 not misleading because Defendants made express statements indicating that not all
26 the products were on hand;
- 27
28

- (c) Lead Plaintiffs' theory of the case was implausible because it was not logical that Defendants would seek to prop up the price of RH stock in the short term when they knew that the truth would be revealed in a very short time frame;
- (e) the allegations in the Complaint from former RH employees did not establish scienter because only four of the 26 witnesses had any direct contact with Defendant Friedman (and none had contact with Defendant Boone);
- (f) many of the statements challenged by Lead Plaintiffs were forward-looking statements accompanied by meaningful cautionary language and, thus, were protected by the PSLRA's "safe harbor" provision; and
- (g) the Complaint failed to plead loss causation because Lead Plaintiffs failed to plead that any misrepresentation or omission inflated the stock price and the alleged corrective disclosures did not reveal the falsity of any previous statement by Defendants.

17. On August 2, 2017, Defendants also filed a request for judicial notice, in which they asked the Court to consider the contents of 25 documents submitted to the Court on the grounds that they were either incorporated by reference in the Complaint or were documents of which the Court should take judicial notice, including the Company's SEC filings and other public communications. (ECF No. 51.)

18. On September 11, 2017, Lead Plaintiffs filed and served their memorandum of law in opposition to Defendants' motion to dismiss the Complaint. (ECF No. 53.) Lead Plaintiffs explained that the Complaint adequately identified the false and misleading statements and omissions, detailed the reasons why each challenged statement was false or omitted material facts, raised a strong inference of scienter, and alleged loss causation. Among other things, Lead Plaintiffs argued that:

- (a) Defendants' statements to investors before the RH Modern launch were misleading because the Company had not invested in RH Modern ahead of sales as represented;
- (b) Defendants' partial disclosures after the RH Modern launch were themselves misleading because they downplayed or omitted the true extent of problems with

1 the RH Modern launch, misled investors about the reasons for RH's disappointing
2 financial results, and misrepresented the costs of customer accommodations;

3 (c) the 26 employees who provided the accounts detailed in the Complaint were well-
4 placed and reliable;

5 (d) the Complaint raised a strong inference of scienter because Defendants emphasized
6 how important the launch was to RH, the Individual Defendants were well informed
7 about the status of RH Modern and inventory levels through regular meetings and
8 reports, and Defendant Friedman was personally involved in product development,
9 sourcing, and inventory management;

10 (e) the PSLRA safe harbor did not apply because the challenged statements were not
11 forward looking, but rather statements of present fact; and

12 (f) the Complaint met the standard for pleading loss causation by detailing a series of
13 disclosures concerning RH Modern production delays, remediation costs, and the
14 true state of affairs behind the Company's rising inventories, and resulting declines
15 in the price of RH stock following those disclosures.

16 19. Lead Plaintiffs also objected to Defendants' motion for judicial notice. (ECF No.
17 54.) Specifically, Lead Plaintiffs objected to the Court's consideration of the documents for the
18 truth of the matters asserted therein, as well as to the consideration of certain incomplete SEC
19 filings.

20 20. On October 6, 2017, Defendants filed and served reply papers in support of their
21 motion and their request for judicial notice and made a supplemental request for judicial notice.
22 (ECF Nos. 56-58.) On October 13, 2017, Lead Plaintiffs filed objections to new exhibits
23 submitted with Defendants' reply papers. (ECF No. 59.)

24 21. The Court held oral argument on Defendants' motion to dismiss and related request
25 for judicial notice on October 31, 2017. (ECF Nos. 60, 63.)

26 22. On February 26, 2018, the Court entered an Order denying Defendants' motion to
27 dismiss. (ECF No. 68.) Consistent with Lead Plaintiffs' arguments, the Court found that Plaintiffs
28 adequately alleged that Defendants' statements were misleading when made. The Court also

1 found that Lead Plaintiffs' allegations created a strong inference of scienter and satisfied the
2 pleading requirements for loss causation.

3 23. On April 10, 2018, Defendants filed their Answer to the Complaint. (ECF No. 78.)
4 In their Answer, Defendants denied that any of the statements at issue were materially false or
5 misleading, or made with scienter. Defendants additionally asserted eleven affirmative defenses,
6 including that their statements were protected by the PSLRA safe harbor for forward-looking
7 statements; that the alleged misrepresentations or omissions were based on good-faith and
8 reasonable reliance upon the work, opinions, information, representations, and advice of others
9 upon whom Defendants were entitled to rely; and that Defendants acted at all times in good faith
10 and exercised reasonable care and did not know, and in the exercise of reasonable care could not
11 have known, of any alleged misconduct, untruth, omission, or any other action alleged in the
12 Complaint.

13 **D. The Parties Conduct Extensive Fact Discovery**

14 24. Discovery in the Action commenced in March 2018, following the Court's denial of
15 Defendants' motion to dismiss.

16 25. Lead Plaintiffs served their First Set of Requests for the Production of Documents
17 to All Defendants on March 16, 2018 and received Defendants' first set of document requests on
18 March 22, 2018. On March 28, 2018, Lead Plaintiffs served their first set of Requests for
19 Admission to all Defendants, which sought admission of facts relevant to Lead Plaintiffs' motion
20 for class certification, including facts relevant to determining the efficiency of the market for RH
21 common stock.

22 26. Lead Counsel also prepared for their upcoming conference with Defendants under
23 Federal Rule of Civil Procedure 26(f) and prepared Lead Plaintiffs' Initial Disclosure Statement.
24 Consistent with the guidance set forth in the Northern District of California's "Checklist for Rule
25 26(f) Meet and Confer Regarding Electronically Stored Information," Lead Counsel conferred
26 with Lead Plaintiffs concerning, among other things: (a) Lead Plaintiffs' document preservation
27 processes; (b) the location of relevant documents and the identification of systems where those
28

documents resided; and (c) individuals for inclusion in Lead Plaintiffs' Initial Disclosure Statement pursuant to Federal Rule of Civil Procedure 26(a).

27. The Parties exchanged their Initial Disclosure Statements pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure on April 13, 2018.

28. The Parties also drafted a Joint Case Management Statement submitted to the Court on April 16, 2018, which discussed the facts, issues, and history of the case and set forth the Parties' views on the scope of discovery to be conducted, e-discovery procedures, and proposed scheduling. The Parties' Joint Case Management Statement also included discussion of the Parties' conflicting views on whether discovery on class certification should be bifurcated from merits discovery. (ECF No. 79.)

29. The Court held a case management conference on April 23, 2018 (ECF No. 84) and entered a Case Management Order on April 25, 2018, which rejected Defendants' request to bifurcate discovery (ECF No. 86). The deadlines set forth in this order included that Lead Plaintiffs' motion of class certification was to be filed by June 22, 2018 and that fact discovery, including depositions, was to be completed by January 31, 2019. (*Id.*) Subsequent case management and pretrial orders were entered on October 3, 2018 and January 1, 2019. (ECF Nos. 109, 123.)

30. The Parties also negotiated the terms of the protective order governing the treatment of documents and other information produced in discovery, which the Parties submitted to the Court on April 20, 2018. (ECF No. 80.) The Court entered the stipulated protective order, with amendments, on April 25, 2018. (ECF No. 81.)

1. Document Discovery

31. Defendants served their Responses and Objections to Defendants' First Request for Production of Documents on April 23, 2018 and began the production of documents in May 2018. In the months that followed, Lead Counsel engaged in numerous meet and confers with Defendants' Counsel, both by telephone and in person, and conducted extensive negotiations over the scope and adequacy of Defendants' discovery responses, including relating to the search terms to be used and custodians whose documents should be searched. After extensive, hard-fought

1 negotiations, Defendants agreed to conduct searches of over 20 custodians, including their central
2 files, hardcopy files, emails, and text messages.

3 32. Lead Plaintiffs served their first set of interrogatories on Defendants on May 21,
4 2018, which were principally aimed at identifying third parties from whom discovery might be
5 taken, and included requests that Defendants (a) identify the persons or entities whose “work,
6 opinions, information, representations, and advice” Defendants intended to rely upon in asserting
7 their affirmative defense; (b) identify the Company’s RH Modern vendors; and (c) identify any
8 consultants they used in connection with the RH Modern launch or RH inventory management
9 issues. Defendants served their Responses to Lead Plaintiffs’ First Set of Interrogatories on June
10 20, 2018.

11 33. In December 2018, Lead Plaintiffs served their Second Request for Production of
12 Documents, Second Set of Requests for Admissions, and Second Set of Interrogatories on each of
13 the Defendants. Lead Plaintiffs’ Second Requests for Production of Documents sought production
14 of all documents referred to or identified in any of the responses to Lead Plaintiffs’ interrogatories,
15 requests for admission, and document requests served on Defendants. Lead Plaintiffs’ Second Set
16 of Requests for Admissions included over 700 requests for admissions related to all aspects of the
17 case, and the Second Set of Interrogatories asked Defendants to respond to key questions related to
18 the merits of the claims asserted.

19 34. Lead Plaintiffs also issued extensive discovery requests to various non-parties who
20 might possess relevant information. In total, Lead Plaintiffs issued more than 20 subpoenas to
21 non-parties, including four of RH’s vendors as well as a number of former RH executives.

22 35. In response to the requests for production of documents and subpoenas, Defendants
23 and non-parties produced a total of approximately 10 million pages of documents to Lead
24 Plaintiffs. Lead Counsel reviewed, analyzed, and coded the documents received. In reviewing the
25 documents, attorneys were tasked with making several analytical determinations as to the
26 documents’ importance and relevance. Specifically, they determined whether the documents were
27 “hot,” “relevant,” or “not relevant.” They also assessed which specific issues the documents
28 concerned and determined the identities of the RH employees or other potential deponents to

1 whom the documents related so that the documents could be retrieved when preparing for
2 depositions. Lead Counsel's partners and senior counsel structured the document review to
3 include regular team meetings to discuss the documents of highest interest and other issues that
4 arose during the document review. Through these meetings, Lead Counsel ensured that all
5 attorneys involved in the review understood the developing nature of the evidence and focused
6 document review on the key issues in the Action. The documents discussed included those that
7 were particularly relevant to Lead Plaintiffs' claims and that offered insight into other important
8 aspects of the case, including Defendants' likeliest defenses.

9 36. With Lead Counsel's assistance, Lead Plaintiffs searched for and gathered
10 documents in their own files that were responsive to Defendants' requests for production of
11 documents, which documents were then reviewed by Lead Counsel. Defendants served their First
12 Request for Production of Documents to Lead Plaintiffs on March 22, 2018, which requested 39
13 categories of documents, including those concerning Lead Plaintiffs' transactions in RH and any
14 related communications, Lead Plaintiffs' involvement in the Action, and their engagement of Lead
15 Counsel. Lead Plaintiffs filed their Responses and Objections to Defendants' requests on April 23,
16 2018 and began producing documents to Defendants that day. In total, Lead Plaintiffs produced
17 over 12,000 pages of documents to Defendants in response to their requests. Defendants also
18 served subpoenas on three of Lead Plaintiffs' investment advisors and received thousands of pages
19 in response to those subpoenas. Lead Plaintiffs also responded to two sets of interrogatories
20 propounded by Defendants.

21 2. Depositions

22 37. A total of 15 depositions were taken in the Action before the Settlement was
23 reached. These included the depositions of representatives of the two Lead Plaintiffs and of
24 Defendants' expert witness on damages methodologies. They also included 12 depositions of fact
25 witnesses, including the chief officers responsible for merchandizing, inventory, and accounting at
26 RH; the Chief Operating Officer of RH; and RH's co-CEO during the Class Period. The chart
27 below identifies the depositions that were taken in the Action, by deponent, date of deposition, and
28 witness affiliation or title during the Class Period:

Deponent	Date	Witness Affiliation or Title During the Class Period
Charles Burbridge	7/10/2018	Executive Director of Lead Plaintiff Chicago Teachers (Rule 30(b)6 representative for Chicago Teachers)
Rodney Graves	7/31/2018	Deputy Director of Lead Plaintiff ATRS (Rule 30(b)6 representative for ATRS)
Paul Zurek, Ph.D.	9/4/2018	Defendants' Expert on Class-wide Damages Methodologies
Lyle Poindexter	11/14/2018	RH Senior Director of Financial Planning and Analysis, and Vice President of Financial Planning and Analysis
Ashley Kechter	11/15/2018	RH Senior Vice President of Inventory Planning and Allocation, and Chief Inventory Officer
Bonnie McConnell-Orofino	11/19/2018	RH Chief Merchandising Officer
Danielle Hansmeyer	12/11/2018	RH Chief Merchandising Officer
Carlos Alberini	12/18/2016	RH co-Chief Executive Officer
Glenda Citragno	12/20/2018	RH Chief Accounting Officer
Heidi Klingebiel	1/11/2019	RH Vice President of Sourcing
Kenneth Dunaj	1/18/2019	RH Executive Vice President and Chief Operating Officer
Ted Tuescher	1/18/2019	RH Vice President of E-Commerce
Jack Preston	1/24/2019	RH Senior Vice President of Finance and Strategy
Tiffany Gantus	1/30/2019	RH Vice President of Internal Audit (Rule 30(b)6 representative for RH)
Michael Friedrich	1/31/2019	RH Vice President of Global Sourcing and Product Integrity

38. By agreement of the parties, three depositions were rescheduled outside of the discovery period. These depositions were ultimately not held because the Parties reached an agreement in principle to settle the Action in early March 2019, prior to the date they were rescheduled to occur.

3. Discovery Disputes

39. Discovery in the Action was highly contested. Lead Counsel and Defendants' Counsel exchanged numerous letters and participated in numerous meet-and-confer sessions regarding, among other things, the scope of the documents produced and the adequacy of responses to interrogatories. The great majority of these disputes were resolved through negotiation between the Parties and without the intervention of the Court. In one instance, the Parties' dispute required presentation of the issues to the Court, which were referred to Magistrate Judge Thomas S. Hixson for resolution. The dispute was resolved following the Parties' submission of a joint letter brief on December 14, 2018 (ECF No. 115) and a telephonic hearing before Magistrate Judge Hixson on December 21, 2018 (ECF Nos. 119, 125).

E. Lead Plaintiffs' Motion for Class Certification

40. On June 22, 2018, Lead Plaintiffs filed their motion for class certification. (ECF Nos. 94-95.) The motion was supported by a memorandum of law (ECF No. 94) and an expert report from Lead Plaintiffs' market efficiency expert, Professor Steven P. Feinstein, opining that the market for RH common stock was efficient and that per-share damages for Class Members could be calculated through a common methodology (ECF No. 95-1).

41. The Parties conducted discovery in connection with Lead Plaintiffs' class certification motion. In July 2018, Charles Burbridge, the Executive Director of Chicago Teachers, and Rod Graves, the Deputy Director of ATRS, were deposed in their capacities as Rule 30(b)(6) representatives of Chicago Teachers and ATRS, respectively. In addition, as noted above, Lead Plaintiffs produced over 12,000 pages of the documents to Defendants in response to their document requests.

42. On August 14, 2018, Defendants filed their opposition to Lead Plaintiffs' class certification motion. (ECF No. 101). Defendants argued, among other things, that a class should

1 not be certified because Lead Plaintiffs had not presented a valid method for calculating damages
2 on a class-wide basis. (*Id.* at 11-19). Defendants supported their argument with an expert report
3 from Paul Zurek, Ph.D., a financial economist employed by Cornerstone Research, who challenged
4 Dr. Feinstein's conclusion regarding the common damages methodology. (ECF No. 101-2.)

5 43. On September 4, 2018, Lead Counsel took the deposition of Dr. Zurek regarding
6 the issues raised in his expert report. On September 11, 2018, Lead Plaintiffs filed reply papers in
7 further support of their motion, which included a supplemental expert report of Professor
8 Feinstein. (ECF Nos. 103-104.)

9 44. On October 1, 2018, the Court held oral argument on Lead Plaintiffs' motion for
10 class certification. (ECF Nos. 108, 110.) On October 11, 2018, the Court granted the motion and
11 entered an Order certifying the proposed Class, appointing Lead Plaintiffs as Class
12 Representatives, and appointing BLB&G as Class Counsel. (ECF No. 111.)

13 45. On October 25, 2018, Defendants filed a petition to appeal the Court's Order
14 certifying the Class to the Court of Appeals for the Ninth Circuit pursuant to Rule 23(f) of the
15 Federal Rules of Civil Procedure. (ECF No. 112; Ninth Circuit Case No. 18-80148, Dkt. No. 1.)
16 Lead Plaintiffs filed their opposition to the Rule 23(f) petition on November 5, 2018. (Ninth
17 Circuit Case No. 18-80148, Dkt. No. 2.) The Court of Appeals denied Defendants' petition on
18 January 24, 2019. (ECF No. 121.)

19 **F. Work with Experts**

20 46. Lead Plaintiffs retained several highly qualified experts and consultants in
21 disciplines including market efficiency, damages, loss causation, and the retail home furnishing
22 industry to assist in the prosecution of this Action. Lead Counsel consulted extensively with these
23 experts and consultants throughout the litigation. Lead Plaintiffs' experts and consultants
24 included: (a) Professor Steven P. Feinstein, of Crowninshield Financial Research, a financial
25 economist who served as Lead Plaintiffs' expert on market efficiency; (b) Chad Coffman, of
26 Global Economics Group, who provided Lead Plaintiffs with expert advice on damages and loss
27 causation issues; and (c) Peter Sassi, a consultant and former executive at Williams Sonoma, who
28

1 provided expertise on inventory management and other issues related to the retail home furnishing
2 industry.

3 47. Lead Counsel consulted with these experts throughout the litigation of the Action,
4 including in preparing the Consolidated Complaint, in reviewing documents produced in
5 discovery, and in preparation for settlement negotiations. In addition, as noted above, Lead
6 Counsel worked with Professor Feinstein to prepare an expert report on market efficiency and
7 class-wide damages methodology that was filed in support of Lead Plaintiffs' class certification
8 motion. After the Settlement was reached, Lead Counsel worked with Mr. Coffman and his team
9 at Global Economics Group to develop the Plan of Allocation.

10 **G. The Parties' Mediation Efforts and the Settlement of the Action**

11 48. Pursuant to Local Rule 16-8 and ADR Local Rule 3-5, the Parties conferred prior to
12 the initial case management conference and discussed potential dispute resolution options for the
13 Action. On April 2, 2018, the Parties executed a stipulation and proposed order agreeing to
14 participate in mediation with a private mediator to be mutually agreed by the Parties. (ECF No.
15 75.) On April 25, 2018, the Court so-ordered that stipulation and ordered that the mediation
16 session be held by September 28, 2018. (ECF No. 82.)

17 49. The Parties conferred and selected former United States District Judge Layn
18 Phillips to serve as the mediator for the Action. Judge Phillips is an experienced mediator of
19 securities class actions and other complex litigation. The Parties scheduled the mediation session
20 for August 24, 2018.

21 50. On August 6, 2018, in advance of the mediation, the Parties exchanged detailed
22 mediation statements addressing liability, loss causation, and damages with numerous exhibits that
23 were also submitted to Judge Phillips. A full-day, in-person mediation session with Judge Phillips
24 was held on August 24, 2018 at Judge Phillips's offices in Corona del Mar, California. The
25 participants at the mediation included (a) Lead Counsel; (b) representatives of both Lead Plaintiffs
26 Chicago Teachers and ATRS; (c) counsel for Defendants; and (d) counsel for Defendants'
27 insurance carriers. At the mediation session, the Parties engaged in vigorous settlement
28 negotiations with the assistance of Judge Phillips, but they were not able to reach an agreement.

1 51. In early 2019, following the certification of the Class and as the fact discovery
2 process neared its conclusion, the Parties scheduled a second mediation session with Judge Phillips
3 for March 1, 2019. In advance of that session, the Parties submitted and exchanged supplemental
4 mediation statements on February 15, 2019. On March 1, 2019, Lead Counsel, representatives of
5 both Lead Plaintiffs, and counsel for Defendants and Defendants' insurance carriers participated in
6 a second full-day, in-person mediation. Although the Parties were unable to reach an agreement
7 during that session, the distance between their positions had narrowed.

8 52. On March 3, 2019, Judge Phillips issued a mediator's recommendation to the
9 Parties that the Action be resolved in exchange for payment of \$50,000,000.00 in cash for the
10 benefit of the Class. The proposal was issued on a double-blind basis, meaning that if one of the
11 parties had rejected the proposal they would not find out whether the other party had accepted the
12 proposal. Both Lead Plaintiffs and Defendants informed Judge Phillips that they accepted the
13 proposal. After further negotiation of the non-monetary terms of the Settlement, the Parties
14 executed a Term Sheet on March 21, 2019, setting forth their agreement in principle to settle the
15 Action in return for the payment of \$50,000,000.00 in cash to be paid for the benefit of the Class.

16 53. In the ensuing weeks, the Parties negotiated the full terms of the Settlement and
17 drafted the Settlement Agreement and related papers, including the notices to be provided to the
18 Class. On May 6, 2019, the Parties executed the Stipulation and Agreement of Settlement (ECF
19 No. 135-1) (the "Stipulation"), which set forth the complete terms of the Parties' agreement to
20 settle all claims asserted in the Action for \$50,000,000.00, subject to the approval of the Court.

21 **H. The Court Grants Preliminary Approval of the Settlement**

22 54. On May 6, 2019, Lead Plaintiffs filed a motion for preliminary approval of the
23 Settlement. (ECF No. 135.)

24 55. Following a hearing on June 18, 2019, the Court entered the Order Preliminarily
25 Approving Settlement and Providing for Notice (ECF No. 142) (the "Preliminary Approval
26 Order") which, among other things: (a) preliminarily approved the Settlement; (b) approved the
27 form of Notice, Summary Notice, and Claim Form, and authorized notice to be given to Class
28 Members through mailing of the Notice and Claim Form, posting of the Notice and Claim Form on

1 a Settlement website, and publication of the Summary Notice in *The Wall Street Journal* and over
 2 the *PR Newswire*; (c) established procedures and deadlines by which Class Members could
 3 participate in the Settlement, request exclusion from the Class, or object to the Settlement, the
 4 proposed Plan of Allocation, and/or the fee and expense application; and (d) set a schedule for the
 5 filing of opening papers and reply papers in support of the proposed Settlement, Plan of
 6 Allocation, and the Fee and Expense Application. The Preliminary Approval Order also scheduled
 7 the Settlement Hearing for October 22, 2019 at 2:00 p.m. to determine, among other things,
 8 whether the Settlement should be finally approved.

9 **II. RISKS OF CONTINUED LITIGATION**

10 56. The Settlement provides an immediate and certain benefit to the Class in the form
 11 of a \$50,000,000.00 cash payment. Lead Plaintiffs and Lead Counsel believe that the proposed
 12 Settlement is a favorable result for the Class.

13 57. As explained below, Lead Plaintiffs faced meaningful risks with respect to proving
 14 liability and recovering full damages in this case. Absent a settlement, Lead Plaintiffs would still
 15 need to prevail at several additional stages of the litigation, including in defeating Defendants'
 16 anticipated motion for summary judgment, at trial, and on appeal. At each of these stages, Lead
 17 Plaintiffs would have faced significant risks related to establishing liability and full damages,
 18 including, among other things, overcoming Defendants' loss causation challenges. Even after any
 19 trial, Lead Plaintiffs would have faced post-trial motions, including a potential motion for
 20 judgment as a matter of law, as well as further appeals that might have prevented Lead Plaintiffs
 21 from successfully obtaining a recovery for the Class.

22 **A. Risks Concerning Liability**

23 58. Lead Plaintiffs and Lead Counsel believe that the claims asserted against
 24 Defendants in the Action are meritorious. They recognize, however, that this Action presented a
 25 number of meaningful risks to establishing Defendants' liability. As discussed further below,
 26 Defendants vigorously argue that their challenged statements about the launch of RH Modern and
 27 the Company's inventory levels were not false or misleading when made, and, in any event, even if
 28

1 any of their statements were false or misleading, Defendants did not have any intent to mislead
2 investors.

3 **1. Falsity**

4 59. Lead Plaintiffs and Lead Counsel recognize that, while they prevailed at the motion
5 to dismiss stage, they may have been unable to convince a jury of Defendants' liability. Among
6 other things, Lead Plaintiffs recognize the challenges in proving that Defendants' statements were
7 materially false and misleading when made. Neither the SEC nor any other governmental entity
8 brought a related investigation or asserted a parallel enforcement action concerning the claims
9 asserted, and RH never restated any of its financial statements. To the contrary, Defendants have
10 consistently asserted that their statements to investors were accurate when they were made.
11 Defendants would vigorously contend that their statements were not false or misleading at
12 summary judgment, at trial, and on appeal.

13 60. As to their statements to investors prior to RH Modern's launch, Defendants would
14 continue to argue that their March 26, 2015 statements about inventory did not specifically
15 reference RH Modern, and their general statements about RH's investment in inventory systems
16 were true. Defendants also would continue to argue that their various statements about the
17 Company's overall inventory growth in each period were accurate, with Defendants never telling
18 the market that they would have any specific amount of RH Modern inventory in stock at the time
19 of RH Modern's launch. Defendants would also continue to argue that, by the time of their
20 statements, they had placed orders for nearly all of the RH Modern SKUs, and they believed, based
21 on information received from RH's vendors, that large percentages of the products would be in
22 stock in the coming months. In addition, Defendants would continue to argue that unexpected
23 problems encountered by one key overseas vendor in scaling up to produce RH Modern products
24 was the major cause of their supply chain difficulties that they later suffered—i.e., *not* their failure
25 to timely order the products—and that they reasonably relied on their vendors' assurances when
26 making their statements to investors. There was a meaningful risk that a fact-finder might find
27 these arguments persuasive and determine that Defendants' statements prior to the launch of RH
28 Modern were not false or misleading.

61. As to Defendants' statements after RH Modern's launch, Defendants would continue to argue that their statements about RH Modern's initial performance were accurate and that RH did not realize that its major vendor would not be able to meet its commitments until after their statements to investors. Defendants would further contend that they did not omit anything when they spoke to investors, but rather candidly disclosed to investors how RH's in-stock position was "not great" at the time. In addition, Lead Counsel anticipated that Defendants would likely offer expert opinion that the macro-economic factors that RH identified for investors—including oil and home prices—were adversely impacting their business and causing the problems faced by the Company.

62. Moreover, in support of their arguments, Lead Counsel anticipated that Defendants would invariably attempt to point to the fact that the price of RH's stock has fully recovered since the Class Period, and the RH Modern brand has since proven to be extremely successful.

2. Scierter

63. If able to prove that Defendants' statements were false or misleading, Lead Plaintiffs would still need to prove to a jury that Defendants made the alleged false statements with the intent to mislead investors or with deliberate recklessness. Among other things, Defendants would point to their absence of "insider sales" as evidence of a lack of intent. They would also point to the absence of any "whistleblowers" or SEC inquiry or criticism as further evidence of an absence of scierter. Defendants asserted—and would continue to assert to a jury—that they had no motive to commit fraud and that there was no logical basis for Defendants to engage in the alleged fraud.

64. Pointing to contemporaneous documents, Defendants would also argue that they made their statements based on assurances from RH's vendors that turned out to be inaccurate. Defendants would contend that they believed, based on information received from RH's vendors and other sources at the time, that the statements were accurate when made. They would also point to the fact that RH made several cautionary statements to investors about possible delays in deliveries during the Class Period which, they would argue, were inconsistent with Lead Plaintiffs'

1 allegations of intentional fraud on this issue. Lead Plaintiffs and Lead Counsel recognized a risk
2 that a trier-of-fact may accept one or more of Defendants' scienter arguments.

3 **B. Risks Related to Loss Causation and Damages**

4 65. Even assuming that Lead Plaintiffs and Lead Counsel overcame Defendants'
5 arguments and established liability, Lead Plaintiffs would have still confronted additional
6 challenges in establishing loss causation and damages. Risks related to loss causation and
7 damages were a meaningful driver of the settlement value of this case.

8 66. Lead Plaintiffs and Lead Counsel anticipate that Defendants would argue at trial
9 and subsequent stages of the proceedings that the declines in the price of RH common stock
10 identified by Lead Plaintiffs were not caused entirely—or at all—by the alleged corrective
11 disclosures. On the same day as certain of the alleged disclosures, Defendants disclosed other,
12 unrelated, negative financial news, such as that quarterly revenue would be at the low end and
13 below prior guidance. With the support of their experts, Defendants would assert that this news,
14 rather than any correction of prior misstatements, was responsible for the subsequent declines in
15 stock price following the disclosures.

16 67. Defendants also would have argued that Lead Plaintiffs could not “disaggregate”
17 the declines caused by disclosure of the alleged fraud from the declines caused by unrelated
18 negative news. Moreover, they would contend that, even if Lead Plaintiffs could disaggregate the
19 fraud-related news, such disaggregation would substantially reduce damages. For example,
20 Defendants argued that only relatively small portions of the revenue shortfalls reported in the
21 alleged corrective disclosures could be attributed to problems associated with the roll-out of RH
22 Modern and, thus, Lead Plaintiffs would not be able to establish that significant portions of the
23 price declines were in reaction to the news about RH Modern delays. Similarly, Defendants
24 argued that the revelation on June 8, 2016 that it had spent \$18 million to “elevate customer
25 experience” represented only a small fraction of the RH's earnings per share and thus could, at
26 most, account for only a small percentage of the stock price decline on a date that also involved
27 disclosure of other disappointing financial results. If Defendants were able to prevail on any of
28 these arguments, the amount of potential damages may have been meaningfully reduced.

C. The Settlement Amount Compared to Likely Damages that Could Be Proved at Trial

68. The Settlement Amount—\$50 million in cash, plus interest—represents a significant recovery for the Class. The Settlement is approximately six times the size of the median securities class-action settlement in the Ninth Circuit between 2009 and 2018 (\$8.3 million). See Cornerstone Research, *Securities Class Action Settlements: 2018 Review and Analysis* (2019), attached hereto as Exhibit 9, at 19.

69. The \$50 million Settlement is also a favorable result when it is considered in relation to the maximum amount of damages that could be realistically established at trial, in the event that Lead Plaintiffs and the Class prevailed on liability issues, including falsity and scienter. Assuming Lead Plaintiffs prevailed on all liability issues (which was far from certain), Lead Counsel believes that the maximum total damages that Lead Plaintiffs could realistically establish at trial ranged from approximately \$306.5 million to approximately \$117.1 million, depending on the outcome of certain loss causation arguments. Accordingly, assuming that Lead Plaintiffs prevailed on all liability issues at trial and appeal, the Settlement Amount represents approximately 43% to 16% of the maximum realistic damages for the Class.

70. Given the meaningful litigation risks, and the immediacy and amount of the \$50,000,000.00 recovery for the Class, Lead Plaintiffs and Lead Counsel believe that the Settlement is fair, reasonable, and adequate, and is in the best interest of the Class.

III. LEAD PLAINTIFFS' COMPLIANCE WITH THE COURT'S PRELIMINARY APPROVAL ORDER REQUIRING ISSUANCE OF NOTICE

71. The Court's Preliminary Approval Order directed that the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice") and Proof of Claim and Release Form ("Claim Form") be disseminated to potential members of the Class. The Preliminary Approval Order also set October 1, 2019 as the deadline for Class Members to submit objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application or to request exclusion from the Class.

1 72. In accordance with the Preliminary Approval Order, Lead Counsel instructed A.B.
2 Data, Ltd. (“A.B. Data”), the Court-approved Claims Administrator, to begin disseminating copies
3 of the Notice and the Claim Form by mail and to publish the Summary Notice. The Notice
4 contains, among other things, a description of the Action, the Settlement, the proposed Plan of
5 Allocation, and Class Members’ rights to participate in the Settlement, object to the Settlement, the
6 Plan of Allocation and/or the Fee and Expense Application, or exclude themselves from the Class.
7 The Notice also informs Class Members of Lead Counsel’s intent to apply for an award of
8 attorneys’ fees in the amount of 15% of the Settlement Fund, and for reimbursement of Litigation
9 Expenses in an amount not to exceed \$950,000.

10 73. To disseminate the Notice and Claim Form (together, the “Notice Packet”), A.B.
11 Data obtained information from RH and from banks, brokers, and other nominees regarding the
12 names and addresses of potential Class Members. The accompanying Declaration of Eric Miller,
13 attached hereto as Exhibit 3, provides additional information about the Claims Administrators’
14 distribution of the Notice Packet. *See* Miller Decl. ¶¶ 2-10. I have had numerous communications
15 with A.B. Data to oversee the process of disseminating notice to Class Members and the initial
16 processing of claims received, including participating in conference calls with A.B. Data staff on
17 June 24, July 8, July 22, August 5, August 19, September 3, and September 16, 2019.

18 74. A.B. Data began mailing copies of the Notice Packet to potential Class Members
19 and nominee owners on July 9, 2019. *Id.* ¶¶ 3-5. As of September 13, 2019, A.B. Data
20 disseminated a total of 76,685 Notice Packets to Class Members and nominees. *Id.* ¶ 8.

21 75. On July 23, 2019, in accordance with the Preliminary Approval Order, A.B. Data
22 caused the Summary Notice to be published in *The Wall Street Journal* and to be transmitted over
23 the *PR Newswire*. *Id.* ¶ 11.

24 76. Lead Counsel also caused A.B. Data to establish a dedicated settlement website,
25 RHSecuritiesLitigation.com, to provide potential Class Members with information concerning the
26 Settlement and access to copies of the Notice and Claim Form, as well as copies of the Stipulation,
27 Preliminary Approval Order, and other relevant documents. *See* Miller Decl. ¶ 16. That website
28 became operational on July 9, 2019. *Id.* Lead Counsel also made copies of the Notice and Claim

Form and other documents available on its own website, blbglaw.com. Lead Counsel and A.B. Data have regularly monitored the settlement website to ensure that it is operating correctly. Lead Counsel and A.B. Data will continue to monitor and to update the settlement website as the settlement process continues. For example, Lead Plaintiffs' papers in support of their motion for final approval of the Settlement and Lead Counsel's papers in support of its motion for attorneys' fees and litigation expenses will be made available on the website after they are filed, and any orders entered by the Court in connection with the motions will also be posted.

77. As set forth above, the deadline for Class Members to file objections to the Settlement, Plan of Allocation, or Fee and Expense Application, or to request exclusion from the Class is October 1, 2019. To date, no requests for exclusion have been received, *see* Miller Decl. ¶ 17, and no objections to the Settlement, Plan of Allocation, or Lead Counsel's Fee and Expense Application have been received. Lead Counsel will file reply papers on or before October 8, 2019, that will address all any requests for exclusion and objections that may be received.

IV. ALLOCATION OF THE PROCEEDS OF THE SETTLEMENT

78. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all Class Members who want to be eligible to participate in the distribution of the Net Settlement Fund must submit a valid Claim Form with all required information postmarked no later than October 8, 2019. As set forth in the Notice, the Net Settlement Fund will be distributed among Class Members who submit eligible claims according to the plan of allocation approved by the Court.

79. Lead Counsel consulted with Lead Plaintiffs' damages expert in developing the proposed plan of allocation for the Net Settlement Fund (the "Plan of Allocation"). Lead Counsel believes that the Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Fund among Class Members who suffered losses as result of the conduct alleged in the Action.

80. The Plan of Allocation is set forth at pages 11 to 15 of the Notice. *See* Miller Decl., Ex. A at pp. 11-15. As described in the Notice, calculations under the Plan of Allocation are intended as a method to weigh the claims of Class Members against one another for the purposes of making an equitable allocation of the Net Settlement Fund. *See* Notice ¶ 57.

1 81. In developing the Plan of Allocation, Lead Plaintiffs' damages expert calculated the
2 estimated amount of artificial inflation in RH common stock during the Class Period that was
3 allegedly caused by Defendants' challenged statements to investors. *See* Notice ¶ 58. In
4 calculating the estimated artificial inflation, Lead Plaintiffs' expert considered price changes in RH
5 common stock in reaction to the public announcements allegedly revealing the truth concerning
6 Defendants' alleged misrepresentations and material omissions, adjusting for price changes that
7 were attributable to market and industry forces. *Id.* ¶ 59.

8 82. Recognized Loss Amounts are calculated under the Plan of Allocation for each
9 purchase or acquisition of RH common stock that is listed on a Claimant's Claim Form and for
10 which adequate documentation is provided. In general, Recognized Loss Amounts are calculated
11 as the lesser of: (a) the difference between the amount of alleged artificial inflation in RH common
12 stock at the time of purchase or acquisition and the time of sale, or (b) the difference between the
13 purchase price and the sale price for the shares. *See* Notice ¶¶ 61, 71. Claimants who purchased
14 and sold all their RH shares before the first alleged corrective disclosure, or who purchased and
15 sold all their RH shares between two consecutive dates on which artificial inflation was allegedly
16 removed from the price of the stock (that is, they did not hold the shares over a date where
17 artificial inflation was allegedly removed from the stock price), will have no Recognized Loss
18 Amount under the Plan of Allocation with respect to those transactions because the level of
19 artificial inflation is the same between the corrective disclosures, and any loss suffered on those
20 sales would not be the result of the alleged misstatements in the Action. *See* Notice ¶¶ 61, 71.

21 83. As stated in the Notice, Lead Plaintiffs' damages expert identified two instances in
22 which the corrective disclosure is believed to have removed artificial inflation from the price of
23 RH common stock over the course of two trading days following the disclosure – rather than just
24 one day. *See* Notice ¶ 60 n.4. Specifically, (i) following the corrective disclosure after the close of
25 trading on December 10, 2015, artificial inflation was removed from the stock price on both
26 Friday, December 11, 2015 and Monday, December 14, 2015; and (ii) following the final alleged
27 partial corrective disclosure that occurred after the close of trading on June 8, 2016, alleged
28 artificial inflation was removed from the stock price on Thursday, June 9, 2016, and Friday, June

1 10, 2016. *Id.* The Plan of Allocation uses different tables for artificial inflation on the date of
2 purchase (Table A-1) and artificial inflation on date of sale (Table A-2) to account for these two-
3 day corrective disclosures.

4 84. As stated in the Notice, and in accordance with the PSLRA, Recognized Loss
5 Amounts for shares of RH common stock sold during the 90-day period after the end of the Class
6 Period are further limited to the difference between the purchase price and the average closing
7 price of the stock from the end of the Class Period to the date of sale. Notice ¶ 71.C. Recognized
8 Loss Amounts for RH common stock still held as of the close of trading on September 6, 2016, the
9 end of the 90-day period, will be the lesser of (a) the amount of artificial inflation on the date of
10 purchase or (b) the difference between the purchase price and \$29.86, the average closing price for
11 the stock during that 90-day period. *Id.* ¶ 71.D. The sum of a Claimant's Recognized Loss
12 Amounts for all of his, her, or its purchases of RH common stock during the Class Period is the
13 Claimant's "Recognized Claim." Notice ¶ 72. The Plan of Allocation also limits Claimants'
14 Recognized Loss Amounts based on whether they had an overall market loss in their transactions
15 in RH common stock during the Class Period. A Claimant's Recognized Claim will be limited to
16 the amount of his, her, or its market loss in RH common stock transactions during the Class
17 Period, and Claimants who have an overall market gain are not eligible for a recovery. *Id.* ¶¶ 78-
18 79.

19 85. The Net Settlement Fund will be allocated to Authorized Claimants on a *pro rata*
20 basis based on the relative size of their Recognized Claims. Notice ¶¶ 80-81. If an Authorized
21 Claimant's *pro rata* distribution amount calculates to less than ten dollars, no payment will be
22 made to that Authorized Claimant. *Id.* ¶ 82. Those funds will be included in the distribution to the
23 Authorized Claimants whose payments exceed the ten-dollar minimum.

24 86. One-hundred percent of the Net Settlement Fund will be distributed to Authorized
25 Claimants. If any funds remain after the initial *pro rata* distribution, as a result of uncashed or
26 returned checks or other reasons, subsequent cost-effective distributions to Authorized Claimants
27 will be conducted. Notice ¶ 83. Only when the residual amount left for re-distribution to Class
28 Members is so small that a further re-distribution would not be cost effective (for example, where

the administrative costs of conducting the additional distribution would largely subsume the funds available), will those funds be donated to the *cy pres* recipient. *Id.*

87. The Plan of Allocation identifies the Investor Protection Trust as the proposed *cy pres* recipient if there are any residual funds remaining after all cost-effective distributions to Class Members have been completed. Notice ¶ 83. The Investor Protection Trust is a 501(c)(3) nonprofit organization devoted to investor education. Information about the Investor Protection Trust's activities, including investor education and protection programs and research on the subject of investor education, is found on the IPT's website, www.investorprotection.org.

88. In sum, the Plan of Allocation was designed to fairly and rationally allocate the proceeds of the Net Settlement Fund among Class Members based on damages they suffered on purchases of RH common stock that were attributable to the misconduct alleged in the Action, and to date, no objections to the proposed Plan of Allocation have been received.

V. THE FEE AND EXPENSE APPLICATION

89. Lead Counsel is applying to the Court for an award of attorneys' fees of 15% of the Settlement Fund. Lead Counsel also requests payment for litigation expenses that it incurred in connection with the prosecution of the Action from the Settlement Fund in the amount of \$797,049.35 (the "Expense Application"). In accordance with the PSLRA, 15 U.S.C. § 78u-4(a)(4), Lead Counsel further requests reimbursement to Lead Plaintiffs Chicago Teachers and ATRS in the aggregate amount of \$7,852.28 for costs and expenses that Lead Plaintiffs incurred directly related to their representation of the Class. The legal authorities supporting the requested fee and expenses are discussed in Lead Counsel's Fee Memorandum. The primary factual bases for the requested fee and expenses are summarized below.

A. The Fee Application

90. For its efforts on behalf of the Class, Lead Counsel is applying for a fee award to be paid from the Settlement Fund on a percentage basis. The percentage method is the standard and appropriate method of fee recovery because it aligns the lawyers' interest in being paid a fair fee with the interests of Lead Plaintiffs and the Class in achieving the maximum recovery in the shortest amount of time required under the circumstances. Use of the percentage method has been

1 recognized as appropriate by the Supreme Court and Ninth Circuit for cases of this nature where
 2 an all-cash common fund has been recovered for the Class.

3 91. Based on the quality of the result achieved, the extent and quality of the work
 4 performed, the significant risks of the litigation, and the fully contingent nature of the
 5 representation, Lead Counsel respectfully submits that the requested fee award is reasonable and
 6 should be approved. As discussed in the Fee Memorandum, a 15% fee award is substantially
 7 below the 25% benchmark for percentage fee awards in the Ninth Circuit, is below the range of
 8 percentage fees typically awarded in securities class actions in this Circuit, and is fair and
 9 reasonable in light of all the circumstances in this case.

10 **1. Lead Plaintiffs Have Authorized and Support the** 11 **Fee Application**

12 92. Lead Plaintiffs Chicago Teachers and ATRS are both sophisticated institutional
 13 investors that closely supervised and monitored the prosecution and settlement of this Action. *See*
 14 Declaration of Charles A. Burbridge on behalf of Chicago Teachers (“Burbridge Decl.”), attached
 15 hereto as Exhibit 1, at ¶¶ 2-5; Declaration of Rod Graves on Behalf of ATRS (“Graves Decl.”),
 16 attached hereto as Exhibit 2, at ¶¶ 2-6. Both Lead Plaintiffs have evaluated the Fee Application
 17 and fully support the fee requested. *See* Burbridge Decl. ¶ 7; Graves Decl. ¶ 8.

18 93. The fee requested is consistent with a retainer agreement entered into between Lead
 19 Counsel BLB&G and Lead Plaintiff Chicago Teachers at the outset of the litigation, which
 20 provided for a percentage fee of 15% if a settlement was reached after a ruling on a motion to
 21 dismiss and before a ruling on summary judgment. *See* Burbridge Decl. ¶ 7. Both Lead Plaintiffs
 22 have evaluated the Fee Application in light of the result obtained, the substantial risks in the
 23 litigation, and the work performed by Lead Counsel and both support the fee requested as fair and
 24 reasonable. *See* Burbridge Decl. ¶ 7; Graves Decl. ¶ 8.

25 **2. The Work Performed by Lead Counsel**

26 94. Lead Counsel devoted substantial time to the prosecution of the Action. The work
 27 that Lead Counsel performed in this Action included, among other things: (i) conducting an
 28 extensive investigation into the claims asserted, which included a detailed review of public

1 documents, interviews with numerous former RH employees, and consultation with experts;
2 (ii) drafting the Initial Complaint and the detailed Consolidated Complaint; (iii) researching,
3 briefing, and arguing Lead Plaintiffs' successful opposition to Defendants' motion to dismiss;
4 (iv) researching, briefing, and arguing Lead Plaintiffs' successful motion for class certification;
5 (v) successfully opposing Defendants' petition for immediate appellate review of the class
6 certification under Rule 23(f); (vi) undertaking substantial fact discovery, including reviewing
7 more than 10 million pages of documents and partaking in 15 depositions; (vii) consulting
8 extensively with experts and consultants; and (viii) engaging in extensive arm's-length settlement
9 negotiations to achieve the Settlement, including two mediation sessions with Judge Phillips.

10 95. Attached hereto as Exhibit 4 is a schedule summarizing the amount of time spent by
11 the attorneys and professional support staff employees of Lead Counsel BLB&G on the Action
12 from its inception through August 31, 2019, and a lodestar calculation for those individuals. As set
13 forth in Exhibit 4, the number of hours expended by BLB&G on the Action from its inception
14 through August 31, 2019 is 15,899.75, for a lodestar of \$7,898,411.25. The requested fee of 15%
15 of the Settlement Fund therefore represents a fractional amount (referred to as a "negative"
16 multiplier) of approximately 0.95 of Lead Counsel's lodestar. Such a request is below the positive
17 fee multipliers typically awarded in comparable securities class actions and in other class actions
18 involving contingency fee risk.

19 96. The information in this declaration and its exhibits regarding the time spent on the
20 Action by Lead Counsel's attorneys and other professional staff is based on contemporaneous
21 daily time records regularly prepared and maintained by BLB&G, which are available at the
22 request of the Court. I am one of the partners who oversaw and conducted the day-to-day
23 activities in the litigation, and I reviewed these time records to prepare this Declaration. The
24 purpose of this review was to confirm both the accuracy of the time entries and the necessity for,
25 and reasonableness of, the time committed to the litigation. All time expended in preparing this
26 application for fees and expenses was excluded; and all time expended on the administration of the
27 Settlement, including time incurred in communications with potential class members and
28 claimants, and in overseeing the dissemination of notice and the processing of claims by A.B. Data

1 was excluded. In addition, all time related to exclusively travel, when substantive work was not
2 being performed, has been excluded; and all time incurred by any timekeeper who spent fewer
3 than ten hours working on the Action has been excluded.

4 97. I believe that the time reflected in the firm's lodestar calculation is reasonable in
5 amount and was necessary for the effective and efficient prosecution and resolution of the
6 litigation.

7 98. The hourly rates for the attorneys and professional support staff in my firm included
8 in Exhibit 4 and the other exhibits to this declaration are the usual and customary rates set by the
9 Firm for each individual. These hourly rates are the same as, or comparable to, the rates accepted
10 by courts, including courts in this Circuit, in other contingent-fee securities-class-action litigation
11 or shareholder litigation. The firm's rates are set based on an annual analysis of rates that are
12 charged by firms performing comparable work and that have been approved by courts. Different
13 timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may
14 have different rates based on a variety of factors, including years of practice, years at the firm, year
15 in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the
16 rates of similarly experienced peers at our firm or other firms. For personnel who are no longer
17 employed by my firm, the current rate used for the lodestar calculation is based upon the rate for
18 that person in his or her final year of employment with the Firm.

19 99. Throughout the litigation, Lead Counsel maintained an appropriate level of staffing
20 that ensured the efficient prosecution of this litigation. To that end, in addition to partners, senior
21 counsel, and associates, Lead Counsel also relied upon its staff attorneys in prosecuting this
22 Action, whose work included (among other things) a review and analysis of the 10 million pages
23 of documents produced by Defendants, preparation of substantive memoranda on issues in the
24 case, actively assisting in preparation for depositions, and second chairing a deposition. The work
25 these attorneys conducted was substantive and crucial to Lead Plaintiffs' successful prosecution of
26 the case. The attorneys who participated in discovery in this Action had significant credentials and
27 experience, as set forth in their biographies included in BLB&G's firm resume. *See* Exhibit 7 at
28 30-32. The staff attorneys were each full-time W-2 employees of the firm, not independent

1 contractors or employees of a staffing firm; they were each supervised by the Firm's partners and
 2 senior counsel and had access to secretarial and paralegal support; and had Firm email addresses,
 3 access to the firm's 401(k) program, and eligibility to receive year-end bonuses.

4 100. Attached hereto as Exhibit 5 are summary descriptions of the principal tasks in
 5 which each attorney from my firm were involved in this Action.

6 101. Attached hereto as Exhibit 6 is a chart that reflects the hours spent by each
 7 timekeeper on each of the following task categories during the course of the Action:

- 8 (1) **Investigation and Pre-Filing Factual Research:** includes time spent on Lead
 9 Counsel's thorough investigation into the claims asserted in the Action,
 10 including reviewing the voluminous public record and identifying, contacting,
 and interviewing potential witnesses;
- 11 (2) **Lead-Plaintiff Appointment and Motion:** includes time spent on
 12 communicating with clients regarding the decision to seek the role of lead
 13 plaintiff in the Action, and researching and drafting motion papers for
 appointment of Chicago Teachers and ATRS as Lead Plaintiffs;
- 14 (3) **Complaints:** includes time incurred by Lead Counsel in researching and
 15 preparing the Initial Complaint and the Consolidated Complaint;
- 16 (4) **Case Management:** includes time incurred by Lead Counsel in preparing
 17 reports to the Court, participating in case management conferences and status
 hearings, negotiating and preparing stipulations and proposed scheduling
 orders;
- 18 (5) **Motion to Dismiss:** includes time incurred by Lead Counsel in researching
 19 and drafting Lead Plaintiffs' opposition to Defendants' motion to dismiss the
 20 Consolidated Complaint, as well as related briefing on Defendants' request for
 21 judicial notice, and preparing for and presenting oral argument in opposition
 to these motions;
- 22 (6) **Class Certification:** includes the time Lead Counsel spent researching and
 23 drafting the class certification motion papers; preparing for and presenting
 oral argument on the motion; and briefing the opposition to Defendants' Rule
 24 23(f) petition;
- 25 (7) **Discovery – Discovery Communications & General:** includes time spent
 26 by Lead Counsel on discovery correspondence; numerous meet and confers
 with Defendants' Counsel; preparing Lead Plaintiffs' Initial Disclosure
 27 Statement under Rule 26(a); drafting and negotiating the proposed protective
 order; and litigating discovery disputes;

- 1 (8) **Discovery – Written/Document Discovery:** includes the time incurred by
 2 Lead Counsel in drafting requests for production of documents,
 3 interrogatories, requests for admission, and subpoenas; preparing responses
 4 and objections to requests for production of documents, interrogatories, and
 5 requests for admission served on Lead Plaintiffs; reviewing client documents
 6 for production; reviewing and analyzing documents produced by Defendants
 7 and third parties; reviewing and producing privilege logs; and work related to
 8 the electronic document database;
- 9 (9) **Discovery – Deposition Discovery:** includes the time incurred by Lead
 10 Counsel in preparing to take and defend fact-witness depositions, including
 11 document review specifically for purposes of deposition preparation; taking
 12 and defending depositions; and reviewing and digesting depositions;
- 13 (10) **Expert Work:** includes the time Lead Counsel spent communicating with
 14 experts and consultants; working on preparing expert reports; and engaging in
 15 expert discovery, including preparing and taking the deposition of
 16 Defendants' expert on damages methodologies;
- 17 (11) **Mediation & Settlement:** includes time incurred by Lead Counsel in
 18 extended settlement negotiations with Defendants; preparing for and attending
 19 mediation sessions; drafting mediation statements; drafting and negotiating
 20 the Term Sheet and Stipulation of Settlement and related documents; and
 21 drafting settlement approval papers, including motions for preliminary and
 22 final approval (but does not including work related to Lead Counsel's motion
 23 for fees and expenses);
- 24 (12) **Strategy & Analysis:** includes time incurred by Lead Counsel devoted to
 25 overall case strategy and analysis, including litigation strategy and damages
 26 issues; and
- 27 (13) **Post-Filing Factual Research:** includes time incurred by Lead Counsel and
 28 its staff in conducting ongoing factual research outside of the discovery
 process after the filing of the Consolidated Complaint, including continuing
 investigative efforts, including communications with former RH employees,
 and the review of financial press and analyst reports related to RH and docket
 updates in related cases.

3. The Experience and Standing of Lead Counsel

102. A copy of Lead Counsel BLB&G's firm resume, which includes information about
 the standing of the firm and brief biographical summaries for each attorney listed in Exhibit 4,
 including information about their position, education, and relevant experience, is attached as
 Exhibit 7 hereto. As demonstrated by the firm resume, BLB&G is among the most experienced
 and skilled law firms in the securities litigation field, with a long and successful track record

representing investors in such cases. BLB&G is consistently ranked among the top plaintiffs' firms in the country. For example, in February 2019, BLB&G was named the national "Plaintiff Firm of the Year" by *Benchmark Litigation* for the fifth time since the award's inception six years ago, demonstrating its leadership in the field. In addition, ISS/Securities Class Action Services' 2019 report on the "Top 100 U.S. Class Action Settlements of All Time" shows that BLB&G has been lead or co-lead counsel in more top recoveries than any other firm in history. Further, BLB&G has taken complex cases such as this to trial, and it is among the few firms with experience doing so on behalf of plaintiffs in securities class actions. I believe this willingness and ability added valuable leverage in the settlement negotiations.

4. Standing and Caliber of Defendants' Counsel

103. Defendants were represented in the Action by a team of extremely able counsel from Morrison & Foerster LLP who vigorously litigated the Action. In the face of this skillful and well-financed opposition, Lead Counsel was nonetheless able to develop a case that was sufficiently strong to persuade Defendants and their counsel to settle the case on terms that will significantly benefit the Class.

5. The Risks of Litigation and the Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Cases

104. The prosecution of these claims was undertaken entirely on a contingent-fee basis, and the considerable risks assumed by Lead Counsel in bringing this Action to a successful conclusion are described above. The risks assumed by Lead Counsel here, and the time and expenses incurred by Lead Counsel without any payment, were extensive.

105. From the outset, Lead Counsel understood that it was embarking on a complex, expensive, lengthy, and hard-fought litigation with no guarantee of ever being compensated for the substantial investment of time and the outlay of money that the prosecution of the case would require. In undertaking that responsibility, Lead Counsel was obligated to ensure that sufficient resources (in terms of attorney and support staff time) were dedicated to the litigation, and that Lead Counsel would further advance all of the costs necessary to pursue the case vigorously on a fully contingent basis, including funds to compensate vendors and consultants and to cover the

considerable out-of-pocket costs that a case such as this typically demands. Because complex shareholder litigation often proceeds for several years before reaching a conclusion, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Lead Counsel has received no compensation during the course of this Action and no reimbursement of out-of-pocket expenses, yet they have incurred nearly \$800,000 in expenses in prosecuting this Action for the benefit of RH investors.

106. Lead Counsel also bore the risk that no recovery would be achieved in the Action. As discussed above, this case presented a number of significant trial risks and uncertainties from the outset, including challenges in proving the falsity of Defendants' statements, establishing scienter, and establishing loss causation and damages. These risks were elevated in this case, given that RH never restated any of its financial statements and there was no parallel SEC enforcement action or any criminal prosecution concerning the claims asserted. In addition, the price of RH's stock has recovered since the Class Period, and RH Modern has proven to be extremely successful.

107. The Settlement was reached only after Lead Counsel had engaged in substantial discovery and after Lead Plaintiffs' motion for class certification was decided. Lead Counsel's persistent efforts in the face of significant risks and uncertainties have resulted in a significant and certain recovery for the Class.

6. The Reaction of the Class to the Fee Application

108. As noted above, as of September 13, 2019, over 76,000 Notice Packets had been sent to potential Class Members advising them that Lead Counsel would apply for attorneys' fees in an amount not to exceed 15% of the Settlement Fund. *See* Miller Decl. ¶ 8 and Ex. A (Notice ¶¶ 5, 74). In addition, the Court-approved Summary Notice was published in *The Wall Street Journal* and transmitted over the *PR Newswire* on July 23, 2019. *See* Miller Decl. ¶ 11. To date, no objections to the request for attorneys' fees have been received.

B. The Expense Application

109. Lead Counsel also respectfully seeks \$797,049.35 in litigation expenses from the Settlement Fund that it reasonably incurred in connection with the prosecution of the Action.

1 110. From the outset of the Action, Lead Counsel has been cognizant of the fact that it
2 might not recover any of the expenses it incurred, and, further, if there were to be reimbursement
3 of expenses, it would not occur until the Action was successfully resolved, often a period lasting
4 several years. Lead Counsel also understood that, even assuming that the case were ultimately
5 successful, reimbursement of expenses would not necessarily compensate them for the lost use of
6 funds advanced by them to prosecute the Action. Consequently, Lead Counsel was motivated to,
7 and did, take significant steps to minimize expenses whenever practicable without jeopardizing the
8 vigorous and efficient prosecution of the case.

9 111. As set forth in Exhibit 8 hereto, Lead Counsel has paid or incurred a total of
10 \$797,049.35 in unreimbursed litigation expenses in connection with the prosecution of the Action.
11 The expenses are summarized in Exhibit 8, which identifies each category of expense (*e.g.*, experts
12 and consultants, online legal and factual research, travel, court fees, telephone charges, and
13 printing and copying) and the amount incurred for each category. These expenses are reflected on
14 the books and records maintained by Lead Counsel, which are prepared from expense vouchers,
15 check records, and other source materials and are an accurate record of the expenses incurred.
16 These expenses are submitted separately by Lead Counsel and are not duplicated by the firms'
17 hourly rates.

18 112. Approximately 27% of the total expenses, or \$215,583.50, was expended for the
19 retention of experts or consultants. As discussed above, these included Professor Steven P.
20 Feinstein, Lead Plaintiffs' expert on market efficiency; Chad Coffman, Lead Plaintiffs' expert
21 advice on damages and loss causation issues; and Peter Sassi, an industry expert. As discussed
22 above, Lead Counsel consulted extensively with experts in market efficiency, loss causation,
23 damages, and the retail furnishing industry throughout the Action.

24 113. Lead Counsel also incurred significant expenses associated with the necessary
25 processing of the 10 million pages of electronic documents received from Defendants and third
26 parties. Lead Counsel retained e-discovery vendors, Epiq eDiscovery Solutions and Precision
27 Discovery, Inc., to process the documents and host and manage the document database, which
28 allowed Lead Counsel to review efficiently the large volume of documents produced in the Action.

1 The costs associated with the e-discovery vendors' work was \$400,339.61, or approximately 50%
2 of the total expenses.

3 114. Lead Plaintiffs' share of the mediation fees paid to Phillips ADR for the services of
4 Judge Phillips amounted to \$40,102.50, or approximately 5% of the total expenses. The combined
5 costs of on-line legal and factual research were \$30,651.50, or approximately 4% of the total
6 expenses.

7 115. Lead Plaintiffs also incurred \$49,273.10, or approximately 6% of the total expenses,
8 for services of court reporters in preparing transcripts of several court hearings and the 15
9 depositions taken in the Action. The large majority of these court-reporting expenses (\$46,623.97)
10 were incurred by Veritext, the company Lead Counsel employed to transcribe the depositions it
11 noticed in the Action. Another \$2,649.13 was paid to other court reporters and court reporting
12 agencies.

13 116. The total costs for out-of-town travel incurred by attorneys of Lead Counsel and
14 Lead Plaintiffs for which reimbursement is sought is \$27,992.18, or 4% of the total expenses.
15 Travel costs were incurred as result of more than thirty trips to attend court hearings; depositions
16 including, among other things, defending Chicago Teachers' deposition in Chicago; and the two
17 separate mediations before Judge Phillips. In this application, reimbursement sought for airfare is
18 capped at coach rates and hotel charges per night are capped at a maximum of \$350 per night.

19 117. Of note, Lead Counsel has not sought reimbursement in this application for any of
20 the meal costs that it incurred while travelling. Lead Counsel also has not sought reimbursement
21 in this application for meal costs that it paid for its attorneys and staff engaged in after-hours work.

22 118. The other expenses for which Lead Counsel seeks payment are also the types of
23 expenses that are necessarily incurred in litigation and routinely charged to clients billed by the
24 hour. These expenses include, among others, court costs, printing and copying costs, long distance
25 telephone charges, postage and delivery expenses. The costs for internal copying and printing are
26 charged at \$0.10 per page. The charges reflected for on-line research are for out-of-pocket
27 payments to the vendors for research done in connection with this litigation. On-line research is
28

1 charged by BLB&G to each case based on actual time usage at a set charge by the vendor, and
2 there are no administrative charges included in these figures.

3 119. In addition, Lead Plaintiffs seek reimbursement of the reasonable costs and
4 expenses that they incurred directly in connection with their representation of the Class. Such
5 payments are expressly authorized and anticipated by the PSLRA, as more fully discussed in the
6 Fee Memorandum at 17-18. In accordance with the PSLRA, Lead Plaintiff ATRS seeks
7 reimbursement of \$1,892.28 for the time expended in connection with the Action by its Deputy
8 Director Rod Graves, who devoted a substantial amount of time communicating with Lead
9 Counsel, reviewing pleadings and motion papers, gathering and reviewing documents in response
10 to discovery requests, attending the mediations, and sitting for deposition. *See* Graves Decl. ¶¶ 10-
11 11. In accordance with the PSLRA, Lead Plaintiff Chicago Teachers likewise seeks
12 reimbursement of \$5,960.00 for the time that several of its employees dedicated to the Action, as
13 well as for the fees incurred by its outside counsel that provided advice in connection with Chicago
14 Teacher's negotiation of the retainer and role as Lead Plaintiff for the Class. *See* Burbridge Decl.
15 ¶¶ 9-11.

16 120. The total amount requested by Lead Plaintiffs and Lead Counsel for expenses,
17 \$804,901.63, is 15% below the \$950,000 that Class Members were advised could be sought in the
18 Notice. To date, no objection has been raised as to the maximum amount of expenses set forth in
19 the Notice.

20 121. Attached hereto are true and correct copies of the following documents cited in the
21 Settlement Memorandum or Fee Memorandum:

22 Exhibit 9: Cornerstone Research, Securities Class Action Settlements: 2018 Review
23 and Analysis (2019)

24 Exhibit 10: NERA Economic Consulting, Recent Trends in Securities Class Action
25 Litigation: 2018 Full-Year Review (2019)

26 Exhibit 11: *Hatamian v. Advanced Micro Devices, Inc.*, No. 4:14-cv-00226-YGR, slip
27 op. (N.D. Cal. Mar. 2, 2018), ECF No. 364

28 Exhibit 12: *In re The PMI Grp., Inc. Sec. Litig.*, No. 3:08-cv-01405-SI, slip op. (N.D.
Cal. Dec. 16, 2010), ECF No. 105

Exhibit 13: *In re UTStarcom, Inc. Sec. Litig.*, No. 5:04-cv-4908 JW, slip op. (N.D. Cal. Aug. 31, 2010), ECF No. 429

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on September 17, 2019.

/s Jonathan D. Uslander

Jonathan D. Uslander

#1315686

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE RH, INC. SECURITIES
LITIGATION,

Case No. 4:17-00554-YGR

ECF CASE

**DECLARATION OF CHARLES A. BURBRIDGE, EXECUTIVE DIRECTOR OF
THE PUBLIC SCHOOL TEACHERS' PENSION & RETIREMENT FUND OF
CHICAGO, IN SUPPORT OF (I) LEAD PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION; AND (II) LEAD
COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Charles A. Burbridge, hereby declare under penalty of perjury as follows:

1. I am the Executive Director of the Public School Teachers' Pension & Retirement Fund of Chicago (the "Chicago Teachers") one of the Court-appointed Lead Plaintiffs in this securities class action (the "Action"). I submit this declaration in support of (a) Lead Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (b) Lead Counsel's motion for attorneys' fees and Litigation Expenses, which includes Chicago Teachers' application for reimbursement of costs and expenses incurred by Chicago Teachers directly related to its representation of the Class in the Action. The following statements are based on my personal knowledge as well as information provided to me by other employees of the Chicago Teachers and members of its Board of Trustees who have been directly involved in monitoring and overseeing the prosecution of the Action.¹

2. Chicago Teachers is a public pension fund established for the exclusive benefit of teachers and certain other employees of the Chicago Public Schools. Chicago Teachers serves over 66,900 total members (including active members, retirees, and beneficiaries), and has over \$11 billion in assets under management.

¹ Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated May 6, 2019 (ECF No. 135-1) (the "Stipulation").

I. Chicago Teachers' Oversight of the Action

3. On April 26, 2017, the Court issued an Order appointing Chicago Teachers as a Lead Plaintiff in the Action pursuant to the Private Securities Litigation Reform Act of 1995, and approved its selection of BLB&G as Lead Counsel for the Class. Chicago Teachers has carefully monitored and supervised the prosecution of this Action. Chicago Teachers has received regular periodic status reports from Lead Counsel Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"), on case developments, and participated in discussions with attorneys from BLB&G concerning the prosecution of the Action, the strengths of and risks to the claims asserted, and potential settlement, including presentations to its Board by BLB&G attorneys. In particular, throughout the course of this Action, Chicago Teachers has, among other things: (a) communicated with BLB&G by regarding the posture and progress of the case and strategies for the prosecution of the Action; and (b) assisted in searching for and producing documents and information requested by Defendants in the course of discovery.

4. In addition, in my capacity as a corporate representative for Chicago Teachers, I was also deposed by counsel for Defendants in this Action on July 10, 2018. I spent a substantial amount of time preparing for and appearing at that deposition.

5. Representatives of Chicago Teachers also actively participated in the mediation process and consulted with BLB&G concerning the settlement negotiations as they progressed, including attending both mediation sessions on August 24, 2018 and March 1, 2019 in Corona Del Mar, California, and evaluated, approved and recommended approval of the proposed Settlement for \$50,000,000 in cash.

II. Chicago Teachers Endorses Approval of the Settlement by the Court

6. Based on its involvement throughout the prosecution of the Action, Chicago Teachers believes that the proposed Settlement is fair, reasonable, and adequate to the Class. Chicago Teachers believes that the proposed Settlement represents a substantial recovery for the Class, particularly in light of the substantial risks of continued litigation. Therefore, Chicago Teachers endorses approval of the Settlement by the Court.

III. Chicago Teachers Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

7. Chicago Teachers believes that Lead Counsel's request for an award of attorneys' fees in the amount of 15% of the Settlement Fund is fair and reasonable in light of the work performed by Lead Counsel on behalf of the Class. Chicago Teachers negotiated and approved that fee with BLB&G, subject to Court approval, at the outset of the Action. Specifically, in March 2017, Chicago Teachers entered into a retention agreement with BLB&G that provided for a percentage fee of 15% if a settlement was reached after a ruling on a motion to dismiss and before a ruling on summary judgment. Chicago Teachers negotiated and approved the retention agreement with BLB&G in an effort to set reasonable fees for the Class, while encouraging counsel to achieve a substantial recovery for the Class in a case that was viewed as having meaningful risks in proving liability and damages. Following the agreement to settle the Action for \$50 million, we have again reviewed the proposed 15% fee and believe it is fair and reasonable in light of the quality of the result obtained for the Class and the work performed by Lead Counsel.

8. Chicago Teachers further believes that the litigation expenses being requested for reimbursement to plaintiffs' counsel are reasonable, and represent costs and expenses necessary for the prosecution of the Action.

9. Chicago Teachers understands that reimbursement of a lead plaintiff's reasonable costs and expenses is authorized under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4). For this reason, in connection with Lead Counsel's request for reimbursement of litigation expenses, Chicago Teachers seeks reimbursement of the costs and expenses that it incurred directly related to its representation of the Class in this Action.

10. I dedicated at least **12** hours to supervising and participating in the prosecution of this Action on behalf of Chicago Teachers, which included time spent preparing for and attending my deposition. John Schomberg, who served as Chicago Teacher's Chief Legal Officer until March 2019, devoted at least **10** hours to the case, including time spent communicating with Lead Counsel, reviewing court filings, and assisting me in preparation for my deposition. Daniel

Hurtado, who is Chicago Teachers' current Chief Legal Officer and previously worked as Associate General Counsel for the fund, also devoted at least **20** hours, which included time spent communicating with Lead Counsel, reviewing court filings, coordinating the collection of Chicago Teachers' documents in response to Defendants' discovery requests, and attending the March 1, 2019 mediation session. Renee Schildgen, who was previously Associate General Counsel, spent at least **18** hours on the Action, including attending the August 24, 2018 mediation. The time that I and the other employees of Chicago Teachers devoted to the representation of the Class in this Action was time that we otherwise would have expected to spend on other work for Chicago Teachers and, thus, represented a cost to Chicago Teachers. Chicago seeks reimbursement in the amount of \$4,504 for our time as follows:

Personnel	Hours	Rate²	Total
Charles Burbridge	12	\$129	\$1,548
John Schomberg	10	\$79	\$790
Daniel Hurtado	20	\$57	\$1,140
Renee Schildgen	18	\$57	\$1,026
TOTAL	60		\$4,504

11. In addition, Chicago Teachers has incurred \$1,456.00 in expenses for work performed by its outside counsel, the law firm of Jacobs, Burns, Orlove & Hernandez ("Jacobs Burns"). Attorney Joseph Burns of Jacobs Burns spent a total of 5.6 hours working on this litigation on behalf of Chicago Teachers. Specifically, Mr. Burns advised Chicago Teachers on negotiating and reviewing the retention agreement between Chicago Teachers and BLB&G and communicating with BLB&G concerning the litigation and mediation. These hours were expended separate and apart from other legal work performed by Jacobs Burns and its lawyers on behalf of Chicago Teachers in other matters. The expense of compensating Jacobs Burns for that work would not have been incurred but for Chicago Teachers' service as Lead Plaintiff in this Action. Mr. Burn's normal hourly rate is \$260 per hour and thus Chicago Teachers seeks reimbursement for \$1,456.00 for this work.

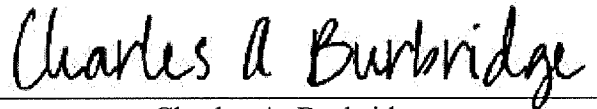
² The hourly rates used for purposes of this request are based on the annual salaries of the respective personnel who worked on this Action.

1 **IV. Conclusion**

2 12. In conclusion, Chicago Teachers endorses the Settlement as fair, reasonable and
3 adequate, and believes it represents a substantial recovery for the Class. Chicago Teachers
4 further supports Lead Counsel's attorneys' fee and litigation expense reimbursement application,
5 and believes that it represents fair and reasonable compensation for counsel in light of the
6 recovery obtained for the Class and the risks of litigating the settled claims. And finally, Chicago
7 Teachers requests reimbursement for its expenses as set forth above. Accordingly, Chicago
8 Teachers respectfully requests that the Court approve (i) Lead Plaintiffs' motion for final
9 approval of proposed Settlement and the approval of the Plan of Allocation; and (ii) Lead
10 Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

11 I declare under penalty of perjury that the foregoing is true and correct, and that I have
12 authority to execute this Declaration on behalf of the Chicago Teachers.

13 Executed this 10th day of September, 2019.

14 

15
16 Charles A. Burbridge,
17 Executive Director
18 Public School Teachers' Pension &
19 Retirement Fund of Chicago

20 #1315115
21
22
23
24
25
26
27
28

Exhibit 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE RH, INC. SECURITIES
LITIGATION,

Case No. 4:17-00554-YGR

ECF CASE

**DECLARATION OF ROD GRAVES, DEPUTY DIRECTOR OF
ARKANSAS TEACHER RETIREMENT SYSTEM, IN SUPPORT OF
(I) LEAD PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT
AND PLAN OF ALLOCATION; AND (II) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Rod Graves, hereby declare under penalty of perjury as follows:

1. I am the Deputy Director of the Arkansas Teacher Retirement System ("ATRS"), one of the Court-appointed Lead Plaintiffs in this securities class action (the "Action"). I submit this declaration in support of (a) Lead Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (b) Lead Counsel's motion for attorneys' fees and Litigation Expenses, which includes ATRS's application for reimbursement of costs and expenses incurred by ATRS directly related to its representation of the Class in the Action. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.¹

2. ATRS is a public pension fund organized in 1937 to provide retirement, disability, and survivor benefit programs to active and retired public teachers of the State of Arkansas. ATRS is responsible for the retirement income of these employees and their beneficiaries. As of June 30, 2018, ATRS's defined benefit plans served more than 125,000 active and retired members and their beneficiaries, and ATRS had over \$17 billion in assets under management.

¹ Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated May 6, 2019 (ECF No. 135-1) (the "Stipulation").

I. ATRS's Oversight of the Action

3. ATRS retained Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") through a formalized request for qualifications (RFQ) process. Through that RFQ process, ATRS determined that BLB&G was qualified and adequate to conduct portfolio monitoring services for ATRS and to represent ATRS in securities litigation if ATRS chose to seek involvement in such cases.

4. On April 26, 2017, the Court issued an Order appointing ATRS as a Lead Plaintiff in the Action pursuant to the Private Securities Litigation Reform Act of 1995, and approved its selection of BLB&G as Lead Counsel for the Class. On behalf of ATRS, I, among others at ATRS, had regular communications with BLB&G throughout the litigation. ATRS, through my active and continuous involvement, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. ATRS received periodic status reports from BLB&G on case developments and participated in regular discussions with attorneys from BLB&G concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. In particular, throughout the course of this Action, I: (a) regularly communicated with BLB&G by email and telephone calls regarding the posture and progress of the case; (b) reviewed all significant pleadings and briefs filed in the Action; and (c) assisted in searching for and producing documents and information requested by Defendants in the course of discovery. I personally coordinated the collection of documents in response to Defendants' discovery requests and reviewed significant Court filings.

5. In addition, in my capacity as a corporate representative for ATRS, I was deposed by counsel for Defendants in this Action on July 31, 2018 in San Francisco. I spent a substantial amount of time preparing for, traveling to, and appearing at that deposition.

6. I also actively participated in the mediation process and consulted with BLB&G concerning the settlement negotiations as they progressed, including attending both mediation sessions on August 24, 2018 and March 1, 2019 in Corona Del Mar, California, and, together with other representatives of ATRS, evaluated, approved and recommended approval of the proposed Settlement for \$50,000,000 in cash.

1 **II. ATRS Endorses Approval of the Settlement**

2 7. Based on its involvement throughout the prosecution and resolution of the claims
3 asserted in the Action, ATRS believes that the proposed Settlement is fair, reasonable, and
4 adequate to the Class. ATRS believes that the Settlement represents an excellent recovery for the
5 Class, particularly in light of the substantial risks of continuing to prosecute the claims in this
6 case. Therefore, ATRS endorses approval of the Settlement by the Court.

7 **III. ATRS Supports Lead Counsel's Motion for**
8 **Attorneys' Fees and Litigation Expenses**

9 8. ATRS has evaluated Lead Counsel's fee request by considering the substantial
10 recovery obtained for the Class in this Action, the risks of the Action, and its observations of the
11 high-quality work performed by Lead Counsel throughout the litigation. While it is understood
12 that the ultimate determination of Lead Counsel's request for attorneys' fees and expenses rests
13 with the Court, ATRS believes that Lead Counsel's request for an award of attorneys' fees in the
14 amount of 15% of the Settlement Fund is reasonable in light of the result achieved in the Action,
15 the risks undertaken, and the quality of the work performed by Lead Counsel on behalf of Lead
16 Plaintiffs and the Class.

17 9. ATRS further believes that Lead Counsel's Litigation Expenses are reasonable
18 and represent costs and expenses necessary for the prosecution and resolution of the claims in the
19 Action.

20 10. ATRS understands that reimbursement of a lead plaintiff's reasonable costs and
21 expenses is authorized under the Private Securities Litigation Reform Act of 1995, 15 U.S.C.
22 § 78u-4(a)(4). For this reason, in connection with Lead Counsel's request for payment of
23 Litigation Expenses, ATRS seeks reimbursement for the costs and expenses that it incurred
24 directly relating to its representation of the Class in the Action.

25 11. I dedicated at least 26 hours to supervising and participating in the prosecution of
26 this Action on behalf of ATRS, including time spent communicating with Lead Counsel,
27 reviewing significant court filings, overseeing the collection of ATRS documents, preparing for
28 and attending my deposition, and attending the two mediation sessions. The time that I devoted


1 to the representation of the Class in this Action was time that I otherwise would have spent on
2 other work for ATRS and, thus, represented a cost to ATRS at a rate of \$72.78 per hour (based on
3 my annual salary). Accordingly; ATRS seeks reimbursement in the amount of \$1,892.28 for my
4 time devoted to the Action.

5 **IV. Conclusion**

6 12. In conclusion, ATRS was closely involved throughout the prosecution and
7 settlement of the claims in this Action, endorses the Settlement as fair, reasonable and adequate,
8 and believes that it represents a significant recovery for the Class. ATRS respectfully requests
9 that the Court approve Lead Plaintiffs' motion for final approval of the proposed Settlement and
10 Plan of Allocation and Lead Counsel's motion for an award of attorneys' fees and payment of
11 Litigation Expenses, including ATRS's request for reimbursement of \$1,892.28 for its reasonable
12 costs and expenses incurred in prosecuting the Action on behalf of the Class.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct, and that I have authority to execute this Declaration on behalf of
15 ATRS.

16 Executed this 11 day of September, 2019.

17
18
19 

Rod Graves
Deputy Director of
Arkansas Teacher Retirement System

21 #1289205
22
23
24
25
26
27
28

Exhibit 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE RH, INC. SECURITIES
LITIGATION,

Case No. 4:17-00554-YGR

ECF CASE

**DECLARATION OF ERIC J. MILLER REGARDING (A) MAILING OF NOTICE
AND CLAIM FORM; (B) PUBLICATION OF THE SUMMARY NOTICE; AND
(C) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE**

I, ERIC J. MILLER, hereby declare under penalty of perjury as follows:

1. I am a Senior Vice President of A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"). Pursuant to the Court's June 21, 2019 Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 142) ("Preliminary Approval Order"), A.B. Data was authorized to act as the Claims Administrator in connection with the Settlement of the above-captioned action.¹ The following statements are based on my personal knowledge and information provided by other A.B. Data employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

DISSEMINATION OF THE NOTICE PACKET

2. Pursuant to the Preliminary Approval Order, A.B. Data mailed to potential Class Members the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Notice") and the Proof of Claim and Release Form (the "Claim Form") (collectively, the Notice and Claim Form are referred to as the "Notice Packet"). A copy of the Notice Packet is attached hereto as Exhibit A.

¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated May 6, 2019 (ECF No. 135-1) (the "Stipulation").

1 3. On June 24, 2019, A.B. Data received an electronic file from Lead Counsel
2 containing the names and addresses of record holders of RH common stock provided by
3 Defendants' Counsel. A.B. Data extracted these records from the file and, after de-duplication,
4 there remained 46 unique names and addresses. A.B. Data formatted the Notice Packet, and
5 caused it to be printed, personalized with the name and address of each potential Class Member,
6 posted for first-class mail, postage prepaid, and mailed to these 46 potential Class Members on
7 July 9, 2019.

8 4. As in most class actions of this nature, where the class members consist of
9 purchasers of shares of publicly traded common stock, the large majority of potential Class
10 Members are not record holders of the stock but are beneficial purchasers whose securities are held
11 in "street name" – *i.e.*, the securities are purchased by brokerage firms, banks, institutions, and
12 other third-party nominees in the name of the nominee (collectively "Nominees"), on behalf of the
13 beneficial purchasers. To provide individual notice to those beneficial owners, A.B. Data
14 disseminates the notice via the Nominees who possess the information regarding the identification
15 and trading of the beneficial owners. A.B. Data maintains and updates an internal list of the
16 largest banks, brokers and other Nominees. At the time of the initial mailing, A.B. Data's internal
17 list of these Nominees contained 5,016 mailing records. On July 9, 2019, A.B. Data caused
18 additional Notice Packets to be mailed to the 5,016 mailing records contained in its internal list of
19 Nominees.

20 5. In total, 5,062 copies of the Notice Packet were mailed to potential Class Members
21 and Nominees by first-class mail on July 9, 2019.

22 6. The Notice itself and a cover letter that accompanied the Notice Packet mailed to
23 brokers and other Nominees directed that persons or entities that purchased or otherwise acquired
24 RH common stock during the Class Period for the beneficial interest of a person or organization
25 other than themselves must, no later than seven (7) calendar days after such nominees' receipt of
26 the Notice, either: (i) provide A.B. Data with the names and addresses of such beneficial owners;
27 or (ii) request additional copies of the Notice Packet for such beneficial owners from A.B. Data,
28

1 and then send a copy of the Notice Packet to such beneficial owners, no later than seven (7)
2 calendar days after such nominees' receipt of the additional copies of the Notice Packet.

3 7. A.B. Data monitored the responses received from brokers and other Nominees and
4 followed up by email and, if necessary, phone calls to ensure that Nominees provided timely
5 responses to A.B. Data's mailing and that Nominees provide names and addresses of beneficial
6 owners or request notice packets for forwarding. Through September 13, 2019, A.B. Data mailed
7 an additional 32,576 Notice Packets to potential members of the Class whose names and addresses
8 were received from individuals, entities, or Nominees requesting that Notice Packets be mailed to
9 such persons, and mailed another 39,047 Notice Packets to Nominees who requested Notice
10 Packets to forward to their customers. Each of the requests was responded to in a timely manner,
11 and A.B. Data will continue to timely respond to any additional requests received.

12 8. As of September 13, 2019, an aggregate of 76,685 Notice Packets have been
13 disseminated to potential Class Members and Nominees by first-class mail. In addition, A.B. Data
14 has re-mailed 203 Notice Packets to persons whose original mailing was returned by the U.S.
15 Postal Service and for whom updated addresses were provided to A.B. Data by the Postal Service.
16 The U.S. Postal Service has returned 1,279 Notice Packets as undeliverable for which A.B. Data
17 has not obtained an updated address.

18 9. A.B. Data has held biweekly conference calls with attorneys at Lead Counsel to
19 discuss the status of the notice dissemination efforts and related issues concerning the
20 administration of the Settlement beginning on June 24, 2019 and continuing through the present.

21 10. The process for disseminating the Notice Packet by mail to potential Class
22 Members is intended to reach the maximum number of potential Class Members who can
23 reasonably be identified. As a result, the process is expected to result in the mailing of Notice
24 Packets to a number of persons and entities who are not or may not be Class Members. For
25 example, A.B. Data's internal list of 5,016 Nominees is intended to be reasonably broad and
26 includes a number of smaller or specialty brokerage firms and international firms who may not
27 have any clients who were beneficial purchasers of RH common stock during the Class Period.
28 Similarly, although the Notice and cover letter request that Nominees identify purchasers or

acquirors of RH common stock during the Class Period, A.B. Data is aware from experience that some Nominees provide reasonably over-inclusive lists of potential Class Members. In addition, even where the names provided are limited to persons who purchased or acquired the stock during the Class Period, such lists will include investors who purchased and sold their shares before an alleged corrective disclosure or were otherwise not damaged and therefore not eligible for a payment in the Settlement. Due to A.B. Data's efforts to reach the highest possible number of potential Class Members through reasonable means and as a result of the process of dissemination through Nominees, A.B. Data expects that a substantial number of total Notice Packets mailed will be mailed to persons and entities who are not Class Members or not eligible for a recovery in the Settlement.

PUBLICATION OF THE SUMMARY NOTICE

11. Pursuant to the Preliminary Approval Order, A.B. Data caused the Summary Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Summary Notice") to be published in *The Wall Street Journal* and to be transmitted over the *PR Newswire* on July 23, 2019. Attached as Exhibits B and C, respectively, are a copy of the Summary Notice as it appeared in *The Wall Street Journal* and a screen shot attesting to the transmittal of the Summary Notice over the *PR Newswire*.

CALL CENTER SERVICES

12. A.B. Data reserved a toll-free phone number for the Settlement, (866) 217-4456, which was set forth in the Notice, the Claim Form, the Summary Notice, and on the Settlement website.

13. The toll-free number connects callers with an Interactive Voice Recording ("IVR"). The IVR provides callers with pre-recorded information, including a brief summary about the Action and the option to request a copy of the Notice Packet. The toll-free telephone line with pre-recorded information is available 24 hours a day, 7 days a week. A.B. Data made the IVR available on July 9, 2019, the same date A.B. Data began mailing the Notice Packets.

1 14. In addition, callers are able to speak to a live operator regarding the status of the
2 Action and/or obtain answers to questions about the Settlement or how to submit a claim. During
3 non-business hours, callers may leave a message for an agent to call them back.

4 15. Since July 9, 2019, A.B. Data has received 140 in-bound calls to the toll-free
5 helpline, which included 161 minutes spent by callers interacting with the IVR and 162 minutes
6 speaking with A.B. Data's live operators. A.B. Data has made 13 out-bound calls to respond to
7 messages left or to follow up on earlier communications.

8 **SETTLEMENT WEBSITE**

9 16. A.B. Data established and is maintaining a website dedicated to this Settlement
10 (RHSecuritiesLitigation.com) to provide additional information to Class Members. Users of the
11 website can download copies of the Notice, the Claim Form, the Stipulation, and the Preliminary
12 Approval Order, among other relevant documents. The website address was set forth in the
13 Notice, the Summary Notice, and on the Claim Form. The website was operational beginning on
14 July 9, 2019, and is accessible 24 hours a day, 7 days a week. A.B. Data regularly verifies that the
15 website is operating correctly and will continue operating, maintaining and, as appropriate,
16 updating the website until the conclusion of this administration. Since July 9, 2019, the website
17 has received 26,042 visitors and A.B. Data has received a total of 63 emails or letters, to which
18 A.B. Data has responded promptly where a response was necessary.

19 **REQUESTS FOR EXCLUSION RECEIVED TO DATE**

20 17. The Notice informed potential members of the Class that requests for exclusion
21 from the Class are to be mailed or otherwise delivered, addressed to *RH Securities Litigation*,
22 EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217, such that they are
23 received by A.B. Data no later than October 1, 2019. The Notice also set forth the information that
24 must be included in each request for exclusion. A.B. Data has been monitoring all mail delivered
25 to that Post Office Box. As of September 13, 2019, A.B. Data has not received any requests for
26 exclusion. A.B. Data will submit a supplemental declaration after the October 1, 2018 deadline for
27 requesting exclusion that will address any requests received.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct to the best of my knowledge.

3 Executed on September 16, 2019.

4 

5 _____
6 Eric J. Miller
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE RH, INC. SECURITIES LITIGATION

Case No. 4:17-00554-YGR

ECF CASE

**NOTICE OF (I) PENDENCY OF CLASS ACTION AND
PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING;
AND (III) MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

If you purchased or acquired the common stock of RH (formerly known as Restoration Hardware Holdings, Inc.) during the period from March 26, 2015 through June 8, 2016, inclusive, you may be entitled to receive money from a class action settlement.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement or wish to be excluded from the Class.

- The Settlement, if approved by the Court, will provide a total recovery of **\$50,000,000** (on average, approximately \$1.22 per affected share before the deduction of Court-approved fees and expenses) in cash for the benefit of the Class (described below).¹
- The Settlement resolves claims by Lead Plaintiffs Public School Teachers' Pension & Retirement Fund of Chicago and Arkansas Teacher Retirement System in a class action against RH ("RH" or the "Company"), and Gary Friedman and Karen Boone (together, the "Individual Defendants," and with RH, "Defendants").
- Lead Plaintiffs claim that Defendants made materially false and misleading statements and omissions about RH's business, including RH's new product line, RH Modern, and the Company's inventory levels, from March 26, 2015 through June 8, 2016, inclusive (the "Class Period"). Lead Plaintiffs also allege that the false and misleading statements inflated the price of RH common stock and that, when the truth was disclosed, the stock price dropped. Defendants deny any wrongdoing in this lawsuit. The Court did not decide in favor of either the investors or Defendants.
- If the Settlement is approved, Court-appointed lawyers for the investors will ask the Court for attorneys' fees of 15% of the Settlement Fund, or \$7,500,000, plus interest earned at the same rate as the Settlement Fund, and up to \$950,000 in expenses for their and Lead Plaintiffs' work litigating the case and negotiating the Settlement. If approved by the Court, these amounts (totaling on average approximately \$0.21 per affected share) will be deducted from the \$50,000,000 Settlement.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after any appeals are resolved. Please be patient.
- **If you are a Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.**

¹ All capitalized terms not defined in this Notice have the meanings provided in the Stipulation and Agreement of Settlement, dated as of May 6, 2019 (the "Stipulation"), which can be viewed at RHSecuritiesLitigation.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN OCTOBER 8, 2019.	This is the only way to be eligible to receive a payment from the Settlement.
EXCLUDE YOURSELF FROM THE CLASS BY OCTOBER 1, 2019.	<p>If you exclude yourself from the Class, you will not be eligible to receive any payment from the Settlement.</p> <p>This is the only option that allows you to bring, continue, or be a part of any other lawsuit against any of the Defendants or the other Defendants' Releasees (defined in ¶ 29 below) concerning the Released Plaintiffs' Claims (defined in ¶ 28 below).</p>
OBJECT BY OCTOBER 1, 2019.	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and Litigation Expenses, you may write to the Court and explain why you do not like it/them.
GO TO A HEARING ON OCTOBER 22, 2019.	You may ask to speak in Court about the Settlement.
DO NOTHING.	Get no payment AND give up your rights to bring your own individual action.

Identification of Attorneys' Representatives

Lead Plaintiffs and the Class are represented by Bernstein Litowitz Berger & Grossmann LLP, the Court-appointed Lead Counsel. Any questions regarding the Settlement should be directed to Jonathan D. Uslander, Esq., Bernstein Litowitz Berger & Grossmann LLP, 2121 Avenue of the Stars, Suite 2575, Los Angeles, CA 90067, (800) 380-8496, settlements@blbglaw.com.

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Stipulation and Agreement of Settlement available at RHSecuritiesLitigation.com; contact class counsel; access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>; or visit the office of the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Suite 400S, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

WHAT THIS NOTICE CONTAINS

Why Did I Get This Notice?	Page 3
What Is This Case About? What Has Happened So Far?	Page 3
Why Is This A Class Action?.....	Page 4
How Do I Know If I Am Affected By The Settlement?	
Who Is Included In The Class?	Page 4
What Are Lead Plaintiffs' Reasons For The Settlement?	Page 5
What Might Happen If There Were No Settlement?	Page 5
How Are Class Members Affected By The Action And The Settlement?.....	Page 5
How Do I Participate In The Settlement? What Do I Need To Do?.....	Page 7
How Much Will My Payment Be?.....	Page 7

What Payment Are The Attorneys For Class Seeking?

How Will The Lawyers Be Paid? Page 8

What If I Do Not Want To Be A Member Of The Class?

How Do I Exclude Myself? Page 8

When And Where Will The Court Decide Whether To Approve The Settlement?

Do I Have To Come To The Hearing? May I Speak At The Hearing

If I Don't Like The Settlement? Page 9

What If I Bought Shares On Someone Else's Behalf? Page 10

Can I See The Court File? Whom Should I Contact If I Have Questions? Page 10

Proposed Plan Of Allocation Of The Net Settlement Fund Page 11

WHY DID I GET THIS NOTICE?

1. The Court authorized that this Notice be sent to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or acquired the common stock of RH (formerly known as Restoration Hardware Holdings, Inc.) from March 26, 2015 through June 8, 2016, inclusive.

2. If this description applies to you or someone in your family, you have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows.

3. This Notice explains the lawsuit, the Settlement, Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them.

4. The Court in charge of this Action is the United States District Court for the Northern District of California (the "Court"), and the case is known as *In re RH, Inc. Securities Litigation*, Case No. 4:17-00554-YGR (N.D. Cal.) (the "Action"). The Action is assigned to the Honorable Yvonne Gonzalez Rogers, United States District Judge.

5. The Court did not decide in favor of Lead Plaintiffs or the Defendants. Instead, they have agreed to a settlement. For Lead Plaintiffs, the principal reason for the Settlement is the certain benefit of a substantial cash recovery for the Class, in contrast to the risks and uncertainties of succeeding through dispositive motions and proving all necessary elements of their claims at a jury trial, and the costs and delays inherent in such litigation (including any appeals).

6. For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that any Class Members were damaged, the principal reasons for entering into the Settlement are to bring to an end the substantial burden, expense, uncertainty, and risk of further litigation.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

7. The Action involves allegations that, during the period from March 26, 2015 through June 8, 2016, Defendants made misrepresentations about key elements of RH's business, including RH's new product line, RH Modern, and the Company's inventory levels.

8. The initial complaint in the Action was filed on February 2, 2017. The Court subsequently appointed Public School Teachers' Pension & Retirement Fund of Chicago and Arkansas Teacher Retirement System as Lead Plaintiffs and approved Lead Plaintiffs' selection of Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel for the class.

9. On June 12, 2017, Lead Plaintiffs filed and served the Consolidated Class Action Complaint for Violation of the Federal Securities Laws (the "Complaint"), asserting claims against all Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, and against the Individual Defendants under Section 20(a) of the Exchange Act. The Complaint alleges that, during the Class Period, Defendants made materially false and misleading statements about the launch of RH's new product line, RH Modern, and the Company's inventory levels. The Complaint further alleges that the price of RH common stock was artificially inflated as a result of Defendants' allegedly false and misleading statements, and declined when the truth was revealed.

10. On February 26, 2018, after full briefing and oral argument on the motion, the Court entered an Order denying Defendants' motion to dismiss.

11. Discovery in the Action commenced in March 2018. Defendants and third parties produced a total of over 10 million pages of documents to Lead Plaintiffs, and Lead Plaintiffs produced over 12,000 pages of documents to Defendants. Fifteen depositions were taken in the Action.

12. On October 11, 2018, the Court certified the Class and appointed Lead Plaintiffs as Class Representatives and Bernstein Litowitz Berger & Grossmann LLP as Class Counsel.

13. The Parties engaged in two full-day private mediation sessions before former United States District Judge Layn R. Phillips. The second took place on March 1, 2019. Following the second mediation session, Judge Phillips issued a mediator's proposal on March 3, 2019, and the Parties continued their negotiations. Those negotiations culminated in a Term Sheet dated March 21, 2019.

14. On May 6, 2019, the Parties entered into a Stipulation and Agreement of Settlement (the "Stipulation"), which sets forth the terms and conditions of the Settlement. The Stipulation can be viewed at RHSecuritiesLitigation.com.

15. On June 21, 2019, the Court preliminarily approved the Settlement, authorized this Notice to be disseminated to potential Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval of the Settlement.

WHY IS THIS A CLASS ACTION?

16. In a class action, one or more persons or entities (in this case, Lead Plaintiffs) sue on behalf of people and entities that have similar claims. Together, these people and entities are a class, and each is a class member. Bringing a case, such as this one, as a class action allows the Court to resolve many similar claims of persons and entities that might be economically too small to bring as individual actions. One court resolves the issues for all class members at the same time, except for those who exclude themselves, or "opt out," from the class.

HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT? WHO IS INCLUDED IN THE CLASS?

17. If you are a member of the Class, you are subject to the Settlement, unless you timely request to be excluded. The Class consists of:

all persons and entities who purchased or otherwise acquired the common stock of RH during the period from March 26, 2015 through June 8, 2016, inclusive (the "Class Period").

Excluded from the Class are: (i) Defendants; (ii) Immediate Family Members of the Individual Defendants;² (iii) any person who was an Officer or director of RH; (iv) any firm or entity in which any Defendant has or had a controlling interest; (v) any person who is alleged to have participated in the wrongdoing alleged;³ (vi) parents or subsidiaries of RH; (vii) all RH plans that are covered by ERISA; and (viii) the legal representatives, agents, affiliates, heirs, beneficiaries, successors-in-interest, or assigns of any excluded person or entity, in their respective capacity as such.

Also excluded from the Class are any persons or entities who or which exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice. See "What If I Do Not Want To Be A Member Of The Class? How Do I Exclude Myself," on page 8 below.

Please Note: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive proceeds from the Settlement.

If you are a Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Claim Form that is being distributed with this Notice and the required supporting documentation as set forth therein, postmarked no later than October 8, 2019.

² "Immediate Family Members" means children, stepchildren, parents, stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. As used in this definition, "spouse" shall mean a husband, a wife, or a partner in a state-recognized domestic relationship or civil union.

³ This exclusion only applies and refers to the two Individual Defendants. For the avoidance of doubt, the Individual Defendants expressly deny that they were involved in any wrongdoing.

WHAT ARE LEAD PLAINTIFFS' REASONS FOR THE SETTLEMENT?

18. Lead Plaintiffs and Lead Counsel believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendants through trial and appeals, as well as the substantial risks they would face in establishing liability and damages. To defeat summary judgment and prevail at trial, Lead Plaintiffs would have been required to prove not only that Defendants' statements were false, but that the Individual Defendants knew that their statements were false when made or were deliberately reckless in making the statements, and that the revelation of the truth about Defendants' false and misleading statements caused declines in the price of RH's stock. In addition, Lead Plaintiffs would have had to establish the amount of class-wide damages.

19. Defendants would have had substantial arguments to make concerning each of these issues. For example, Lead Plaintiffs would face substantial challenges in proving that Defendants' statements about the launch of RH Modern and the Company's inventory levels were false when made. Defendants would argue that the Company had simply suffered unexpected short-term supply chain issues and, accordingly, their statements were accurate when made. Defendants would also argue that, even if any of their statements were false or misleading, they did not have an intent to mislead investors. Indeed, Defendants argued vigorously that they had no motive to commit fraud and that the Individual Defendants did not benefit from the alleged fraud. Finally, Defendants would argue that Lead Plaintiffs could not establish loss causation because certain of the disclosures were not corrective of the previously alleged misstatements.

20. Further, in order to obtain a recovery for the Class, Lead Plaintiffs would have to prevail at several stages, including summary judgment and trial – and, even if they prevailed on those, on the appeals that were likely to follow. Thus, there were significant risks attendant to the continued prosecution of the Action, and there was no guarantee that further litigation would have resulted in a higher recovery, or any recovery at all.

21. In light of these risks, the amount of the Settlement, and the immediacy of recovery to the Class, Lead Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class. Lead Plaintiffs and Lead Counsel believe that the Settlement provides a substantial benefit to the Class, namely \$50,000,000 in cash (less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller recovery or no recovery after summary judgment, trial, and appeals, possibly years in the future.

22. Defendants have denied all claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Defendants.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

23. If there were no Settlement and Lead Plaintiffs failed to establish any essential legal or factual element of their claims against Defendants, neither Lead Plaintiffs nor the other members of the Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses, either at summary judgment, at trial, or on appeal, the Class could recover less than the amount provided in the Settlement, or nothing at all.

HOW ARE CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENT?

24. As a Class Member, you are represented by Lead Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," on page 9 below.

25. If you are a Class Member and do not wish to remain a Class Member, you may exclude yourself from the Class by following the instructions in the section entitled, "What If I Do Not Want To Be A Member Of The Class? How Do I Exclude Myself?," on page 8 below.

26. If you are a Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel's application for attorneys' fees and Litigation Expenses, and if you do not exclude yourself from the Class, you may

present your objections by following the instructions in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” on page 9 below.

27. If you are a Class Member and you do not exclude yourself from the Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that, upon the Effective Date of the Settlement, Lead Plaintiffs and each of the other Class Members, on behalf of themselves and their respective spouses, heirs, executors, beneficiaries, administrators, predecessors, successors, and assigns, in their capacities as such, and any Person(s) claiming (now or in the future) through or on behalf of any of them directly or indirectly, regardless of whether such Plaintiff or Class Member ever seeks or obtains by any means (including, without limitation, by submitting a Claim Form to the Claims Administrator) any distribution from the Net Settlement Fund: (a) shall have fully, finally, and forever compromised, settled, released, relinquished, waived, dismissed, and discharged each and all of the Released Plaintiffs’ Claims (as defined in ¶ 28 below), including Unknown Claims (as defined in ¶ 30 below), against each and all of the Defendants’ Releasees (as defined in ¶ 29 below), and shall have covenanted not to sue any of the Defendants’ Releasees with respect to any of the Released Plaintiffs’ Claims (including any Unknown Claims) except to enforce the releases and other terms and conditions of the Settlement; and (b) shall be forever permanently barred, enjoined, and restrained from bringing, commencing, instituting, asserting, maintaining, enforcing, prosecuting, or otherwise pursuing, either directly or in any other capacity, any of the Released Plaintiffs’ Claims (including any Unknown Claims) against any of the Defendants’ Releasees in the Action or in any other action or proceeding, in any state, federal, or foreign court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind.

28. “Released Plaintiffs’ Claims” means all claims, rights, liabilities, and causes of action of every nature and description, whether known claims or Unknown Claims, contingent or absolute, mature or not mature, discoverable or undiscoverable, liquidated or unliquidated, accrued or not accrued, including those that are concealed or hidden, regardless of legal or equitable theory and whether arising under federal, state, common, or foreign law, that Lead Plaintiffs or any other member(s) of the Class: (i) asserted in the Action, or (ii) could have asserted in any forum, that arise out of, are based upon, or relate to, directly or indirectly, in whole or in part, (A) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action and that relate to the purchase, sale, acquisition, or retention of RH common stock during the Class Period; or (B) Defendants’ and/or their attorneys’ defense or settlement of the Action and/or the claims alleged therein. Released Plaintiffs’ Claims do not include: (i) any claims asserted on behalf of the Company in *In re RH Shareholder Derivative Litig.*, Lead Case No. 4:18-cv-02452-YGR (N.D. Cal.); *Magnani v. Friedman, et al.*, Case No. 3:18-cv-02452-YGR (N.D. Cal.); or *Izmirliyan v. Friedman, et al.*, Case No. 4:18-cv-3930-YGR (N.D. Cal.), or any cases consolidated into any of the foregoing actions; (ii) any claims relating to the enforcement of the Settlement; and (iii) any claims of any person or entity who or which submits a request for exclusion that is accepted by the Court.

29. “Defendants’ Releasees” means, collectively, each and all of (i) the Defendants, each Individual Defendant’s Immediate Family Members, any entity in which any Defendant or Individual Defendant’s Immediate Family Members has, or had during the Class Period, a controlling interest (directly or indirectly), and any estate or trust of which any Individual Defendant is a settlor or which is for the benefit of any Individual Defendant and/or his or her Immediate Family Members; and (ii) for each and every Person listed in part (i), their respective past, present, and future heirs, executors, administrators, predecessors, successors, assigns, employees, agents, affiliates, analysts, assignees, attorneys, auditors, co-insurers, commercial bank lenders, consultants, controlling shareholders, directors, divisions, financial advisors, general or limited partners, general or limited partnerships, insurers, investment advisors, investment bankers, investment banks, joint ventures and joint venturers, managers, managing directors, marital communities, members, officers, parents, personal or legal representatives, principals, reinsurers, shareholders, subsidiaries (foreign or domestic), trustees, underwriters, and other retained professionals, in their respective capacities as such.

30. “Unknown Claims” means, collectively, any and all Released Plaintiffs’ Claims that Lead Plaintiffs or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendants’ Claims that any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to the Settlement, including the decision to agree to all the various releases set forth in the Stipulation, or that might have affected his, her, or its decision not to object to the Settlement, or not to exclude himself, herself, or itself from the Class. Unknown Claims include, without limitation, those claims in which some or all of the facts composing the claim may be unsuspected or undisclosed, concealed, or hidden. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Lead Plaintiffs and Defendants shall expressly waive, and each of the other Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or

territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiffs and Defendants acknowledge, and each of the other Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

31. The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective spouses, heirs, executors, beneficiaries, administrators, predecessors, successors, and assigns, in their capacities as such, and any Person(s) claiming (now or in the future) through or on behalf of any of them directly or indirectly, (a) shall have fully, finally, and forever compromised, settled, released, relinquished, waived, dismissed, and discharged each and all of the Released Defendants' Claims (as defined in ¶ 32 below) against each and all of Lead Plaintiffs and the other Plaintiffs' Releasees (as defined in ¶ 33 below), and shall have covenanted not to sue any of the Plaintiffs' Releasees with respect to any of the Released Defendants' Claims (including any Unknown Claims) except to enforce the releases and other terms and conditions contained in the Settlement; and (b) shall be forever permanently barred, enjoined, and restrained from bringing, commencing, instituting, asserting, maintaining, enforcing, prosecuting, or otherwise pursuing, either directly or in any other capacity, any of the Released Defendants' Claims (including any Unknown Claims) against any of the Plaintiffs' Releasees in any action or proceeding, in any state, federal, or foreign court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind. This release shall not apply to any person or entity who or which submits a request for exclusion from the Class that is accepted by the Court.

32. "Released Defendants' Claims" means all claims, rights, liabilities, and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims asserted in the Action against Defendants. Released Defendants' Claims do not include: (i) any claims relating to the enforcement of the Settlement; or (ii) any claims against any person or entity who or which submits a request for exclusion from the Class that is accepted by the Court.

33. "Plaintiffs' Releasees" means (i) Lead Plaintiffs, all other plaintiffs in the Action, and all other Class Members, and their respective Immediate Family Members; and (ii) for each and every Person listed in part (i), their respective past, present, and future heirs, executors, administrators, predecessors, successors, assigns, employees, agents, affiliates, analysts, assignees, attorneys, auditors, co-insurers, commercial bank lenders, consultants, controlling shareholders, directors, divisions, financial advisors, general or limited partners, general or limited partnerships, insurers, investment advisors, investment bankers, investment banks, joint ventures and joint venturers, managers, managing directors, marital communities, members, officers, parents, personal or legal representatives, principals, reinsurers, shareholders, subsidiaries (foreign or domestic), trustees, underwriters, and other retained professionals, in their respective capacities as such.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

34. To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Class and you must timely complete and return the Claim Form with adequate supporting documentation **postmarked no later than October 8, 2019**. A Claim Form is included with this Notice, or you may obtain one from the website maintained by the Claims Administrator for the Settlement, RHSecuritiesLitigation.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll-free at 1-866-217-4456. Please retain all records of your ownership of and transactions in RH common stock, as they may be needed to document your Claim. If you request exclusion from the Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

HOW MUCH WILL MY PAYMENT BE?

35. At this time, it is not possible to make any determination as to how much any individual Class Member may receive from the Settlement. However, pursuant to the Settlement, Defendants have agreed to pay or caused to be paid fifty million dollars (\$50,000,000) in cash. The proceeds of the Settlement, after deduction of attorneys'

fees, costs, and expenses approved by the Court, will be distributed based on the Plan of Allocation on pages 11 to 15 below.

36. The Settlement Amount will be deposited into an escrow account. The Settlement Amount plus any interest earned thereon is referred to as the “Settlement Fund.” If the Settlement is approved by the Court and the Effective Date occurs, the “Net Settlement Fund” (that is, the Settlement Fund less (a) all federal, state, and/or local taxes on any income earned by the Settlement Fund and the reasonable costs incurred in connection with determining the amount of and paying taxes owed by the Settlement Fund (including reasonable expenses of tax attorneys and accountants); (b) the costs and expenses incurred in connection with providing notice to Class Members and administering the Settlement on behalf of Class Members; and (c) any attorneys’ fees and Litigation Expenses awarded by the Court will be distributed to Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

37. The proceeds of the Settlement will be distributed in accordance with a plan of allocation that is approved by the Court. The amounts to be distributed to individual Class Members will depend on a variety of factors, including: the number of other Class Members who submit valid Claim Forms; the number of shares of RH common stock the claimant purchased during the Class Period; the prices and dates of those purchases; and the prices and dates of any sales of such stock.

38. The proposed Plan of Allocation, which is subject to Court approval, appears on pages 11 to 15 of this Notice. Please review the Plan of Allocation carefully.

**WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING?
HOW WILL THE LAWYERS BE PAID?**

39. Lead Counsel have not received any payment for their services in pursuing claims against the Defendants on behalf of the Class, nor has Lead Counsel been reimbursed for its out-of-pocket expenses. Before final approval of the Settlement, **Lead Counsel will apply to the Court for an award of attorneys’ fees in the amount of 15% of the Settlement Fund.** At the same time, Lead Counsel also intends to apply for payment of Litigation Expenses in an amount not to exceed \$950,000, which may include an application for the reasonable costs and expenses incurred by Lead Plaintiffs directly related to their representation of the Class in an amount not to exceed \$10,000. The Court will determine the amount of any award of attorneys’ fees or Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

**WHAT IF I DO NOT WANT TO BE A MEMBER OF THE CLASS?
HOW DO I EXCLUDE MYSELF?**

40. Each Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Class, addressed to *RH Securities Litigation*, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217. The exclusion request must be **received no later than October 1, 2019**. You will not be able to exclude yourself from the Class after that date.

41. Each Request for Exclusion must (a) state the name of the person or entity requesting exclusion, along with his, her, or its address and phone number; (b) state that such person or entity wishes to be excluded from the Class in *RH Securities Litigation*; (c) state the number of shares of RH common stock that the person or entity requesting exclusion (i) owned as of the opening of trading on March 26, 2015, and (ii) purchased/acquired and/or sold from March 26, 2015 through September 6, 2016, as well as the dates, number of shares, and prices of each such purchase/acquisition and sale; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

42. If you do not want to be part of the Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Plaintiffs’ Claim against any of the Defendants’ Releasees.

43. If you ask to be excluded from the Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

44. RH has the right to terminate the Settlement if valid requests for exclusion are received from persons and entities entitled to be members of the Class in an amount that exceeds an amount agreed to by Lead Plaintiffs and RH.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?

45. Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.

46. The Settlement Hearing will be held on October 22, 2019, at 2:00 p.m., before the Honorable Yvonne Gonzalez Rogers at Courtroom 1 of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and Litigation Expenses, and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Class.

47. Any Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for an award of attorneys' fees and Litigation Expenses. You can ask the Court to deny approval of the Settlement by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object. You may also appear at the Settlement Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

48. Any objection to the proposed Settlement must be in writing. You may object to the proposed Settlement, the Plan of Allocation, or the requested fees and expenses in writing by providing your full name, address, phone number, and signature; the basis for your belief that you are a member of the Class; and the basis of your objection and whether the objection applies only to you, to a specific subset of the Class, or to the entire Class. All written objections and supporting papers must: (a) clearly identify the case name and number (*In re RH, Inc. Securities Litigation*, Case No. 4:17-00554-YGR); (b) be submitted to the Court either by mailing them to the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Suite 400S, Oakland, CA 94612, or by filing them in person at any location of the United States District Court for the Northern District of California; and (c) be filed or postmarked on or before **October 1, 2019**.

49. You may not object to the Settlement, the Plan of Allocation, or Lead Counsel's motion for attorneys' fees and Litigation Expenses if you exclude yourself from the Class or if you are not a member of the Class.

50. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file a written objection in accordance with the procedures described above, unless the Court orders otherwise.

51. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation, or Lead Counsel's motion for an award of attorneys' fees and Litigation Expenses, and if you timely submit a written objection as described above, you must also file a notice of appearance with the Court by **October 1, 2019**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

52. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court by **October 1, 2019**.

53. The Settlement Hearing may be adjourned by the Court without further written notice to the Class. If you plan to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel, by checking the settlement website at RHSecuritiesLitigation.com, or by accessing the court file, as described below.

54. **Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for an award of attorneys' fees**

and Litigation Expenses. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

55. If you purchased or acquired RH common stock from March 26, 2015 through June 8, 2016, inclusive, for the beneficial interest of persons or organizations other than yourself, you must either (a) within seven (7) calendar days of receipt of this Notice, request from the Claims Administrator sufficient copies of the Notice and Claim Form (the "Notice Packet") to forward to all such beneficial owners, and within seven (7) calendar days of receipt of those Notice Packets, forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of this Notice, provide a list of the names and addresses of all such beneficial owners to *RH Securities Litigation*, c/o A.B. Data, Ltd., Attn: Fulfillment Dept., P.O. Box 173074, Milwaukee, WI 53217. If you choose the second option, the Claims Administrator will send a copy of the Notice and the Claim Form to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice and the Claim Form may also be obtained from the website maintained by the Claims Administrator, RHSecuritiesLitigation.com, or by calling the Claims Administrator toll-free at 1-866-217-4456.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

56. This Notice contains only a summary of the terms of the proposed Settlement. **For more detailed information about the matters involved in this Action, you may visit the website, RHSecuritiesLitigation.com, where you can access copies of the Stipulation, the Complaint, and any related orders entered by the Court.** Alternatively, you may access the papers on file in the Action through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Suite 400S, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

All inquiries concerning this Notice and the Claim Form should be directed to:

RH Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173074
Milwaukee, WI 53217

(866) 217-4456
info@RHSecuritiesLitigation.com

and/or

Jonathan D. Uslander, Esq.
Bernstein Litowitz Berger
& Grossmann LLP
2121 Avenue of the Stars, Suite 2575
Los Angeles, CA 90067
(800) 380-8496
settlements@blbglaw.com

DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, DEFENDANTS, OR THEIR COUNSEL REGARDING THIS NOTICE.

Dated: July 9, 2019

By Order of the Court
United States District Court
Northern District of California

PROPOSED PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND

57. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund to those Class Members who suffered economic losses as a result of the alleged violations of the federal securities laws. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

58. In developing the Plan of Allocation, Lead Plaintiffs' damages expert calculated the estimated amount of artificial inflation in the per-share closing price of RH common stock which allegedly was proximately caused by Defendants' alleged materially false and misleading statements and omissions.

59. In calculating the estimated artificial inflation allegedly caused by Defendants' alleged misrepresentations and omissions, Lead Plaintiffs' damages expert considered price changes in RH common stock in reaction to certain public announcements allegedly revealing the truth concerning Defendants' alleged misrepresentations and omissions, adjusting for price changes that were attributable to market or industry forces. The estimated artificial inflation in RH common stock is stated in Tables A-1 and A-2 at the end of this Notice.

60. In order to have recoverable damages, the disclosure of the allegedly misrepresented information must be the cause of the decline in the price of RH common stock. In this case, Lead Plaintiffs allege that Defendants made false statements and omitted material facts during the period between March 26, 2015 and June 8, 2016, inclusive, which had the effect of artificially inflating the price of RH common stock. Lead Plaintiffs further allege that corrective information was released to the market on: December 10, 2015 (after the close of trading), February 24, 2016 (after the close of trading), March 17, 2016 (before the opening of trading), and June 8, 2016 (after the close of trading), which partially removed the artificial inflation from the prices of RH common stock on: December 11-14, 2015, February 25, 2016, March 17, 2016, and June 9-10, 2016.⁴

61. Recognized Loss Amounts are based primarily on the difference in the amount of alleged artificial inflation in the respective prices of RH common stock at the time of purchase or acquisition and at the time of sale, or the difference between the actual purchase price and sale price. Accordingly, in order to have a Recognized Loss Amount under the Plan of Allocation, a Class Member who or which purchased or otherwise acquired RH common stock prior to the first corrective disclosure, which occurred after the close of the financial markets on December 10, 2015, must have held his, her, or its shares of RH common stock through at least the opening of trading on December 11, 2015. A Class Member who purchased or otherwise acquired RH common stock from December 11, 2015 through and including the close of trading on June 8, 2016, must have held those shares through at least one of the later dates where new corrective information was released to the market and partially removed the artificial inflation from the price of RH common stock.

62. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal, or review, whether by certiorari or otherwise, has expired.

63. Neither Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Defendants shall not have any liability, obligation, or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund, or the plan of allocation.

64. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

65. Unless the Court otherwise orders, any Class Member who fails to submit a Claim Form postmarked on or before October 8, 2019, shall be fully and forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Class Member and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Class Member releases the Released Plaintiffs' Claims (as defined in

⁴ With respect to the partial corrective disclosure that occurred on December 10, 2015, the alleged artificial inflation was removed from the price of RH common stock over the following two days: Friday, December 11, 2015, and Monday, December 14, 2015. With respect to the partial corrective disclosure that occurred on June 8, 2016, the alleged artificial inflation was removed from the price of RH common stock over the following two days: Thursday, June 9, 2016, and Friday, June 10, 2016.

¶ 28 above) against the Defendants' Releasees (as defined in ¶ 29 above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Plaintiffs' Claims against any of the Defendants' Releasees whether or not such Class Member submits a Claim Form.

66. Participants in and beneficiaries of an RH employee benefit plan covered by ERISA ("RH ERISA Plan") should NOT include any information relating to their transactions in RH common stock held through the RH ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY shares they purchased outside of the Plan.

67. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Class Member.

68. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Claim Form.

69. Only Class Members or persons authorized to submit a claim on their behalf will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Class by definition or that exclude themselves from the Class pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms.

CALCULATION OF RECOGNIZED LOSS AMOUNTS

70. Based on the formula stated below, a "Recognized Loss Amount" will be calculated for each purchase or acquisition of RH common stock that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, that number will be zero.

71. For each share of RH common stock purchased or otherwise acquired during the period from March 26, 2015, through and including the close of trading on June 8, 2016, and:

- A. Sold before December 11, 2015, the Recognized Loss Amount will be \$0.00;
- B. Sold from December 11, 2015 through and including June 8, 2016, the Recognized Loss Amount will be the lesser of: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A-1 minus the amount of artificial inflation per share on the date of sale as stated in Table A-2; or (ii) the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions);
- C. Sold from June 9, 2016 through and including the close of trading on September 6, 2016, the Recognized Loss Amount will be the least of: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A-1 minus the amount of artificial inflation per share on the date of sale as stated in Table A-2; (ii) the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the average closing price between June 9, 2016, and the date of sale as stated in Table B below; or (iii) the purchase/acquisition price (excluding all fees, taxes, and commissions) minus the sale price (excluding all fees, taxes, and commissions); or
- D. Held as of the close of trading on September 6, 2016, the Recognized Loss Amount will be the lesser of: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A-1; or (ii) the purchase/acquisition price (excluding all fees, taxes, and commissions) minus \$29.86.⁵

ADDITIONAL PROVISIONS

72. **Calculation of Claimant's "Recognized Claim":** A Claimant's "Recognized Claim" will be the sum of his, her, or its Recognized Loss Amounts as calculated above with respect to RH common stock.

73. **FIFO Matching:** If a Class Member made more than one purchase/acquisition or sale of RH common stock during the Class Period, all purchases/acquisitions and sales will be matched on a First In, First Out ("FIFO") basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against

⁵ Pursuant to Section 21D(e)(1) of the Exchange Act, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of RH common stock during the "90-day look-back period," June 9, 2016 through and including September 6, 2016. The mean (average) closing price for RH common stock during this 90-day look-back period was \$29.86.

purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.

74. “Purchase/Sale” Dates: Purchases or acquisitions and sales of RH common stock will be deemed to have occurred on the “contract” or “trade” date, as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance, or operation of law of RH common stock during the Class Period shall not be deemed a purchase, acquisition, or sale of RH common stock for the calculation of a Claimant’s Recognized Loss Amount, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition/sale of RH common stock unless (i) the donor or decedent purchased or otherwise acquired or sold such RH common stock during the Class Period; (ii) the instrument of gift or assignment specifically provides that it is intended to transfer such rights; and (iii) no Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of RH common stock.

75. Short Sales: The date of covering a “short sale” is deemed to be the date of purchase or acquisition of the RH common stock. The date of a “short sale” is deemed to be the date of sale of the RH common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount on “short sales” and the purchases covering “short sales” is zero.

76. In the event that a Claimant has an opening short position in RH common stock, the earliest purchases or acquisitions of RH common stock during the Class Period will be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered.

77. Common Stock Purchased/Sold Through the Exercise of Options: Option contracts are not securities eligible to participate in the Settlement. With respect to RH common stock purchased or sold through the exercise of an option, the purchase/sale date of the security is the exercise date of the option and the purchase/sale price is the exercise price of the option.

78. Market Gains and Losses: The Claims Administrator will determine if the Claimant had a “Market Gain” or a “Market Loss” with respect to his, her, or its overall transactions in RH common stock during the Class Period. For purposes of making this calculation, the Claims Administrator shall determine the difference between (i) the Claimant’s Total Purchase Amount⁶ and (ii) the sum of the Claimant’s Total Sales Proceeds⁷ and the Claimant’s Holding Value.⁸ If the Claimant’s Total Purchase Amount minus the sum of the Claimant’s Total Sales Proceeds and the Holding Value is a positive number, that number will be the Claimant’s Market Loss; if the number is a negative number or zero, that number will be the Claimant’s Market Gain.

79. If a Claimant had a Market Gain with respect to his, her, or its overall transactions in RH common stock during the Class Period, the value of the Claimant’s Recognized Claim will be zero, and the Claimant will in any event be bound by the Settlement. If a Claimant suffered an overall Market Loss with respect to his, her, or its overall transactions in RH common stock during the Class Period, but that Market Loss was less than the Claimant’s Recognized Claim, then the Claimant’s Recognized Claim will be limited to the amount of the Market Loss.

80. Determination of Distribution Amount: If the sum total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share will be the Authorized Claimant’s Recognized Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

81. If the Net Settlement Fund exceeds the sum total amount of the Recognized Claims of all Authorized Claimants entitled to receive payment out of the Net Settlement Fund, the excess amount in the Net Settlement Fund will be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

82. If an Authorized Claimant’s Distribution Amount calculates to less than \$10.00, no distribution will be made to that Authorized Claimant.

⁶ The “Total Purchase Amount” is the total amount the Claimant paid (excluding all fees, taxes, and commissions) for all shares of RH common stock purchased or acquired during the Class Period.

⁷ The Claims Administrator shall match any sales of RH common stock during the Class Period first against the Claimant’s opening position in RH common stock (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding all fees, taxes, and commissions) for sales of the remaining shares of RH common stock sold during the Class Period is the “Total Sales Proceeds.”

⁸ The Claims Administrator shall ascribe a “Holding Value” of \$27.49 to each share of RH common stock purchased or acquired during the Class Period that was still held as of the close of trading on June 8, 2016.

83. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the Net Settlement Fund seven (7) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that it is cost-effective to do so, the Claims Administrator will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to the Investor Protection Trust.

84. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel, Lead Plaintiffs' damages or consulting experts, Defendants, Defendants' Counsel, or any of the other Plaintiffs' Releasees or Defendants' Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Lead Plaintiffs, Defendants, and their respective counsel, and all other Defendants' Releasees, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund; the plan of allocation; the determination, administration, calculation, or payment of any Claim or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith.

85. The Plan of Allocation stated herein is the plan that is being proposed to the Court for its approval by Lead Plaintiffs after consultation with their damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the case website, RHSecuritiesLitigation.com.

TABLE A-1

**Estimated Artificial Inflation with Respect to Purchases/Acquisitions of
RH Common Stock from March 26, 2015, through and including June 8, 2016**

Date Range	Artificial Inflation Per Share
March 26, 2015 – December 10, 2015	\$31.82
December 11, 2015 – February 24, 2016	\$24.61
February 25, 2016 – March 16, 2016	\$10.48
March 17, 2016 – June 8, 2016	\$8.02
After June 8, 2016	\$0.00

TABLE A-2

**Estimated Artificial Inflation with Respect to Sales of
RH Common Stock from March 26, 2015, through and including June 9, 2016**

Date Range	Artificial Inflation Per Share
March 26, 2015 – December 10, 2015	\$31.82
December 11, 2015 – December 13, 2015	\$29.45
December 14, 2015 – February 24, 2016	\$24.61
February 25, 2016 – March 16, 2016	\$10.48
March 17, 2016 – June 8, 2016	\$8.02
June 9, 2016	\$1.20
After June 9, 2016	\$0.00

TABLE B
90-Day Look-back Table for RH Common Stock
(Closing Price and Average Closing Price: June 9, 2016 – September 6, 2016)

Date	Closing Price	Average Closing Price Between June 9, 2016 and Date Shown	Date	Closing Price	Average Closing Price Between June 9, 2016 and Date Shown
6/9/2016	\$28.41	\$28.41	7/25/2016	\$30.56	\$28.19
6/10/2016	\$26.56	\$27.49	7/26/2016	\$29.72	\$28.23
6/13/2016	\$25.68	\$26.88	7/27/2016	\$29.56	\$28.27
6/14/2016	\$25.88	\$26.63	7/28/2016	\$29.84	\$28.32
6/15/2016	\$26.25	\$26.56	7/29/2016	\$30.81	\$28.39
6/16/2016	\$25.97	\$26.46	8/1/2016	\$30.73	\$28.45
6/17/2016	\$25.99	\$26.39	8/2/2016	\$28.74	\$28.46
6/20/2016	\$26.12	\$26.36	8/3/2016	\$28.93	\$28.47
6/21/2016	\$25.77	\$26.29	8/4/2016	\$28.13	\$28.46
6/22/2016	\$27.62	\$26.43	8/5/2016	\$29.52	\$28.49
6/23/2016	\$27.92	\$26.56	8/8/2016	\$30.47	\$28.53
6/24/2016	\$27.56	\$26.64	8/9/2016	\$30.35	\$28.58
6/27/2016	\$25.39	\$26.55	8/10/2016	\$29.21	\$28.59
6/28/2016	\$25.82	\$26.50	8/11/2016	\$30.51	\$28.63
6/29/2016	\$28.05	\$26.60	8/12/2016	\$31.40	\$28.69
6/30/2016	\$28.68	\$26.73	8/15/2016	\$31.72	\$28.76
7/1/2016	\$30.00	\$26.92	8/16/2016	\$31.49	\$28.81
7/5/2016	\$29.55	\$27.07	8/17/2016	\$30.11	\$28.84
7/6/2016	\$29.76	\$27.21	8/18/2016	\$30.77	\$28.88
7/7/2016	\$28.84	\$27.29	8/19/2016	\$34.22	\$28.98
7/8/2016	\$29.62	\$27.40	8/22/2016	\$34.03	\$29.08
7/11/2016	\$30.27	\$27.53	8/23/2016	\$35.55	\$29.20
7/12/2016	\$30.71	\$27.67	8/24/2016	\$34.08	\$29.29
7/13/2016	\$28.77	\$27.72	8/25/2016	\$34.65	\$29.39
7/14/2016	\$28.64	\$27.75	8/26/2016	\$32.59	\$29.45
7/15/2016	\$27.50	\$27.74	8/29/2016	\$33.73	\$29.52
7/18/2016	\$29.50	\$27.81	8/30/2016	\$33.96	\$29.60
7/19/2016	\$29.01	\$27.85	8/31/2016	\$33.73	\$29.67
7/20/2016	\$30.51	\$27.94	9/1/2016	\$33.42	\$29.73
7/21/2016	\$30.62	\$28.03	9/2/2016	\$33.88	\$29.80
7/22/2016	\$30.42	\$28.11	9/6/2016	\$33.56	\$29.86

This Page Intentionally Left Blank

RH Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173074
Milwaukee, WI 53217

Toll-Free Number: 1-866-217-4456
Email: info@RHSecuritiesLitigation.com
Website: RHSecuritiesLitigation.com

PROOF OF CLAIM AND RELEASE FORM

To be eligible to receive a share of the Net Settlement Fund in connection with the Settlement of this Action, you must complete and sign this Proof of Claim and Release Form ("Claim Form") and mail it by first-class mail to the above address, ***postmarked no later than October 8, 2019***.

Failure to submit your Claim Form by the date specified will subject your claim to rejection and may preclude you from being eligible to receive any money in connection with the Settlement.

Do not mail or deliver your Claim Form to the Court, the Parties to the Action, or their counsel. Submit your Claim Form only to the Claims Administrator at the address set forth above.

TABLE OF CONTENTS

PAGE #

PART I – CLAIMANT INFORMATION

2

PART II – GENERAL INSTRUCTIONS

3

**PART III – SCHEDULE OF TRANSACTIONS IN RH COMMON STOCK
(NYSE: RH, CUSIP: 74967X103)**

5

PART IV – RELEASE OF CLAIMS AND SIGNATURE

6

Page 2 of 8

PART II – GENERAL INSTRUCTIONS

1. It is important that you completely read the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (the “Notice”) that accompanies this Claim Form, including the Plan of Allocation of the Net Settlement Fund set forth in the Notice. The Notice describes the proposed Settlement, how Class Members are affected by the Settlement, and the manner in which the Net Settlement Fund will be distributed if the Settlement and Plan of Allocation are approved by the Court. The Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Notice, including the terms of the releases described therein and provided for herein.

2. By submitting this Claim Form, you will be making a request to share in the proceeds of the Settlement described in the Notice. If you are not a Class Member (see the definition of the Class on page 4 of the Notice), or if you, or someone acting on your behalf, submitted a request for exclusion from the Class, do not submit a Claim Form. **You may not, directly or indirectly, participate in the Settlement if you are not a Class Member.** Thus, if you are excluded from the Class, any Claim Form that you submit, or that may be submitted on your behalf, will not be accepted.

3. **Submission of this Claim Form does not guarantee that you will share in the proceeds of the Settlement. The distribution of the Net Settlement Fund will be governed by the Plan of Allocation set forth in the Notice or by such other plan of allocation as the Court approves.**

4. On the Schedule of Transactions in Part III of this Claim Form, provide all of the requested information with respect to your holdings, purchases, acquisitions, and sales of RH common stock (including free transfers and deliveries), whether such transactions resulted in a profit or a loss. **Failure to report all transaction and holding information during the requested time period may result in the rejection of your claim.**

5. **Please note:** Only RH common stock purchased or acquired during the Class Period (*i.e.*, from March 26, 2015, through June 8, 2016, inclusive) is eligible under the Settlement. However, sales of the stock during the period from June 9, 2016, through September 6, 2016, inclusive, will be used for purposes of calculating your claim under the Plan of Allocation. Therefore, in order for the Claims Administrator to be able to balance your claim, the requested purchase/acquisition information during this period must also be provided.

6. You are required to submit genuine and sufficient documentation for all of your transactions in and holdings of RH common stock set forth in the Schedule of Transactions in Part III. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Parties and the Claims Administrator do not independently have information about your investments in RH common stock. **IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OF THE DOCUMENTS OR EQUIVALENT DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS.**

7. **Please keep a copy of all documents that you send to the Claims Administrator. Also, do not highlight any portion of the Claim Form or any supporting documents.**

8. Use Part I of this Claim Form entitled “CLAIMANT INFORMATION” to identify the beneficial owner(s) of RH common stock. The complete name(s) of the beneficial owner(s) must be entered. If you held the RH common stock in your own name, you were the beneficial owner as well as the record owner. If, however, your shares of RH common stock were registered in the name of a third party, such as a nominee or brokerage firm, you were the beneficial owner of these shares, but the third party was the record owner. The beneficial owner, not the record owner, must sign this Claim Form to be eligible to participate in the Settlement. If there were joint beneficial owners, each must sign this Claim Form and their names must appear as “Claimants” in Part I of this Claim Form.

9. **One Claim should be submitted for each separate legal entity.** Separate Claim Forms should be submitted for each separate legal entity (*e.g.*, a Claim from joint owners should not include separate transactions of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made solely in

the individual's name). Conversely, a single Claim Form should be submitted on behalf of one legal entity, including all transactions made by that entity on one Claim Form, no matter how many separate accounts that entity has (*e.g.*, a corporation with multiple brokerage accounts should include all transactions made in all accounts on one Claim Form).

10. Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, Social Security Number (or taxpayer identification number), address, and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the RH common stock; and
- (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade securities in another person's accounts.)

11. By submitting a signed Claim Form, you will be swearing that you:

- (a) own(ed) the RH common stock you have listed in the Claim Form; or
- (b) are expressly authorized to act on behalf of the owner thereof.

12. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your claim and may subject you to civil liability or criminal prosecution.

13. Payments to eligible Authorized Claimants will be made only if the Court approves the Settlement, after any appeals are resolved, and after the completion of all claims processing.

14. **PLEASE NOTE:** As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation, and no distribution will be made to that Authorized Claimant.

15. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Notice, you may contact the Claims Administrator, A.B. Data, Ltd., at the above address, by email at info@RHSecuritiesLitigation.com, or by toll-free phone at 1-866-217-4456, or you can visit the website, RHSecuritiesLitigation.com, where copies of the Claim Form and Notice are available for downloading.

16. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. To obtain the **mandatory** electronic filing requirements and file layout, you may visit the settlement website at RHSecuritiesLitigation.com or you may email the Claims Administrator's electronic filing department at info@RHSecuritiesLitigation.com. **Any file not in accordance with the required electronic filing format will be subject to rejection.** Only one claim should be submitted for each separate legal entity (*see* ¶ 9 above) and the **complete** name of the beneficial owner of the securities must be entered where called for (*see* ¶ 8 above). No electronic files will be considered to have been submitted unless the Claims Administrator issues an email confirming receipt of your submission. **Do not assume that your file has been received until you receive that email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at info@RHSecuritiesLitigation.com to inquire about your file and confirm it was received.**

IMPORTANT: PLEASE NOTE

YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL, WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, CALL THE CLAIMS ADMINISTRATOR TOLL-FREE AT 1-866-217-4456.

PART III – SCHEDULE OF TRANSACTIONS IN RH COMMON STOCK

The only eligible security is the common stock of RH (formerly known as Restoration Hardware Holdings, Inc.) (**Ticker: NYSE: RH, CUSIP: 74967X103**) (“RH Common Stock”). Do not include information regarding securities other than RH Common Stock. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, ¶ 6, above.

1. HOLDINGS AS OF MARCH 26, 2015 – State the total number of shares of RH Common Stock held as of the opening of trading on March 26, 2015. (Must be documented.) If none, write “zero” or “0.” _____				Confirm Proof of Position Enclosed <input type="checkbox"/>
2. PURCHASES/ACQUISITIONS FROM MARCH 26, 2015, THROUGH JUNE 8, 2016 – Separately list each and every purchase or acquisition (including free receipts) of RH Common Stock from after the opening of trading on March 26, 2015, through the close of trading on June 8, 2016. (Must be documented.)				
Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/Acquired	Purchase/Acquisition Price Per Share	Total Purchase/ Acquisition Price (excluding any taxes, commissions, and fees)	Confirm Proof of Purchase Enclosed
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
3. PURCHASES/ACQUISITIONS FROM JUNE 9, 2016, THROUGH SEPTEMBER 6, 2016 – State the total number of shares of RH Common Stock purchased or acquired (including free receipts) from June 9, 2016, through the close of trading on September 6, 2016. If none, write “zero” or “0.” ¹ _____				
4. SALES FROM MARCH 26, 2015, THROUGH SEPTEMBER 6, 2016 – Separately list each and every sale or disposition (including free deliveries) of RH Common Stock from after the opening of trading on March 26, 2015, through the close of trading on September 6, 2016. (Must be documented.)				IF NONE, CHECK HERE <input type="checkbox"/>
Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (not deducting any taxes, commissions, and fees)	Confirm Proof of Sale Enclosed
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>
5. HOLDINGS AS OF SEPTEMBER 6, 2016 – State the total number of shares of RH Common Stock held as of the close of trading on September 6, 2016. (Must be documented.) If none, write “zero” or “0.” _____				Confirm Proof of Position Enclosed <input type="checkbox"/>
IF YOU REQUIRE ADDITIONAL SPACE FOR THE SCHEDULE ABOVE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT. PRINT THE BENEFICIAL OWNER’S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY/TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE. IF YOU DO ATTACH EXTRA SCHEDULES, CHECK THIS BOX. <input type="checkbox"/>				

¹ **Please note:** Information about your purchases and acquisitions of RH Common Stock from June 9, 2016 through and including September 6, 2016 is needed in order to balance your claim. Purchases during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Claim pursuant to the Plan of Allocation.

PART IV – RELEASE OF CLAIMS AND SIGNATURE

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE 7 OF THIS CLAIM FORM.

I (we) hereby acknowledge that, pursuant to the terms set forth in the Stipulation, without further action by anyone, upon the Effective Date of the Settlement, I (we), on behalf of myself (ourselves) and my (our) respective spouses, heirs, executors, beneficiaries, administrators, predecessors, successors, and assigns, in their capacities as such, and any Person(s) claiming (now or in the future) through or on behalf of any of them directly or indirectly, regardless of whether such Plaintiff or Class Member ever seeks or obtains by any means (including, without limitation, by submitting a Claim Form to the Claims Administrator) any distribution from the Net Settlement Fund, that such persons: (a) shall have fully, finally, and forever compromised, settled, released, relinquished, waived, dismissed, and discharged each and all of the Released Plaintiffs' Claims (including Unknown Claims) against each and all of the Defendants' Releasees, and shall have covenanted not to sue any of the Defendants' Releasees with respect to any of the Released Plaintiffs' Claims (including any Unknown Claims) except to enforce the releases and other terms and conditions contained in the Stipulation or the Judgment or Alternate Judgment entered pursuant thereto; and (b) shall be forever permanently barred, enjoined, and restrained from bringing, commencing, instituting, asserting, maintaining, enforcing, prosecuting, or otherwise pursuing, either directly or in any other capacity, any of the Released Plaintiffs' Claims (including any Unknown Claims) against any of the Defendants' Releasees in the Action or in any other action or proceeding, in any state, federal, or foreign court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind.

CERTIFICATION

By signing and submitting this Claim Form, the claimant(s) or the person(s) who represent(s) the claimant(s) agree(s) to the release above and certifies (certify) as follows:

1. that I (we) have read and understand the contents of the Notice and this Claim Form, including the releases provided for in the Settlement and the terms of the Plan of Allocation;
2. that the claimant(s) is a (are) Class Member(s), as defined in the Notice, and is (are) not excluded by definition from the Class as set forth in the Notice;
3. that the claimant(s) did **not** submit a request for exclusion from the Class;
4. that I (we) own(ed) the RH common stock identified in the Claim Form and have not assigned the claim against any of the Defendants or any of the other Defendants' Releasees to another, or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
5. that the claimant(s) has (have) not submitted any other claim covering the same purchases of RH common stock and knows (know) of no other person having done so on the claimant's (claimants') behalf;
6. that the claimant(s) submit(s) to the jurisdiction of the Court with respect to claimant's (claimants') claim and for purposes of enforcing the releases set forth herein;
7. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator, or the Court may require;
8. that the claimant(s) waive(s) the right to trial by jury, to the extent it exists, and agree(s) to the determination by the Court of the validity or amount of this Claim, and waive(s) any right of appeal or review with respect to such determination;
9. that I (we) acknowledge that the claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and

10. that the claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (i) the claimant(s) is (are) exempt from backup withholding, or (ii) the claimant(s) has (have) not been notified by the IRS that he, she, or it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified the claimant(s) that he, she, or it is no longer subject to backup withholding. **If the IRS has notified the claimant(s) that he, she, it, or they is (are) subject to backup withholding, please strike out the language in the preceding sentence indicating that the claim is not subject to backup withholding in the certification above.**

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of claimant

Date

Print claimant name here

Signature of joint claimant, if any

Date

Print joint claimant name here

If the claimant is other than an individual, or is not the person completing this form, the following also must be provided:

Signature of person signing on behalf of claimant

Date

Print name of person signing on behalf of claimant here

Capacity of person signing on behalf of claimant, if other than an individual, *e.g.*, executor, president, trustee, custodian, etc. (Must provide evidence of authority to act on behalf of claimant – see ¶ 10 on page 4 of this Claim Form.)

REMINDER CHECKLIST

1. Sign the above release and certification. If this Claim Form is being made on behalf of joint claimants, then both must sign.
2. Attach only ***copies*** of acceptable supporting documentation as these documents will not be returned to you.
3. Do not highlight any portion of the Claim Form or any supporting documents.
4. Keep copies of the completed Claim Form and documentation for your own records.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at 1-866-217-4456.**
6. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, you must send the Claims Administrator written notification of your new address. If you change your name, inform the Claims Administrator.
7. If you have any questions or concerns regarding your claim, contact the Claims Administrator at the address below, by email at info@RHSecuritiesLitigation.com, or by toll-free phone at 1-866-217-4456, or you may visit RHSecuritiesLitigation.com. DO NOT call RH or its counsel with questions regarding your claim.

THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTMARKED NO LATER THAN OCTOBER 8, 2019, ADDRESSED AS FOLLOWS:

RH Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173074
Milwaukee, WI 53217

1-866-217-4456
RHSecuritiesLitigation.com

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if a postmark date on or before October 8, 2019, is indicated on the envelope and it is mailed First Class, and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.

EXHIBIT B

BUSINESS NEWS

Shale Investors Embrace Royalties

As drilling companies struggle, some opt instead to own the valuable mineral rights

By Rebecca Elliott
And Christopher M. Matthews

Investors are still eager for a piece of the U.S. oil boom. Some just don't want to own shale companies that have struggled to consistently turn a profit.

Instead, they are gobbling up the minerals rights typically held by individual landowners, hoping to benefit from production growth.

Mineral owners take home a cut of the oil and gas pumped on their land in the form of royalty payments, often 12.5% to 20% of the value of the fuel. They don't control the pace of development, but they aren't on the hook for drilling or overhead costs either, an attractive proposition for investors frustrated with shale companies living beyond their means.

In 2018, the value of publicly announced minerals and royalty deals neared \$3.3 billion, the highest level of spending in the sector in the past five years, according to data analytics firm Drillinginfo.

Brigham Minerals Inc., which owns the rights to land being drilled by multiple companies in different regions, was one of the few energy firms to go public this year. Rob Roosa, chief executive of the Austin, Texas, company, said it offers an alternative for institutional investors seeking exposure to the domestic energy industry but tired of fracking companies that fail to deliver reliable returns.

"There is real disenchantment with the value destruction over the last few years," Mr. Roosa said. "We have interest from [institutional investors], because they feel like it is a safe way to play the space."

Brigham Minerals initially hoped to raise \$100 million in its April initial public offering but increased that amount to



JAMES DUBOIN FOR THE WALL STREET JOURNAL

Investors are interested in the sector because U.S. oil production is growing, and set a record above 12 million barrels a day this year.

\$261 million at \$18 a share because of higher-than-expected demand, according to a regulatory filing. Shares of the company, which was created in 2012 by oilman Ben "Bud" Brigham, are currently trading around \$20.

By contrast, no fracking company has gone public this year, according to consultant Rystad Energy.

The misfortunes of shale companies have weighed on the industry more broadly. Oil-and-gas companies now represent around 5% of the S&P 500, down from nearly 11% just five years ago. A broad index of U.S. oil-and-gas producers has fallen by roughly half since the beginning of 2015, when the U.S. benchmark oil price was about \$53 a barrel. The S&P 500 has gained about 45% in that time.

Yet investors remain interested in the sector because U.S. oil production is growing, and set a record above 12 million barrels a day earlier this year.

Despite their financial woes, many shale companies continue to drill to hold on to leases or meet pipeline commitments, or because their executive compensation is tied to production growth.

Some, like natural-gas driller **Range Resources Corp.**, see opportunity in the growing appetite for minerals and royalties. The company agreed last week to sell \$600 million worth of royalty interests to pay down debt, following a similar deal last fall.

Mineral rights-owning companies aren't without risk. Royalty payments are tied to both production levels and commodity prices, neither of

which mineral owners typically control. Many shale companies have cut spending on drilling this year, while oil prices have hovered around \$60 a barrel. Less production paired with lower prices means the value of royalty payments will drop.

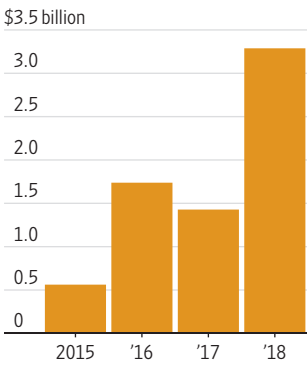
"Part of the risk associated with the investments is you are a passive investor," said Justin Stolte, a partner at law firm Gibson, Dunn & Crutcher.

Still, the value of large mineral owners such as **Texas Pacific Land Trust**, formed after Texas and Pacific Railway went bankrupt in the late 1800s, has soared as the booming Permian Basin of West Texas and New Mexico transformed the U.S. into the world's top oil producer. The price of shares in the trust has more than quadrupled in the past five years to more than \$760.

Energy Boost

Companies are spending growing amounts on mineral rights or associated royalties in hopes of capitalizing on soaring oil and gas production.

Total value of mineral and royalty deals



Note: Only includes publicly disclosed deals
Source: Drillinginfo

Insurers' Apps Aim To Cut Cost

Continued from page B1

care and coordinate follow-ups. Premiums for the digital-first plan are significantly lower than many competing products, Humana said.

Insurers hope to save money by using the digital services to promptly detect and respond to health problems that can result in costly emergency-room visits. They also want to use digital tools to steer members toward lower-cost care.

Oscar Insurance Corp., a smaller insurer that has focused closely on integrating digital care, recently did a test with about 1,000 members whose birth-control prescriptions were due to lapse. The women got a notice that they could use a virtual visit with an Oscar-affiliated physician to get the prescription renewed. About 8% did so, and roughly half of them moved to a lower-cost generic.

UnitedHealth points to an app called Recover, which it will be offering in 25 markets by next year. The Recover app tells patients where they can go for various services tied to the surgery, such as imaging, and another app tells how much each will cost. Recover sets up text messaging with the surgeon's office. After the operation, patients can use the app to take pictures of their surgical site that are analyzed by the technology. If there are signs of a problem, the doctor's office is alerted.

Anthem's app, now called CareSpree, has an artificial-intelligence-powered chat function to suggest potential diagnoses for consumers who enter symptoms and other information, then lets them connect with a doctor via text for follow-up advice. "The idea, front and center, is to make it really easy. Otherwise people won't use it," said Allon Bloch, chief of K Health, which provides some of the app's technology.

ADVERTISEMENT

The Marketplace

To advertise: 800-366-3975 or WSJ.com/classifieds

CLASS ACTION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

TO: All persons and entities who, during the period from March 26, 2015 through June 8, 2016, inclusive, purchased or otherwise acquired the common stock of RH (formerly Restoration Hardware Holdings, Inc.) (the "Class"):

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California, that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Class, except for certain persons and entities who are excluded from the Class by definition as set forth in the full printed Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Lead Plaintiffs in the Action have reached a proposed settlement of the Action for \$50,000,000 in cash (the "Settlement"), that, if approved, will resolve all claims in the Action.

A hearing will be held on October 22, 2019, at 2:00 p.m., before the Honorable Yvonne Gonzalez Rogers at Courtroom 1 of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, to determine whether: (1) the proposed Settlement should be approved as fair, reasonable, and adequate; (2) the Action should be dismissed with prejudice against Defendants, and the Releases specified and described in the Stipulation and Agreement of Settlement dated May 6, 2019 (and in the Notice), should be granted; (3) the proposed Plan of Allocation should be approved as fair and reasonable; and (4) the application of Lead Counsel for an award of attorneys' fees of 15% of the Settlement Fund (or \$7,500,000 plus interest) and payment of litigation expenses of up to \$950,000 from the Settlement Fund, which may include the expenses of Lead Plaintiffs directly related to their representation of the Class, should be approved.

If you are a member of the Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund. If you have not yet received the Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at *RH Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173074, Milwaukee, WI 53217, 1-866-217-4456. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, RHSecuritiesLitigation.com.

If you are a member of the Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form *postmarked* no later than October 8, 2019. If you are a Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Class and wish to exclude yourself from the Class, you must submit a request for exclusion such that it is *received* no later than October 1, 2019, in accordance with the instructions set forth in the Notice. If you properly exclude yourself from the Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are *received* no later than October 1, 2019, in accordance with the instructions set forth in the Notice.

Please do not contact the Court, the Clerk's office, RH, or its counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to Lead Counsel or the Claims Administrator.

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
Jonathan D. Uslaner, Esq.
2121 Avenue of the Stars, Suite 2575
Los Angeles, CA 90067
(800) 380-8496
settlements@blbglaw.com

Requests for the Notice and Claim Form should be made to:

In re RH, Inc. Securities Litigation
c/o A.B. Data, Ltd.
P.O. Box 173074
Milwaukee, WI 53217
(866) 217-4456 (toll-free)
RHSecuritiesLitigation.com

Dated: July 23, 2019

By Order of the Court

PUBLIC NOTICES

Court File No. CV-15-10832-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TARGET CANADA CO., TARGET CANADA HEALTH CO., TARGET CANADA MOBILE GP CO., TARGET CANADA PHARMACY (BC) CORP., TARGET CANADA PHARMACY (ONTARIO) CORP., TARGET CANADA PHARMACY CORP., TARGET CANADA PHARMACY (SK) CORP., and TARGET CANADA PROPERTY LLC (collectively the "Applicants")

NOTICE OF FINAL DISTRIBUTION

All capitalized terms not otherwise defined in this Notice shall have the meanings ascribed thereto in the Second Amended and Restated Joint Plan of Compromise and Arrangement of the Applicants pursuant to the Companies' Creditors Arrangement Act dated May 19, 2016 (as further amended, restated, supplemented and/or modified in accordance with its terms, the "Plan"), a copy of which is available at www.alvarezandmarsal.com/targetcanada.

TAKE NOTICE THAT Target Canada Co. shall effect a final distribution under the Plan on or around August 28, 2019 (the "Final Distribution Date") pursuant to and in accordance with the terms of the Plan and the Sanction and Vesting Order issued by the Ontario Superior Court of Justice (Commercial List) on June 2, 2016.

AND TAKE NOTICE THAT the Plan provides that if any Affected Creditor's, Propco Unaffected Creditor's, Property LP Unaffected Creditor's, Landlord Guarantee Creditor's or Landlord Non-Guarantee Creditor's distribution is returned as undeliverable or is not cashed, no further distributions to such Creditor or Landlord shall be made unless and until the Monitor is notified by such creditor of its current address or wire particulars, at which time all distributions shall be made to such Creditor or Landlord without interest.

AND TAKE NOTICE THAT all Affected Creditors, Propco Unaffected Creditors, Property LP Unaffected Creditors, Landlord Guarantee Creditors and Landlord Non-Guarantee Creditors who have not received a distribution in respect of their Proven Claims, Propco Unaffected Claims, Property LP Unaffected Claims, Landlord Guarantee Enhancement Amounts or Landlord Guarantee Non-Creditor Equalization Amounts, as applicable, must contact the Monitor, Alvarez & Marsal Canada Inc., at 200 Bay Street, Suite 2900, P.O. Box 22, Toronto, ON M5J 2J1 (Attention: Steven Glustein), facsimile number: (416) 847-5201 or email: targetcanadamonitor@alvarezandmarsal.com on or before 5:00 p.m. (Toronto time) on August 22, 2019 (the "Distribution Deadline").

AND TAKE NOTICE THAT, after the Distribution Deadline:

(a) all claims for undeliverable or un-cashed distributions in respect of Proven Claims, Propco Unaffected Claims and Property LP Unaffected Claims of any Affected Creditor, Propco Unaffected Creditor or Property LP Unaffected Creditor, as applicable, or the successor or assign of such Affected Creditor, Propco Unaffected Creditor or Property LP Unaffected Creditor, as applicable, shall be forever discharged and forever barred, without any compensation therefor, notwithstanding any Applicable Laws to the contrary, at which time the Cash amount held by TCC in relation to such Proven Claim, Propco Unaffected Claim or Property LP Unaffected Claim shall be returned to the TCC Cash Pool Account or the Propco Cash Pool Account, as applicable, pursuant to and in accordance with the Plan; and

(b) all claims for undeliverable or un-cashed distributions in respect of Landlord Guarantee Enhancement Amounts and Landlord Non-Guarantee Creditor Equalization Amounts of any Landlord, or the successor or assign of such Landlord, shall be forever discharged and forever barred, without any compensation therefor and shall be dealt with in accordance with the Plan.

DATED at the City of Toronto in the Province of Ontario this 23rd day of July, 2019.

BUSINESS OPPORTUNITIES

ENTERTAINMENT BUSINESS OPPORTUNITY

We have an incredible +/- 50,000sf exhibit in the Heart of Times Square with amazing potential. Looking for Investor of up to \$10 million & possible CEO position, if qualified.
Please call Mr Irving at 917-751-1342

DON'T MISS OUT!

Profitable Equipment Rental, Service and Sales business established in 1984. Land and Building included in southeast New Mexico. Over \$21 million revenue with excellent fleet, huge growth opportunities and great staff. Owners highly motivated to retire.
Contact: dsalenow84@gmail.com for more information.

2018 #1 Craft Distillery

per Yelp & Travel & Leisure Mag. \$680k+. Mid-Atlantic. Turn key. Team can con't. licenses, formulas, labels, trademarks, social media, equip. (no still), inventory, bldg. CraftDistillery4Sale@gmail.com

BUSINESS OPPORTUNITIES

Income property/Tailoring & Alterations Business
Four rental units plus owners unit. Owners unit with Tailoring and Alterations business. 3/4 acre corner lot in **New Port Richey, FL**. Business located in large two car garage with 6 industrial sewing machines for fine quality work. Ideal for young or semi-retired person to continue well established business. Rental income: \$52,800 annually. ROI 718%.
Price \$750,000 Briannirmul@msn.com

SPORTS

One of the fastest growing U.S. companies seeks local entrepreneurs. With over 1 million contracted users in just 18 mo, we have been recognized as a **2019 TOP 50 COMPANY**. Significant revenue opportunity. For info call 832-840-6995 50K Min. Investment.

COMMERCIAL REAL ESTATE

COMMERCIAL PROPERTY

Rite Aid Pharmacy Wellness Center
Kittanning, PA. 13,813 SF Bldg.
Prime Location.
11 yrs. Remaining on NNN lease.
PH. 304-797-7072

CAREERS

ULINE IS HIRING A NEW CIO

Our beloved Chief Information Officer (CIO) of the last 11 years is retiring. We are in search of an operational technology executive to join our family as CIO. We are investing heavily in technology, so it is an exciting time to be at Uline. We are a family-owned company that has grown to be a multi-billion dollar business. We have over 6,500 employees, 11 regional centers and multiple sales offices across North America. Reporting to our President, this individual will lead and direct the organization's overall information technology function. This includes tactical planning, development, evaluation and coordination of the information and technology systems. Additionally, the CIO will provide hands-on help to quickly resolve technology issues impacting customers and business users. This leader will act as a business partner in advising top management of the latest technology, recommend appropriate action and serve as the technical advisor. They will ensure that IT aligns with the growth strategy of the business. This leader will collaborate with the Executive Team to prioritize technology resources to support business functions and priorities. With an outstanding ability to lead, they will inspire and motivate others to action with demonstrated experience in talent development and succession. A master's degree in information technology or business-related field and at least 15 years of experience with five or more as a Senior Executive or CIO are required. Extensive knowledge of IT systems and technology, application development, Java and WebSphere, Oracle and data warehousing are a plus. Interested candidates should contact Bryan Aderhold, Director of Corporate Recruiting, at Bryan.Aderhold@uline.com. Visit uline.jobs for more information.

M & A BUSINESS BROKERS Sell & Show Businesses

Six Figure Commissions
As Independent Contractor
Work From Home / Outside Sales
Leads Furnished • Training • Since 1985
Send Letter & Resume to:
brokers@gottesman-company.com
Visit our website: gottesman-company.com
United States • Canada • Europe

THE WALL STREET JOURNAL.

THE MARKETPLACE

ADVERTISE TODAY
(800) 366-3975

For more information visit:
wsj.com/classifieds



© 2019 Dow Jones & Company, Inc.
All Rights Reserved.

EXHIBIT C

Bernstein Litowitz Berger & Grossmann LLP Announces a Proposed Settlement in the RH Securities Litigation

NEWS PROVIDED BY

Bernstein Litowitz Berger & Grossmann LLP

Jul 23, 2019, 15:00 ET

SHARE THIS ARTICLE

OAKLAND, Calif., July 23, 2019 /PRNewswire/ --

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

**SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION AND
PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING; AND
(III) MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

TO: All persons and entities who, during the period from March 26, 2015 through June 8, 2016, inclusive, purchased or otherwise acquired the common stock of RH (formerly Restoration Hardware Holdings, Inc.) (the "Class"):

PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California, that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Class, except for certain persons and entities who are excluded from the Class by definition as set forth in the full printed Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Lead Plaintiffs in the Action have reached a proposed settlement of the Action for \$50,000,000 in cash (the "Settlement"), that, if approved, will resolve all claims in the Action.

A hearing will be held on October 22, 2019, at 2:00 p.m., before the Honorable Yvonne Gonzalez Rogers at Courtroom 1 of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, to determine whether: (1) the proposed Settlement should be approved as fair, reasonable, and adequate; (2) the Action should be dismissed with prejudice against Defendants, and the Releases specified and described in the Stipulation and Agreement of Settlement dated May 6, 2019 (and in the Notice), should be granted; (3) the proposed Plan of Allocation should be approved as fair and reasonable; and (4) the

application of Lead Counsel for an award of attorneys' fees of 15% of the Settlement Fund (or \$7,500,000 plus interest) and payment of litigation expenses of up to \$950,000 from the Settlement Fund, which may include the expenses of Lead Plaintiffs directly related to their representation of the Class, should be approved.

If you are a member of the Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund. If you have not yet received the Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at *RH Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173074, Milwaukee, WI 53217, 1-866-217-4456. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, RHSecuritiesLitigation.com.

If you are a member of the Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form *postmarked* no later than October 8, 2019. If you are a Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Class and wish to exclude yourself from the Class, you must submit a request for exclusion such that it is *received* no later than October 1, 2019, in accordance with the instructions set forth in the Notice. If you properly exclude yourself from the Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are *received* no later than October 1, 2019, in accordance with the instructions set forth in the Notice.

Please do not contact the Court, the Clerk's office, RH, or its counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to Lead Counsel or the Claims Administrator.

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel: Bernstein Litowitz Berger & Grossmann LLP, Jonathan D. Uslander, Esq., 2121 Avenue of the Stars, Suite 2575, Los Angeles, CA 90067, (800) 380-8496, settlements@blbglaw.com

Requests for the Notice and Claim Form should be made to: *In re RH, Inc. Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173074, Milwaukee, WI 53217, (866) 217-4456 (toll free), RHSecuritiesLitigation.com.

By Order of the Court

SOURCE Bernstein Litowitz Berger & Grossmann LLP

Related Links

<http://rhsecuritieslitigation.com>

Exhibit 4

EXHIBIT 4

In re RH, Inc. Securities Litigation,
Case No. 4:17-0054-YGR

SUMMARY CHART OF LEAD COUNSEL'S HOURS AND LODESTAR

From Inception Through August 31, 2019

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Max W. Berger	90.50	1,300.00	117,650.00
Avi Josefson	94.25	900.00	84,825.00
Gerald Silk	44.00	1,050.00	46,200.00
David Stickney	737.50	975.00	719,062.50
Jonathan Uslaner	690.50	800.00	552,400.00
Senior Counsel			
Brandon Marsh	2,385.50	775.00	1,848,762.50
Associates			
Jenny Barbosa	686.50	475.00	326,087.50
David L. Duncan	210.25	700.00	147,175.00
Scott Foglietta	15.50	600.00	9,300.00
Benjamin Riesenber	413.25	475.00	196,293.75
Ross Shikowitz	23.50	600.00	14,100.00
Jacob Spaid	344.50	475.00	163,637.50
Robert Trisotto	542.50	625.00	339,062.50
Staff Attorney			
Lindsey Bond	939.25	350.00	328,737.50
Clarissa Cardes	284.25	350.00	99,487.50
Aaron Dumas	350.50	375.00	131,437.50
Hani Farah	180.75	350.00	63,262.50
Sivan Goldman	500.00	350.00	175,000.00
Kristin Guthrie	503.00	350.00	176,050.00
Mahdi Ibrahim	232.75	350.00	81,462.50
Tammy Issarapanichkit	560.50	350.00	196,175.00
Christine Lee	823.75	350.00	288,312.50
Anthony Mance	591.50	350.00	207,025.00
Shana Metzger	735.75	350.00	257,512.50
John Weber	1,388.50	350.00	485,975.00
Director of Investor Services			
Adam Weinschel	44.25	500.00	22,125.00

NAME	HOURS	HOURLY RATE	LODESTAR
Director of Financial Analysts			
Nick DeFilippis	14.00	575.00	8,050.00
Financial Analysts			
Matthew McGlade	21.75	350.00	7,612.50
Michelle Miklus	39.50	325.00	12,837.50
Sharon Safran	16.00	335.00	5,360.00
Case Analyst			
Sam Jones	76.75	350.00	26,862.50
Case Managers & Paralegals			
Jesse Axman	16.00	255.00	4,080.00
Jessica Cuccurullo	37.50	300.00	11,250.00
Ashley Lee	92.25	300.00	27,675.00
Matthew Mahady	42.00	335.00	14,070.00
Kaye A. Martin	919.00	335.00	307,865.00
Lisa Napoleon	13.50	300.00	4,050.00
Investigators			
Amy Bitkower	89.00	550.00	48,950.00
Lisa Burr (Williams)	16.00	300.00	4,800.00
Chris Altiery	113.00	255.00	28,815.00
Jenna Goldin	287.25	300.00	86,175.00
Joelle (Sfeir) Landino	358.00	350.00	125,300.00
Litigation Support			
Andy Alcindor	145.25	325.00	47,206.25
Babatunde Pedro	69.00	295.00	20,355.00
Andrea R. Webster	35.50	330.00	11,715.00
Jessica M. Wilson	12.25	295.00	3,613.75
Document Clerk			
Kevin Kazules	73.25	200.00	14,650.00
TOTAL LODESTAR	15,899.75		\$7,898,411.25

#1323828

Exhibit 5

EXHIBIT 5

In re RH, Inc. Securities Litigation,
Case No. 4:17-00554-YGR

SUMMARY DESCRIPTIONS OF WORK PERFORMED BY LEAD COUNSEL'S ATTORNEYS

PARTNERS

Max W. Berger (90.50 hours): Mr. Berger, Managing Partner and a founder of BLB&G, was actively involved in developing litigation strategy and participated in the mediation process and settlement negotiations.

Gerald Silk (44.00 hours): Mr. Silk is a BLB&G partner, member of its management committee, and the head of the Firm's New Matters department. Mr. Silk was principally involved in analyzing Lead Plaintiffs' claims and supervising the investigation. He also supervised the submissions made in support of the motion for appointment of the Lead Plaintiffs. Mr. Silk also participated in strategic and tactical decisions throughout the litigation.

Avi Josefson (94.25 hours): Mr. Josefson was primarily responsible for analyzing Lead Plaintiffs' potential claims during the early stages of the litigation. He was also involved in drafting the submissions made in support of the motion for appointment of the Lead Plaintiffs. Mr. Josefson was also one of the attorneys who regularly communicated with Lead Plaintiff Chicago Teachers.

David Stickney (737.50 hours): Mr. Stickney, a former partner at BLB&G, was responsible for supervising the day-to-day handling and strategy of the litigation and overseeing all aspects of case management and prosecution. Mr. Stickney was involved in drafting and reviewing the Consolidated Complaint, briefing related to Defendants' motions to dismiss, various meet and confer correspondence, and the briefing related to Lead Plaintiffs' motion for class certification. Mr. Stickney also oversaw discovery efforts on Defendants and third parties. He was responsible for strategy relating to case management issues. Mr. Stickney also participated in preparing Lead Plaintiffs' mediation submissions and attended and actively participated in the mediations and negotiations.

Jonathan Uslaner (690.50 hours): Mr. Uslaner was significantly involved in all aspects of the case and, together with Mr. Stickney, responsible for the day-to-day handling and strategy of the litigation and oversaw all aspects of case management and prosecution. Mr. Uslaner was heavily involved in discovery efforts on Defendants and third parties, and took numerous depositions. Mr. Uslaner was responsible for strategy relating to case management issues and was also the principal point of contact for the experts retained by Lead Plaintiffs. Mr. Uslaner also participated in preparing Lead Plaintiffs' mediation submissions and attended and actively participated in the mediations and negotiations, negotiated the terms of the Stipulation of Settlement, and prepared Lead Plaintiffs' motions for preliminary and final approval of the Settlement.

SENIOR COUNSEL

Brandon Marsh (2,2387.75 hours): Mr. Marsh, a former senior counsel at BLB&G, was significantly involved in all aspects of the case, including the drafting of the Consolidated Complaint and researching and drafting the opposition to Defendants' motions to dismiss. Mr. Marsh was also extensively involved in discovery efforts, including drafting initial disclosures and discovery requests to Defendants, supervising the review and analysis of documents produced by Defendants and third parties, frequently corresponding with Defendants regarding discovery matters, leading meet and confer teleconferences with defense counsel, and taking depositions. Mr. Marsh was also involved in communications with Lead Plaintiffs' experts and in the research and drafting of Lead Plaintiffs' briefing in support of their motion for class certification. He also participated in preparing Lead Plaintiffs' mediation submissions and was a point of contact for the experts retained by Lead Plaintiffs.

ASSOCIATES

Jenny Barbosa (686.50 hours): Ms. Barbosa, a former associate at BLB&G, was involved in multiple aspects of the litigation, including, among other things: (i) factual and legal research for the Consolidated Complaint; (ii) research and drafting in connection with the opposition to Defendants' motions to dismiss; (iii) all aspects of discovery, including drafting subpoenas, initial disclosures and discovery requests, participating in meet and confer conferences with defense counsel regarding various discovery issues, and the review and analysis of Lead Plaintiffs' documents for production and of documents produced by Defendants and various third parties; and (iv) research and drafting in connection with Lead Plaintiffs' motion for class certification.

David L. Duncan (210.25 hours): Mr. Duncan is an associate in the Firm's Settlement Department. Mr. Duncan's primary role at the Firm is to manage and implement class action settlements. In that capacity, Mr. Duncan had responsibility for drafting, editing, and coordinating the settlement documentation, including the Stipulation of Settlement and related exhibits. Mr. Duncan was also responsible for coordinating with the administrator regarding dissemination of notice to the Class and assisted Mr. Uslander with Lead Plaintiffs' motions for preliminary and final approval of the Settlement.

Scott Foglietta (15.50 hours), **Ross Shikowitz** (23.50 hours), and **Benjamin Riesenber** (413.25 hours): Mr. Foglietta, an associate in the Firm's New Matters department, assisted in the preparation of the submissions made in support of the motion for appointment of the Lead Plaintiffs. Mr. Shikowitz and Mr. Riesenber are former associates in the Firm's New Matters department. Mr. Shikowitz primarily assisted in the preparation of the submissions made in support of the motion for appointment of the Lead Plaintiffs. Mr. Riesenber was primarily involved in the investigation of potential claims, drafting the Initial Complaint, and the preparation of the submissions made in support of the motion for appointment of the Lead Plaintiffs.

Jacob Spaid (344.50 hours): Mr. Spaid, a former associate at BLB&G, was primarily involved in discovery efforts. In this regard, he reviewed and analyzed documents produced by Defendants and third parties, assisted in drafting various motions to compel, drafted document requests and initial disclosures, drafted responses to Defendants' interrogatories, and participated in offensive

depositions and took the deposition of Michael Friedrich, RH's Vice President of Global Sourcing and Product Integrity. He also assisted in the preparation of Lead Plaintiffs' mediation briefing submitted in connection with the second mediation session.

Robert Trisotto (542.50 hours): Mr. Trisotto, a former associate at BLB&G, was extensively involved in Lead Plaintiffs' discovery efforts. In this regard, he: (i) prepared responses and objections to Defendants' deposition notices to Lead Plaintiffs as well as Defendants' interrogatories; (ii) drafted requests for admissions and interrogatories to Defendants; (iii) reviewed and analyzed Lead Plaintiffs' documents for production and the documents produced by Defendants and various third parties and oversaw the team of staff attorneys reviewing and analyzing documents; (iv) participated in correspondence with Defendants regarding various discovery matters; and (v) assisted in preparation for and took depositions of RH witnesses. Mr. Trisotto also conducted research related to experts in connection with Lead Plaintiffs' class certification motion and researched various issues regarding Defendants' Rule 23(f) petition to appeal the order granting Lead Plaintiffs' motion for class certification. He was also involved in preparing Lead Plaintiffs' briefing submitted in connection with the first mediation session.

STAFF ATTORNEYS

Lindsey Bond (939.25 hours): Ms. Bond was primarily involved in fact discovery, including review and analysis of Lead Plaintiffs' documents for production and the documents produced by Defendants and various third parties. She also participated in the preparation for several depositions and second chaired the deposition of Kenneth Dunaj, RH's former Executive Vice President and Chief Operating Officer. Ms. Bond also assisted in drafting Lead Plaintiffs' responses to Defendants' interrogatories and Lead Plaintiffs' briefing submitted in connection with the second mediation session.

Clarissa Cardes (284.25 hours): Ms. Cardes was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and various third parties, and participating in the preparation for depositions, including the depositions of Glenda Citragno, RH's Chief Accounting Officer, and Heidi Klingebiel, RH's Vice President of Sourcing, and the scheduled deposition of Defendant Karen Boone, RH's former Chief Financial Officer. She also assisted in preparing Lead Plaintiffs' briefing submitted in connection with the second mediation session.

Aaron Dumas (350.50 hours): Mr. Dumas was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for depositions, including the deposition of Ashley Kechter, RH's Chief Inventory Officer.

Hani Farah (180.75 hours): Mr. Farah was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for depositions, including the depositions of Carlos Alberini, RH's co-Chief Executive Officer, and Glenda Citragno, RH's Chief Accounting Officer, and the scheduled deposition of Defendant Karen Boone, RH's former Chief Financial Officer. Mr. Farah also conducted an analysis of

Defendants' privilege log and drafted a memorandum reviewing the record evidence concerning RH's statements attributing their poor financial performance to external factors.

Sivan Goldman (500.00 hours): Ms. Goldman was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for key RH depositions, including the depositions of Ashley Kechter, RH's Chief Inventory Officer, Glenda Citragno, RH's Chief Accounting Officer, and Kenneth Dunaj, RH's Executive Vice President and Chief Operating Officer. Ms. Goldman assembled a collection of pertinent documents for review by Lead Plaintiffs' experts and reviewed Defendants' production to find documents on specific issues, including those related to internal audits and inventory issues.

Kristin Guthrie (503.00 hours): Ms. Guthrie was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for the depositions. Ms. Guthrie assembled collections of "hot" documents within Defendants' production for review by other attorneys at Lead Counsel and reviewed Defendants' production to find documents on specific issues, including those related to SKU Status and RH Modern inventory issues.

Mahdi Ibrahim (232.75 hours): Mr. Ibrahim was primarily involved in fact discovery, including review and analysis of documents produced by Defendants in preparation for depositions. Mr. Ibrahim performed targeted searches in Defendants' document production and performed an analysis of evidence relating to RH's "Customer Delight" initiative.

Tammy Issarapanichkit (560.50 hours): Ms. Issarapanichkit was primarily involved in fact discovery, including review and analysis of Lead Plaintiffs' documents and the documents produced by Defendants. She also participated in the preparation for depositions, including the depositions of Lyle Poindexter, RH's Vice President of Financial Planning and Analysis, and Kenneth Dunaj, RH's Executive Vice President and Chief Operating Officer.

Christine Lee (823.50 hours): Ms. Lee was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for the depositions, including the depositions of Ted Tuescher, RH's Vice President of E-Commerce, Tiffany Gantus, RH's Vice President of Internal Audit, and Michael Friedrich, RH's Vice President of Global Sourcing and Product Integrity, and the scheduled deposition of Defendant Karen Boone, RH's Chief Financial Officer. She also assisted in preparing Lead Plaintiffs' briefing submitted in connection with the second mediation session and in drafting responses to Defendants' interrogatories.

Anthony Mance (591.50 hours): Mr. Mance was primarily involved in fact discovery, including review and analysis of documents produced by Defendants and participating in the preparation for depositions, including the deposition of Bonnie McConnell-Orofino, RH's Chief Merchandising Officer.

Shana Metzger (735.75 hours): Ms. Metzger was primarily involved in fact discovery, including review and analysis of Lead Plaintiffs' documents for production and the documents produced by Defendants and various third parties, assisting with the preparation for depositions, including the

depositions of Ted Tuescher, RH's Vice President of E-Commerce, Tiffany Gantus, RH's Vice President of Internal Audit, and Michael Friedrich, RH's Vice President of Global Sourcing and Product Integrity, among others, and the scheduled depositions of Defendants Karen Boone, RH's Chief Financial Officer, and Gary Friedman, RH's Chief Executive Officer. Ms. Metzger also assisted in the drafting of Lead Plaintiffs' responses to Defendants' interrogatories and assisted in preparing Lead Plaintiffs' briefing submitted in connection with the second mediation session.

John Weber (1,388.50 hours): Mr. Weber was primarily involved in fact discovery, including taking a leadership role over the review and analysis of Lead Plaintiffs' documents for production and the documents produced by Defendants and various third parties, and participating in the preparation for depositions, including the depositions of Lyle Poindexter, RH's Vice President of Financial Planning and Analysis, Danielle Hansmeyer, RH's Chief Merchandising Officer, Glenda Citragno, RH's Chief Accounting Officer, and Jack Preston, RH's Senior Vice President of Finance and Strategy, among others. Mr. Weber also assisted in the drafting of Lead Plaintiffs' responses to Defendants' interrogatories and requests for admissions and assisted in preparing Lead Plaintiffs' briefing submitted in connection with the second mediation session.

#1323077

Exhibit 6

EXHIBIT 6
Summary of Lead Counsel's Hours and Lodestar by Litigation Category
Inception through August 31, 2019

Category Codes:

- | | | | |
|--|------------------------|--|----------------------------------|
| 1. Investigation and Pre-Filing Factual Research | 4. Case Management | 7. Discovery: Discovery Communications & General | 10. Expert Work |
| 2. Lead Plaintiff Appointment & Motion | 5. Motion to Dismiss | 8. Discovery: Written/Document Discovery | 11. Mediation & Settlement |
| 3. Complaints | 6. Class Certification | 9. Discovery: Deposition Discovery | 12. Strategy & Analysis |
| | | | 13. Post-Filing Factual Research |

TIMEKEEPER	1	2	3	4	5	6	7	8	9	10	11	12	13	TOTAL HOURS	HOURLY RATE	LODESTAR
Max W. Berger											63.50	27.00		90.50	\$1,300.00	\$117,650.00
Avi Josefson	16.00	26.75	6.75			2.50	5.25	3.25	19.50		11.00	3.25			\$900.00	\$84,825.00
Gerald Silk	6.00	18.00										20.00		44.00	\$1,050.00	\$46,200.00
David Stickney	27.00	1.00	42.75	41.25	116.00	57.00	94.50	91.25	143.25	30.25	70.50	10.25	12.50	737.50	\$975.00	\$719,062.50
Jonathan Uslander				16.00		25.75	82.75	106.25	224.25	59.75	148.25	22.00	5.50	690.50	\$800.00	\$552,400.00
Brandon Marsh	23.25		237.25	112.00	274.50	280.75	320.25	485.75	388.75	61.25	152.00	33.00	16.75	2,385.50	\$775.00	\$1,848,762.50
Jenny Barbosa	29.75		122.75	8.00	195.75	51.25	55.50	199.25		2.75		10.00	11.50	686.50	\$475.00	\$326,087.50
David L. Duncan											210.25			210.25	\$700.00	\$147,175.00
Scott Foglietta		15.50												15.50	\$600.00	\$9,300.00
Benjamin Riesenber	82.25	154.75	176.25											413.25	\$475.00	\$196,293.75
Ross Shikowitz	4.00	3.50		8.00	8.00									23.50	\$600.00	\$14,100.00
Jacob Spaid				2.50				197.50	130.00		14.50			344.50	\$475.00	\$163,637.50
Robert Trisotto						40.75	26.25	244.25	145.50	41.75	39.25		4.75	542.50	\$625.00	\$339,062.50
Lindsey Bond								137.50	717.25	5.75	78.75			939.25	\$350.00	\$328,737.50
Clarissa Cardes								22.50	211.50	7.00	43.25			284.25	\$350.00	\$99,487.50
Aaron Dumas								350.50						350.50	\$375.00	\$131,437.50
Hani Farah								151.75	21.00		8.00			180.75	\$350.00	\$63,262.50
Sivan Goldman								30.00	442.00	28.00				500.00	\$350.00	\$175,000.00
Kristin Guthrie								391.00	112.00					503.00	\$350.00	\$176,050.00
Mahdi Ibrahim								232.75						232.75	\$350.00	\$81,462.50
Tammy Issarapanichkit								496.50	64.00					560.50	\$350.00	\$196,175.00
Christine Lee								483.25	247.75	15.00	77.75			823.75	\$350.00	\$288,312.50
Anthony Mance								487.50	104.00					591.50	\$350.00	\$207,025.00
Shana Metzger								432.75	227.25	8.00	67.75			735.75	\$350.00	\$257,512.50
John Weber				55.50				633.50	623.25	16.25	60.00			1,388.50	\$350.00	\$485,975.00
Adam Weinschel	18.00	25.00	1.00										0.25	44.25	\$500.00	\$22,125.00
Nick DeFilippis	14.00													14.00	\$575.00	\$8,050.00
Matthew McGlade	15.25	6.50												21.75	\$350.00	\$7,612.50
Michelle Miklus	39.50													39.50	\$325.00	\$12,837.50
Sharon Safran	10.50	4.00	1.50											16.00	\$335.00	\$5,360.00
Sam Jones	34.75		11.00		0.75			2.75			1.00		26.50	76.75	\$350.00	\$26,862.50
Amy Bitkower	80.00						0.50						8.50	89.00	\$550.00	\$48,950.00
Chris Altiery	110.00			3.00										113.00	\$255.00	\$28,815.00
Lisa Burr (Williams)	15.75		0.25											16.00	\$300.00	\$4,800.00
Jenna Goldin	271.75		0.50					6.50					8.50	287.25	\$300.00	\$86,175.00
Joelle (Sfeir) Landino	321.75		6.00					2.00		0.25			28.00	358.00	\$350.00	\$125,300.00
Matthew Mahady	0.50	25.50	1.50	0.50	12.50	1.50								42.00	\$335.00	\$14,070.00
Kaye A. Martin	27.25	2.50	21.50	107.75	26.25	106.75	53.00	181.50	134.50	39.25	75.25	3.25	140.25	919.00	\$335.00	\$307,865.00
Jesse Axman		13.50	2.50											16.00	\$255.00	\$4,080.00
Jessica Cuccurullo			7.75						26.00		3.75			37.50	\$300.00	\$11,250.00
Ashley Lee		21.00	11.25	14.75	20.75	3.00	1.00	9.50	8.25				2.75	92.25	\$300.00	\$27,675.00
Lisa Napoleon		9.75							3.75					13.50	\$300.00	\$4,050.00

Category Codes:

1. Investigation and Pre-Filing Factual Research

2. Lead Plaintiff Appointment & Motion

3. Complaints
4. Case Management

5. Motion to Dismiss

6. Class Certification
7. Discovery: Discovery Communications & General

8. Discovery: Written/Document Discovery

9. Discovery: Deposition Discovery
10. Expert Work

11. Mediation & Settlement

12. Strategy & Analysis

13. Post-Filing Factual Research

TIMEKEEPER	1	2	3	4	5	6	7	8	9	10	11	12	13	TOTAL HOURS	HOURLY RATE	LODESTAR
Andy Alcindor		0.50						144.75						145.25	\$325.00	\$47,206.25
Babatunde Pedro								69.00						69.00	\$295.00	\$20,355.00
Andrea R. Webster								35.50						35.50	\$330.00	\$11,715.00
Jessica M. Wilson								12.25						12.25	\$295.00	\$3,613.75
Kevin Kazules	3.25						3.00	61.00		0.25			5.75	73.25	\$200.00	\$14,650.00
GRAND TOTAL	1,150.50	327.75	650.50	369.25	654.50	569.25	642.00	5,701.75	3,993.75	315.50	1,124.75	128.75	271.50	15,899.75		\$7,898,411.25
% OF TOTAL HOURS	7.24%	2.06%	4.09%	2.32%	4.12%	3.58%	4.04%	35.86%	25.12%	1.98%	7.07%	0.81%	1.71%			
LODESTAR	\$452,570	\$167,019	\$394,870	\$210,485	\$443,088	\$382,983	\$472,955	\$2,412,743	\$1,816,545	\$193,449	\$720,290	\$118,033	\$113,384			\$7,898,411.25
% OF LODESTAR	5.73%	2.11%	5.00%	2.66%	5.61%	4.85%	5.99%	30.55%	23.00%	2.45%	9.12%	1.49%	1.44%			

Exhibit 7



Trusted
Advocacy.
Proven
Results.

Bernstein Litowitz Berger & Grossmann LLP

Attorneys at Law

Firm Resume

New York

1251 Avenue of the Americas
44th Floor
New York, NY 10020
Tel: 212-554-1400
Fax: 212-554-1444

California

2121 Avenue of the Stars
Suite 2575
Los Angeles, CA 90067
Tel: 310-819-3470

Louisiana

2727 Prytania Street
Suite 14
New Orleans, LA 70130
Tel: 504-899-2339
Fax: 504-899-2342

Illinois

875 North Michigan Avenue
Suite 3100
Chicago, IL 60611
Tel: 312-373-3880
Fax: 312-794-7801

Delaware

500 Delaware Avenue
Suite 901
Wilmington, DE 19801
Tel: 302-364-3600

TABLE OF CONTENTS

FIRM OVERVIEW	1
More Top Securities Recoveries	1
Giving Shareholders a Voice and Changing Business Practices for the Better	2
Advocacy for Victims of Corporate Wrongdoing	2
PRACTICE AREAS	4
Securities Fraud Litigation	4
Corporate Governance and Shareholders' Rights	4
Employment Discrimination and Civil Rights	4
General Commercial Litigation and Alternative Dispute Resolution	5
Distressed Debt and Bankruptcy Creditor Negotiation	5
Consumer Advocacy	5
THE COURTS SPEAK	6
RECENT ACTIONS & SIGNIFICANT RECOVERIES	7
Securities Class Actions	7
Corporate Governance and Shareholders' Rights	13
Employment Discrimination and Civil Rights	18
CLIENTS AND FEES	19
IN THE PUBLIC INTEREST	20
Bernstein Litowitz Berger & Grossmann Public Interest Law Fellows	20
Firm sponsorship of Her Justice	20
The Paul M. Bernstein Memorial Scholarship	20
Firm sponsorship of City Year New York	20
Max W. Berger Pre-Law Program	20
New York Says Thank You Foundation	20
OUR ATTORNEYS	21
Members	21
Max W. Berger	21
Gerald H. Silk	23
Avi Josefson	24
David Stickney	25
Jonathan D. Uslander	25
Senior Counsel	26
Brandon Marsh	26
Associates	27
Jenny Barbosa,	27
David L. Duncan	27
Scott R. Foglietta	27
Benjamin Riesenbergs	28
Ross Shikowitz	28
Jacob Spaid	29
Robert Trisotto	29
Staff Attorneys	30
Lindsey Bond,	30
Clarissa Cardes,	30
Aaron Dumas	30
Hani Farah	30
Sivan Goldman Lusk	31
Kristin Guthrie	31
Mahdi Ibrahim	31
Tammy Issarapanichkit	31



Christine Park Lee32

Anthony Mance32

Shana Metzger32

John Weber32

Since our founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has obtained many of the largest monetary recoveries in history – over \$33 billion on behalf of investors. Unique among our peers, the firm has obtained the largest settlements ever agreed to by public companies related to securities fraud, including three of the ten largest in history. Working with our clients, we have also used the litigation process to achieve precedent-setting reforms which have increased market transparency, held wrongdoers accountable, and improved corporate business practices in groundbreaking ways.

FIRM OVERVIEW

Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”), a national law firm with offices located in New York, California, Louisiana and Illinois, prosecutes class and private actions on behalf of individual and institutional clients. The firm’s litigation practice areas include securities class and direct actions in federal and state courts; corporate governance and shareholder rights litigation, including claims for breach of fiduciary duty and proxy violations; mergers and acquisitions and transactional litigation; alternative dispute resolution; distressed debt and bankruptcy; civil rights and employment discrimination; consumer class actions and antitrust. We also handle, on behalf of major institutional clients and lenders, more general complex commercial litigation involving allegations of breach of contract, accountants’ liability, breach of fiduciary duty, fraud, and negligence.

We are the nation’s leading firm in representing institutional investors in securities fraud class action litigation. The firm’s institutional client base includes the New York State Common Retirement Fund; the California Public Employees’ Retirement System (CalPERS); the Ontario Teachers’ Pension Plan Board (the largest public pension funds in North America); the Los Angeles County Employees Retirement Association (LACERA); the Chicago Municipal, Police and Labor Retirement Systems; the Teacher Retirement System of Texas; the Arkansas Teacher Retirement System; Forsta AP-fonden (“AP1”); Fjarde AP-fonden (“AP4”); the Florida State Board of Administration; the Public Employees’ Retirement System of Mississippi; the New York State Teachers’ Retirement System; the Ohio Public Employees Retirement System; the State Teachers Retirement System of Ohio; the Oregon Public Employees Retirement System; the Virginia Retirement System; the Louisiana School, State, Teachers and Municipal Police Retirement Systems; the Public School Teachers’ Pension and Retirement Fund of Chicago; the New Jersey Division of Investment of the Department of the Treasury; TIAA-CREF and other private institutions; as well as numerous other public and Taft-Hartley pension entities.

MORE TOP SECURITIES RECOVERIES

Since its founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has litigated some of the most complex cases in history and has obtained over \$33 billion on behalf of investors. Unique among its peers, the firm has negotiated the largest settlements ever agreed to by public companies related to securities fraud, and obtained many of the largest securities recoveries in history (including 6 of the top 13):

- *In re WorldCom, Inc. Securities Litigation* – \$6.19 billion recovery
- *In re Cendant Corporation Securities Litigation* – \$3.3 billion recovery
- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation* – \$2.43 billion recovery
- *In re Nortel Networks Corporation Securities Litigation* (“Nortel II”) – \$1.07 billion recovery
- *In re Merck & Co., Inc. Securities Litigation* – \$1.06 billion recovery
- *In re McKesson HBOC, Inc. Securities Litigation* – \$1.05 billion recovery*

*Source: ISS Securities Class Action Services

For over a decade, ISS Securities Class Action Services has compiled and published data on securities litigation recoveries and the law firms prosecuting the cases. BLB&G has been at or near the top of their rankings every year – often with the highest total recoveries, the highest settlement average, or both.

BLB&G also eclipses all competitors on ISS SCAS’s “Top 100 Settlements of All Time” report, having recovered nearly 40% of all the settlement dollars represented in the report (over \$25 billion), and having prosecuted over a third of all the cases on the list (35 of 100).

GIVING SHAREHOLDERS A VOICE AND CHANGING BUSINESS PRACTICES FOR THE BETTER

BLB&G was among the first law firms ever to obtain meaningful corporate governance reforms through litigation. In courts throughout the country, we prosecute shareholder class and derivative actions, asserting claims for breach of fiduciary duty and proxy violations wherever the conduct of corporate officers and/or directors, as well as M&A transactions, seek to deprive shareholders of fair value, undermine shareholder voting rights, or allow management to profit at the expense of shareholders.

We have prosecuted seminal cases establishing precedents which have increased market transparency, held wrongdoers accountable, addressed issues in the boardroom and executive suite, challenged unfair deals, and improved corporate business practices in groundbreaking ways.

From setting new standards of director independence, to restructuring board practices in the wake of persistent illegal conduct; from challenging the improper use of defensive measures and deal protections for management’s benefit, to confronting stock options backdating abuses and other self-dealing by executives; we have confronted a variety of questionable, unethical and proliferating corporate practices. Seeking to reform faulty management structures and address breaches of fiduciary duty by corporate officers and directors, we have obtained unprecedented victories on behalf of shareholders seeking to improve governance and protect the shareholder franchise.

ADVOCACY FOR VICTIMS OF CORPORATE WRONGDOING

While BLB&G is widely recognized as one of the leading law firms worldwide advising institutional investors on issues related to corporate governance, shareholder rights, and securities litigation, we have also prosecuted some of the most significant employment discrimination, civil rights and consumer protection cases on record. Equally important, the firm has advanced novel and socially beneficial principles by developing important new law in the areas in which we litigate.

The firm served as co-lead counsel on behalf of Texaco's African-American employees in *Roberts v. Texaco Inc.*, which resulted in a recovery of \$176 million, the largest settlement ever in a race discrimination case. The creation of a Task Force to oversee Texaco's human resources activities for five years was unprecedented and served as a model for public companies going forward.

In the consumer field, the firm has gained a nationwide reputation for vigorously protecting the rights of individuals and for achieving exceptional settlements. In several instances, the firm has obtained recoveries for consumer classes that represented the entirety of the class's losses – an extraordinary result in such cases.

PRACTICE AREAS

SECURITIES FRAUD LITIGATION

Securities fraud litigation is the cornerstone of the firm's litigation practice. Since its founding, the firm has had the distinction of having tried and prosecuted many of the most high-profile securities fraud class actions in history, recovering billions of dollars and obtaining unprecedented corporate governance reforms on behalf of our clients. BLB&G continues to play a leading role in major securities litigation pending in federal and state courts, and the firm remains one of the nation's leaders in representing institutional investors in securities fraud class and derivative litigation.

The firm also pursues direct actions in securities fraud cases when appropriate. By selectively opting out of certain securities class actions, we seek to resolve our clients' claims efficiently and for substantial multiples of what they might otherwise recover from related class action settlements.

The attorneys in the securities fraud litigation practice group have extensive experience in the laws that regulate the securities markets and in the disclosure requirements of corporations that issue publicly traded securities. Many of the attorneys in this practice group also have accounting backgrounds. The group has access to state-of-the-art, online financial wire services and databases, which enable it to instantaneously investigate any potential securities fraud action involving a public company's debt and equity securities.

CORPORATE GOVERNANCE AND SHAREHOLDERS' RIGHTS

The Corporate Governance and Shareholders' Rights Practice Group prosecutes derivative actions, claims for breach of fiduciary duty, and proxy violations on behalf of individual and institutional investors in state and federal courts throughout the country. The group has obtained unprecedented victories on behalf of shareholders seeking to improve corporate governance and protect the shareholder franchise, prosecuting actions challenging numerous highly publicized corporate transactions which violated fair process and fair price, and the applicability of the business judgment rule. We have also addressed issues of corporate waste, shareholder voting rights claims, workplace harassment, and executive compensation. As a result of the firm's high-profile and widely recognized capabilities, the corporate governance practice group is increasingly in demand by institutional investors who are exercising a more assertive voice with corporate boards regarding corporate governance issues and the board's accountability to shareholders.

The firm is actively involved in litigating numerous cases in this area of law, an area that has become increasingly important in light of efforts by various market participants to buy companies from their public shareholders "on the cheap."

EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

The Employment Discrimination and Civil Rights Practice Group prosecutes class and multi-plaintiff actions, and other high-impact litigation against employers and other societal institutions that violate federal or state employment, anti-discrimination, and civil rights laws. The practice group represents diverse clients on a wide range of issues including Title VII actions: race, gender, sexual orientation and age discrimination suits; sexual harassment, and "glass ceiling" cases in which otherwise qualified employees are passed over for promotions to managerial or executive positions.

Bernstein Litowitz Berger & Grossmann LLP is committed to effecting positive social change in the workplace and in society. The practice group has the necessary financial and human resources to ensure that the class action approach to discrimination and civil rights issues is successful. This

litigation method serves to empower employees and other civil rights victims, who are usually discouraged from pursuing litigation because of personal financial limitations, and offers the potential for effecting the greatest positive change for the greatest number of people affected by discriminatory practice in the workplace.

GENERAL COMMERCIAL LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

The General Commercial Litigation practice group provides contingency fee representation in complex business litigation and has obtained substantial recoveries on behalf of investors, corporations, bankruptcy trustees, creditor committees and other business entities. We have faced down powerful and well-funded law firms and defendants – and consistently prevailed. However, not every dispute is best resolved through the courts. In such cases, BLB&G Alternative Dispute practitioners offer clients an accomplished team and a creative venue in which to resolve conflicts outside of the litigation process. BLB&G has extensive experience – and a marked record of successes – in ADR practice. For example, in the wake of the credit crisis, we successfully represented numerous former executives of a major financial institution in arbitrations relating to claims for compensation. Our attorneys have led complex business-to-business arbitrations and mediations domestically and abroad representing clients before all the major arbitration tribunals, including the American Arbitration Association (AAA), FINRA, JAMS, International Chamber of Commerce (ICC) and the London Court of International Arbitration.

DISTRESSED DEBT AND BANKRUPTCY CREDITOR NEGOTIATION

The BLB&G Distressed Debt and Bankruptcy Creditor Negotiation Group has obtained billions of dollars through litigation on behalf of bondholders and creditors of distressed and bankrupt companies, as well as through third-party litigation brought by bankruptcy trustees and creditors' committees against auditors, appraisers, lawyers, officers and directors, and other defendants who may have contributed to client losses. As counsel, we advise institutions and individuals nationwide in developing strategies and tactics to recover assets presumed lost as a result of bankruptcy. Our record in this practice area is characterized by extensive trial experience in addition to completion of successful settlements.

CONSUMER ADVOCACY

The Consumer Advocacy Practice Group at Bernstein Litowitz Berger & Grossmann LLP prosecutes cases across the entire spectrum of consumer rights, consumer fraud, and consumer protection issues. The firm represents victimized consumers in state and federal courts nationwide in individual and class action lawsuits that seek to provide consumers and purchasers of defective products with a means to recover their damages. The attorneys in this group are well versed in the vast array of laws and regulations that govern consumer interests and are aggressive, effective, court-tested litigators. The Consumer Practice Advocacy Group has recovered hundreds of millions of dollars for millions of consumers throughout the country. Most notably, in a number of cases, the firm has obtained recoveries for the class that were the entirety of the potential damages suffered by the consumer. For example, in actions against MCI and Empire Blue Cross, the firm recovered all of the damages suffered by the class. The group achieved its successes by advancing innovative claims and theories of liabilities, such as obtaining decisions in Pennsylvania and Illinois appellate courts that adopted a new theory of consumer damages in mass marketing cases. Bernstein Litowitz Berger & Grossmann LLP is, thus, able to lead the way in protecting the rights of consumers.

THE COURTS SPEAK

Throughout the firm's history, many courts have recognized the professional excellence and diligence of the firm and its members. A few examples are set forth below.

IN RE WORLDCom, INC. SECURITIES LITIGATION

THE HONORABLE DENISE COTE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

"I have the utmost confidence in plaintiffs' counsel...they have been doing a superb job.... The Class is extraordinarily well represented in this litigation."

"The magnitude of this settlement is attributable in significant part to Lead Counsel's advocacy and energy.... The quality of the representation given by Lead Counsel...has been superb...and is unsurpassed in this Court's experience with plaintiffs' counsel in securities litigation."

"Lead Counsel has been energetic and creative. . . . Its negotiations with the Citigroup Defendants have resulted in a settlement of historic proportions."

IN RE CLARENT CORPORATION SECURITIES LITIGATION

THE HONORABLE CHARLES R. BREYER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

"It was the best tried case I've witnessed in my years on the bench . . ."

"[A]n extraordinarily civilized way of presenting the issues to you [the jury]. . . . We've all been treated to great civility and the highest professional ethics in the presentation of the case...."

"These trial lawyers are some of the best I've ever seen."

LANDRY'S RESTAURANTS, INC. SHAREHOLDER LITIGATION

VICE CHANCELLOR J. TRAVIS LASTER OF THE DELAWARE COURT OF CHANCERY

"I do want to make a comment again about the excellent efforts . . . put into this case. . . . This case, I think, shows precisely the type of benefits that you can achieve for stockholders and how representative litigation can be a very important part of our corporate governance system . . . you hold up this case as an example of what to do."

McCALL V. SCOTT (COLUMBIA/HCA DERIVATIVE LITIGATION)

THE HONORABLE THOMAS A. HIGGINS OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

"Counsel's excellent qualifications and reputations are well documented in the record, and they have litigated this complex case adeptly and tenaciously throughout the six years it has been pending. They assumed an enormous risk and have shown great patience by taking this case on a contingent basis, and despite an early setback they have persevered and brought about not only a large cash settlement but sweeping corporate reforms that may be invaluable to the beneficiaries."

RECENT ACTIONS & SIGNIFICANT RECOVERIES

Bernstein Litowitz Berger & Grossmann LLP is counsel in many diverse nationwide class and individual actions and has obtained many of the largest and most significant recoveries in history. Some examples from our practice groups include:

SECURITIES CLASS ACTIONS

CASE: *IN RE WORLDCom, INC. SECURITIES LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$6.19 billion securities fraud class action recovery – the second largest in history; unprecedented recoveries from Director Defendants.

CASE SUMMARY: Investors suffered massive losses in the wake of the financial fraud and subsequent bankruptcy of former telecom giant WorldCom, Inc. This litigation alleged that WorldCom and others disseminated false and misleading statements to the investing public regarding its earnings and financial condition in violation of the federal securities and other laws. It further alleged a nefarious relationship between Citigroup subsidiary Salomon Smith Barney and WorldCom, carried out primarily by Salomon employees involved in providing investment banking services to WorldCom, and by WorldCom's former CEO and CFO. As Court-appointed Co-Lead Counsel representing Lead Plaintiff the **New York State Common Retirement Fund**, we obtained unprecedented settlements totaling more than \$6 billion from the Investment Bank Defendants who underwrote WorldCom bonds, including a \$2.575 billion cash settlement to settle all claims against the Citigroup Defendants. On the eve of trial, the 13 remaining "Underwriter Defendants," including J.P. Morgan Chase, Deutsche Bank and Bank of America, agreed to pay settlements totaling nearly \$3.5 billion to resolve all claims against them. Additionally, the day before trial was scheduled to begin, all of the former WorldCom Director Defendants had agreed to pay over \$60 million to settle the claims against them. An unprecedented first for outside directors, \$24.75 million of that amount came out of the pockets of the individuals – 20% of their collective net worth. *The Wall Street Journal*, in its coverage, profiled the settlement as literally having "shaken Wall Street, the audit profession and corporate boardrooms." After four weeks of trial, Arthur Andersen, WorldCom's former auditor, settled for \$65 million. Subsequent settlements were reached with the former executives of WorldCom, and then with Andersen, bringing the total obtained for the Class to over \$6.19 billion.

CASE: *IN RE CENDANT CORPORATION SECURITIES LITIGATION*

COURT: United States District Court for the District of New Jersey

HIGHLIGHTS: \$3.3 billion securities fraud class action recovery – the third largest in history; significant corporate governance reforms obtained.

CASE SUMMARY: The firm was Co-Lead Counsel in this class action against Cendant Corporation, its officers and directors and Ernst & Young (E&Y), its auditors, for their role in disseminating materially false and misleading financial statements concerning the company's revenues, earnings and expenses for its 1997 fiscal year. As a result of company-wide accounting irregularities, Cendant restated its financial results for its 1995, 1996 and 1997 fiscal years and all fiscal quarters therein. Cendant agreed to settle the action for \$2.8 billion to adopt some of the most extensive corporate governance changes in history. E&Y settled for \$335 million. These settlements remain the largest sums ever recovered from a public company and a public accounting firm through securities class action litigation. BLB&G represented Lead Plaintiffs **CalPERS** – the **California Public Employees' Retirement System**, the **New York State Common Retirement Fund** and the **New York City Pension Funds**, the three largest public pension funds in America, in this action.

CASE: *IN RE BANK OF AMERICA CORP. SECURITIES, DERIVATIVE, AND EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$2.425 billion in cash; significant corporate governance reforms to resolve all claims. This recovery is by far the largest shareholder recovery related to the subprime meltdown and credit crisis; the single largest securities class action settlement ever resolving a Section 14(a) claim – the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation; the largest ever funded by a single corporate defendant for violations of the federal securities laws; the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; and one of the 10 largest securities class action recoveries in history.

DESCRIPTION: The firm represented Co-Lead Plaintiffs the **State Teachers Retirement System of Ohio**, the **Ohio Public Employees Retirement System**, and the **Teacher Retirement System of Texas** in this securities class action filed on behalf of shareholders of Bank of America Corporation (“BAC”) arising from BAC’s 2009 acquisition of Merrill Lynch & Co., Inc. The action alleges that BAC, Merrill Lynch, and certain of the companies’ current and former officers and directors violated the federal securities laws by making a series of materially false statements and omissions in connection with the acquisition. These violations included the alleged failure to disclose information regarding billions of dollars of losses which Merrill had suffered before the BAC shareholder vote on the proposed acquisition, as well as an undisclosed agreement allowing Merrill to pay billions in bonuses before the acquisition closed despite these losses. Not privy to these material facts, BAC shareholders voted to approve the acquisition.

CASE: *IN RE NORTEL NETWORKS CORPORATION SECURITIES LITIGATION (“NORTEL II”)*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: Over \$1.07 billion in cash and common stock recovered for the class.

DESCRIPTION: This securities fraud class action charged Nortel Networks Corporation and certain of its officers and directors with violations of the Securities Exchange Act of 1934, alleging that the Defendants knowingly or recklessly made false and misleading statements with respect to Nortel’s financial results during the relevant period. BLB&G clients the **Ontario Teachers’ Pension Plan Board** and the **Treasury of the State of New Jersey and its Division of Investment** were appointed as Co-Lead Plaintiffs for the Class in one of two related actions (Nortel II), and BLB&G was appointed Lead Counsel for the Class. In a historic settlement, Nortel agreed to pay \$2.4 billion in cash and Nortel common stock (all figures in US dollars) to resolve both matters. Nortel later announced that its insurers had agreed to pay \$228.5 million toward the settlement, bringing the total amount of the global settlement to approximately \$2.7 billion, and the total amount of the Nortel II settlement to over \$1.07 billion.

CASE: *IN RE MERCK & CO., INC. SECURITIES LITIGATION*

COURT: United States District Court, District of New Jersey

HIGHLIGHTS: \$1.06 billion recovery for the class.

DESCRIPTION: This case arises out of misrepresentations and omissions concerning life-threatening risks posed by the “blockbuster” Cox-2 painkiller Vioxx, which Merck withdrew from the market in 2004. In January 2016, BLB&G achieved a \$1.062 billion settlement on the eve of trial after more than 12 years of hard-fought litigation that included a successful decision at the United States Supreme Court. This settlement is the second largest recovery ever obtained in the Third Circuit, one of the top 11 securities recoveries of all time, and the largest securities recovery ever achieved against a pharmaceutical company. BLB&G represented Lead Plaintiff the **Public Employees’ Retirement System of Mississippi**.

CASE: *IN RE MCKESSON HBOC, INC. SECURITIES LITIGATION*

COURT: United States District Court for the Northern District of California

HIGHLIGHTS: \$1.05 billion recovery for the class.

DESCRIPTION: This securities fraud litigation was filed on behalf of purchasers of HBOC, McKesson and McKesson HBOC securities, alleging that Defendants misled the investing public concerning HBOC's and McKesson HBOC's financial results. On behalf of Lead Plaintiff the **New York State Common Retirement Fund**, BLB&G obtained a \$960 million settlement from the company; \$72.5 million in cash from Arthur Andersen; and, on the eve of trial, a \$10 million settlement from Bear Stearns & Co. Inc., with total recoveries reaching more than \$1 billion.

CASE: *IN RE LEHMAN BROTHERS EQUITY/DEBT SECURITIES LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$735 million in total recoveries.

DESCRIPTION: Representing the **Government of Guam Retirement Fund**, BLB&G successfully prosecuted this securities class action arising from Lehman Brothers Holdings Inc.'s issuance of billions of dollars in offerings of debt and equity securities that were sold using offering materials that contained untrue statements and missing material information.

After four years of intense litigation, Lead Plaintiffs achieved a total of \$735 million in recoveries consisting of: a \$426 million settlement with underwriters of Lehman securities offerings; a \$90 million settlement with former Lehman directors and officers; a \$99 million settlement that resolves claims against Ernst & Young, Lehman's former auditor (considered one of the top 10 auditor settlements ever achieved); and a \$120 million settlement that resolves claims against UBS Financial Services, Inc. This recovery is truly remarkable, not only because of the difficulty in recovering assets when the issuer defendant is bankrupt, but also because no financial results were restated; and the auditors never disavowed the statements.

CASE: *HEALTHSOUTH CORPORATION BONDHOLDER LITIGATION*

COURT: United States District Court for the Northern District of Alabama

HIGHLIGHTS: \$804.5 million in total recoveries.

DESCRIPTION: In this litigation, BLB&G was the appointed Co-Lead Counsel for the bond holder class, representing Lead Plaintiff the **Retirement Systems of Alabama**. This action arose from allegations that Birmingham, Alabama based HealthSouth Corporation overstated its earnings at the direction of its founder and former CEO Richard Scrushy. Subsequent revelations disclosed that the overstatement actually exceeded over \$2.4 billion, virtually wiping out all of HealthSouth's reported profits for the prior five years. A total recovery of \$804.5 million was obtained in this litigation through a series of settlements, including an approximately \$445 million settlement for shareholders and bondholders, a \$100 million in cash settlement from UBS AG, UBS Warburg LLC, and individual UBS Defendants (collectively, "UBS"), and \$33.5 million in cash from the company's auditor. The total settlement for injured HealthSouth bond purchasers exceeded \$230 million, recouping over a third of bond purchaser damages.

CASE: *IN RE CITIGROUP, INC. BOND ACTION LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$730 million cash recovery; second largest recovery in a litigation arising from the financial crisis.

DESCRIPTION: In the years prior to the collapse of the subprime mortgage market, Citigroup issued 48 offerings of preferred stock and bonds. This securities fraud class action was filed on behalf of purchasers of Citigroup bonds and preferred stock alleging that these offerings contained material misrepresentations and omissions regarding Citigroup's exposure to billions of dollars in mortgage-related assets, the loss reserves for its portfolio of high-risk residential mortgage loans, and the credit quality of the risky assets it held in off-balance sheet entities known as "structured investment vehicles." After protracted litigation lasting four years, we obtained a \$730 million cash recovery – the second largest securities class action recovery in a litigation arising from the financial crisis, and the second largest recovery ever in a securities class action brought on behalf of purchasers of debt securities. As Lead Bond Counsel for the Class, BLB&G represented Lead Bond Plaintiffs **Minneapolis Firefighters' Relief Association, Louisiana Municipal Police Employees' Retirement System, and Louisiana Sheriffs' Pension and Relief Fund.**

CASE: *IN RE WASHINGTON PUBLIC POWER SUPPLY SYSTEM LITIGATION*

COURT: United States District Court for the District of Arizona

HIGHLIGHTS: Over \$750 million – the largest securities fraud settlement ever achieved at the time.

DESCRIPTION: BLB&G was appointed Chair of the Executive Committee responsible for litigating the action on behalf of the class in this action. The case was litigated for over seven years, and involved an estimated 200 million pages of documents produced in discovery; the depositions of 285 fact witnesses and 34 expert witnesses; more than 25,000 introduced exhibits; six published district court opinions; seven appeals or attempted appeals to the Ninth Circuit; and a three-month jury trial, which resulted in a settlement of over \$750 million – then the largest securities fraud settlement ever achieved.

CASE: *IN RE SCHERING-PLOUGH CORPORATION/ENHANCE SECURITIES LITIGATION; IN RE MERCK & CO., INC. VYTORIN/ZETIA SECURITIES LITIGATION*

COURT: United States District Court for the District of New Jersey

HIGHLIGHTS: \$688 million in combined settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) in this coordinated securities fraud litigations filed on behalf of investors in Merck and Schering-Plough.

DESCRIPTION: After nearly five years of intense litigation, just days before trial, BLB&G resolved the two actions against Merck and Schering-Plough, which stemmed from claims that Merck and Schering artificially inflated their market value by concealing material information and making false and misleading statements regarding their blockbuster anti-cholesterol drugs Zetia and Vytarin. Specifically, we alleged that the companies knew that their "ENHANCE" clinical trial of Vytarin (a combination of Zetia and a generic) demonstrated that Vytarin was no more effective than the cheaper generic at reducing artery thickness. The companies nonetheless championed the "benefits" of their drugs, attracting billions of dollars of capital. When public pressure to release the results of the ENHANCE trial became too great, the companies reluctantly announced these negative results, which we alleged led to sharp declines in the value of the companies' securities, resulting in significant losses to investors. The combined \$688 million in settlements (Schering-Plough settled for \$473 million; Merck settled for \$215 million) is the second largest securities recovery ever in the Third Circuit, among the top 25 settlements of all time, and among the ten largest recoveries ever in a case where there was no financial restatement. BLB&G represented Lead Plaintiffs **Arkansas Teacher Retirement System, the Public Employees' Retirement System of Mississippi, and the Louisiana Municipal Police Employees' Retirement System.**

CASE: *IN RE LUCENT TECHNOLOGIES, INC. SECURITIES LITIGATION*

COURT: United States District Court for the District of New Jersey

HIGHLIGHTS: \$667 million in total recoveries; the appointment of BLB&G as Co-Lead Counsel is especially noteworthy as it marked the first time since the 1995 passage of the Private Securities Litigation Reform Act that a court reopened the lead plaintiff or lead counsel selection process to account for changed circumstances, new issues and possible conflicts between new and old allegations.

DESCRIPTION: BLB&G served as Co-Lead Counsel in this securities class action, representing Lead Plaintiffs the **Parnassus Fund, Teamsters Locals 175 & 505 D&P Pension Trust, Anchorage Police and Fire Retirement System** and the **Louisiana School Employees' Retirement System**. The complaint accused Lucent of making false and misleading statements to the investing public concerning its publicly reported financial results and failing to disclose the serious problems in its optical networking business. When the truth was disclosed, Lucent admitted that it had improperly recognized revenue of nearly \$679 million in fiscal 2000. The settlement obtained in this case is valued at approximately \$667 million, and is composed of cash, stock and warrants.

CASE: *IN RE WACHOVIA PREFERRED SECURITIES AND BOND/NOTES LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$627 million recovery – among the 20 largest securities class action recoveries in history; third largest recovery obtained in an action arising from the subprime mortgage crisis.

DESCRIPTION: This securities class action was filed on behalf of investors in certain Wachovia bonds and preferred securities against Wachovia Corp., certain former officers and directors, various underwriters, and its auditor, KPMG LLP. The case alleges that Wachovia provided offering materials that misrepresented and omitted material facts concerning the nature and quality of Wachovia's multi-billion dollar option-ARM (adjustable rate mortgage) "Pick-A-Pay" mortgage loan portfolio, and that Wachovia's loan loss reserves were materially inadequate. According to the Complaint, these undisclosed problems threatened the viability of the financial institution, requiring it to be "bailed out" during the financial crisis before it was acquired by Wells Fargo. The combined \$627 million recovery obtained in the action is among the 20 largest securities class action recoveries in history, the largest settlement ever in a class action case asserting only claims under the Securities Act of 1933, and one of a handful of securities class action recoveries obtained where there were no parallel civil or criminal actions brought by government authorities. The firm represented Co-Lead Plaintiffs **Orange County Employees Retirement System** and **Louisiana Sheriffs' Pension and Relief Fund** in this action.

CASE: *BEAR STEARNS MORTGAGE PASS-THROUGH LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: \$500 million recovery - the largest recovery ever on behalf of purchasers of residential mortgage-backed securities.

DESCRIPTION: BLB&G served as Co-Lead Counsel in this securities action, representing Lead Plaintiffs the Public Employees' Retirement System of Mississippi. The case alleged that Bear Stearns & Company, Inc.'s sold mortgage pass-through certificates using false and misleading offering documents. The offering documents contained false and misleading statements related to, among other things, (1) the underwriting guidelines used to originate the mortgage loans underlying the certificates; and (2) the accuracy of the appraisals for the properties underlying the certificates. After six years of hard-fought litigation and extensive arm's-length negotiations, the \$500 million recovery is the largest settlement in a U.S. class action against a bank that packaged and sold mortgage securities at the center of the 2008 financial crisis.

CASE: *GARY HEFLER ET AL. V. WELLS FARGO & COMPANY ET AL*

COURT: United States District Court for the Northern District of California

HIGHLIGHTS: \$480 million recovery - the fourth largest securities settlement ever achieved in the Ninth Circuit and the 31st largest securities settlement ever in the United States.

DESCRIPTION: BLB&G served as Lead Counsel for the Court-appointed Lead Plaintiff Union Asset Management Holding, AG in this action, which alleged that Wells Fargo and certain current and former officers and directors of Wells Fargo made a series of materially false statements and omissions in connection with Wells Fargo's secret creation of fake or unauthorized client accounts in order to hit performance-based compensation goals. After years of presenting a business driven by legitimate growth prospects, U.S. regulators revealed in September 2016 that Wells Fargo employees were secretly opening millions of potentially unauthorized accounts for existing Wells Fargo customers. The Complaint alleged that these accounts were opened in order to hit performance targets and inflate the "cross-sell" metrics that investors used to measure Wells Fargo's financial health and anticipated growth. When the market learned the truth about Wells Fargo's violation of its customers' trust and failure to disclose reliable information to its investors, the price of Wells Fargo's stock dropped, causing substantial investor losses.

CASE: *OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM V. FREDDIE MAC*

COURT: United States District Court for the Southern District of Ohio

HIGHLIGHTS: \$410 million settlement.

DESCRIPTION: This securities fraud class action was filed on behalf of the **Ohio Public Employees Retirement System** and the **State Teachers Retirement System of Ohio** alleging that Federal Home Loan Mortgage Corporation ("Freddie Mac") and certain of its current and former officers issued false and misleading statements in connection with the company's previously reported financial results. Specifically, the Complaint alleged that the Defendants misrepresented the company's operations and financial results by having engaged in numerous improper transactions and accounting machinations that violated fundamental GAAP precepts in order to artificially smooth the company's earnings and to hide earnings volatility. In connection with these improprieties, Freddie Mac restated more than \$5 billion in earnings. A settlement of \$410 million was reached in the case just as deposition discovery had begun and document review was complete.

CASE: *IN RE REFCO, INC. SECURITIES LITIGATION*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: Over \$407 million in total recoveries.

DESCRIPTION: The lawsuit arises from the revelation that Refco, a once prominent brokerage, had for years secreted hundreds of millions of dollars of uncollectible receivables with a related entity controlled by Phillip Bennett, the company's Chairman and Chief Executive Officer. This revelation caused the stunning collapse of the company a mere two months after its initial public offering of common stock. As a result, Refco filed one of the largest bankruptcies in U.S. history. Settlements have been obtained from multiple company and individual defendants, resulting in a total recovery for the class of over \$407 million. BLB&G represented Co-Lead Plaintiff **RH Capital Associates LLC**.

CORPORATE GOVERNANCE AND SHAREHOLDERS' RIGHTS

CASE: *CITY OF MONROE EMPLOYEES' RETIREMENT SYSTEM, DERIVATIVELY ON BEHALF OF TWENTY-FIRST CENTURY FOX, INC. V. RUPERT MURDOCH, ET AL.*

COURT: Delaware Court of Chancery

HIGHLIGHTS: Landmark derivative litigation establishes unprecedented, independent Board-level council to ensure employees are protected from workplace harassment while recouping \$90 million for the company's coffers.

DESCRIPTION: Before the birth of the #MeToo movement, BLB&G led the prosecution of an unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveil a landmark settlement with two key components: 1) the first ever Board-level watchdog of its kind – the "Fox News Workplace Professionalism and Inclusion Council" of experts (WPIC) – majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries – \$90 million – ever obtained in a pure corporate board oversight dispute. The WPIC is expected to serve as a model for public companies in all industries. The firm represented 21st Century Fox shareholder the **City of Monroe (Michigan) Employees' Retirement System**.

CASE: *IN RE ALLERGAN, INC. PROXY VIOLATION SECURITIES LITIGATION*

COURT: United States District Court for the Central District of California

HIGHLIGHTS: Litigation recovered over \$250 million for investors in challenging unprecedented insider trading scheme by billionaire hedge fund manager Bill Ackman.

DESCRIPTION: As alleged in groundbreaking litigation, billionaire hedge fund manager Bill Ackman and his Pershing Square Capital Management fund secretly acquired a near 10% stake in pharmaceutical concern Allergan, Inc. as part of an unprecedented insider trading scheme by Ackman and Valeant Pharmaceuticals International, Inc. What Ackman knew – but investors did not – was that in the ensuing weeks, Valeant would be launching a hostile bid to acquire Allergan shares at a far higher price. Ackman enjoys a massive instantaneous profit upon public news of the proposed acquisition, and the scheme works for both parties as he kicks back hundreds of millions of his insider-trading proceeds to Valeant after Allergan agreed to be bought by a rival bidder. After a ferocious three-year legal battle over this attempt to circumvent the spirit of the U.S. securities laws, BLB&G obtains a \$250 million settlement for Allergan investors, and creates precedent to prevent similar such schemes in the future. The Plaintiffs in this action were the **State Teachers Retirement System of Ohio**, the **Iowa Public Employees Retirement System**, and **Patrick T. Johnson**.

CASE: **UNITEDHEALTH GROUP, INC. SHAREHOLDER DERIVATIVE LITIGATION**

COURT: **United States District Court for the District of Minnesota**

HIGHLIGHTS: Litigation recovered over \$920 million in ill-gotten compensation directly from former officers for their roles in illegally backdating stock options, while the company agreed to far-reaching reforms aimed at curbing future executive compensation abuses.

DESCRIPTION: This shareholder derivative action filed against certain current and former executive officers and members of the Board of Directors of UnitedHealth Group, Inc. alleged that the Defendants obtained, approved and/or acquiesced in the issuance of stock options to senior executives that were unlawfully backdated to provide the recipients with windfall compensation at the direct expense of UnitedHealth and its shareholders. The firm recovered over \$920 million in ill-gotten compensation directly from the former officer Defendants – the largest derivative recovery in history. As feature coverage in *The New York Times* indicated, “investors everywhere should applaud [the UnitedHealth settlement].... [T]he recovery sets a standard of behavior for other companies and boards when performance pay is later shown to have been based on ephemeral earnings.” The Plaintiffs in this action were the **St. Paul Teachers’ Retirement Fund Association**, the **Public Employees’ Retirement System of Mississippi**, the **Jacksonville Police & Fire Pension Fund**, the **Louisiana Sheriffs’ Pension & Relief Fund**, the **Louisiana Municipal Police Employees’ Retirement System** and **Fire & Police Pension Association of Colorado**.

CASE: **CAREMARK MERGER LITIGATION**

COURT: **Delaware Court of Chancery – New Castle County**

HIGHLIGHTS: Landmark Court ruling orders Caremark’s board to disclose previously withheld information, enjoins shareholder vote on CVS merger offer, and grants statutory appraisal rights to Caremark shareholders. The litigation ultimately forced CVS to raise offer by \$7.50 per share, equal to more than \$3.3 billion in additional consideration to Caremark shareholders.

DESCRIPTION: Commenced on behalf of the **Louisiana Municipal Police Employees’ Retirement System** and other shareholders of Caremark RX, Inc. (“Caremark”), this shareholder class action accused the company’s directors of violating their fiduciary duties by approving and endorsing a proposed merger with CVS Corporation (“CVS”), all the while refusing to fairly consider an alternative transaction proposed by another bidder. In a landmark decision, the Court ordered the Defendants to disclose material information that had previously been withheld, enjoined the shareholder vote on the CVS transaction until the additional disclosures occurred, and granted statutory appraisal rights to Caremark’s shareholders—forcing CVS to increase the consideration offered to shareholders by \$7.50 per share in cash (over \$3 billion in total).

CASE: **IN RE PFIZER INC. SHAREHOLDER DERIVATIVE LITIGATION**

COURT: **United States District Court for the Southern District of New York**

HIGHLIGHTS: Landmark settlement in which Defendants agreed to create a new Regulatory and Compliance Committee of the Pfizer Board that will be supported by a dedicated \$75 million fund.

DESCRIPTION: In the wake of Pfizer’s agreement to pay \$2.3 billion as part of a settlement with the U.S. Department of Justice to resolve civil and criminal charges relating to the illegal marketing of at least 13 of the company’s most important drugs (the largest such fine ever imposed), this shareholder derivative action was filed against Pfizer’s senior management and Board alleging they breached their fiduciary duties to Pfizer by, among other things, allowing unlawful promotion of drugs to continue after receiving numerous “red flags” that Pfizer’s improper drug marketing was systemic and widespread. The suit was brought by Court-appointed Lead Plaintiffs **Louisiana Sheriffs’ Pension and Relief Fund** and **Skandia Life Insurance Company, Ltd.** In an unprecedented settlement reached by the parties, the Defendants agreed to create a new Regulatory

and Compliance Committee of the Pfizer Board of Directors (the “Regulatory Committee”) to oversee and monitor Pfizer’s compliance and drug marketing practices and to review the compensation policies for Pfizer’s drug sales related employees.

CASE: *MILLER ET AL. V. IAC/INTERACTIVECORP ET AL.*

COURT: Delaware Court of Chancery

HIGHLIGHTS: Litigation shuts down efforts by controlling shareholders to obtain “dynastic control” of the company through improper stock class issuances, setting valuable precedent and sending strong message to boards and management in all sectors that such moves will not go unchallenged.

DESCRIPTION: BLB&G obtained this landmark victory for shareholder rights against IAC/InterActiveCorp and its controlling shareholder and chairman, Barry Diller. For decades, activist corporate founders and controllers seek ways to entrench their position atop the corporate hierarchy by granting themselves and other insiders “supervoting rights.” Diller lays out a proposal to introduce a new class of non-voting stock to entrench “dynastic control” of IAC within the Diller family. BLB&G litigation on behalf of IAC shareholders ends in capitulation with the Defendants effectively conceding the case by abandoning the proposal. This becomes critical corporate governance precedent, given trend of public companies to introduce “low” and “no-vote” share classes, which diminish shareholder rights, insulate management from accountability, and can distort managerial incentives by providing controllers voting power out of line with their actual economic interests in public companies.

CASE: *IN RE DELPHI FINANCIAL GROUP SHAREHOLDER LITIGATION*

COURT: Delaware Court of Chancery – New Castle County

HIGHLIGHTS: Dominant shareholder is blocked from collecting a payoff at the expense of minority investors.

DESCRIPTION: As the Delphi Financial Group prepared to be acquired by Tokio Marine Holdings Inc., the conduct of Delphi’s founder and controlling shareholder drew the scrutiny of BLB&G and its institutional investor clients for improperly using the transaction to expropriate at least \$55 million at the expense of the public shareholders. BLB&G aggressively litigated this action and obtained a settlement of \$49 million for Delphi’s public shareholders. The settlement fund is equal to about 90% of recoverable Class damages – a virtually unprecedented recovery.

CASE: *QUALCOMM BOOKS & RECORDS LITIGATION*

COURT: Delaware Court of Chancery – New Castle County

HIGHLIGHTS: Novel use of “books and records” litigation enhances disclosure of political spending and transparency.

DESCRIPTION: The U.S. Supreme Court’s controversial 2010 opinion in *Citizens United v. FEC* made it easier for corporate directors and executives to secretly use company funds – shareholder assets – to support personally favored political candidates or causes. BLB&G prosecuted the first-ever “books and records” litigation to obtain disclosure of corporate political spending at our client’s portfolio company – technology giant Qualcomm Inc. – in response to Qualcomm’s refusal to share the information. As a result of the lawsuit, Qualcomm adopted a policy that provides its shareholders with comprehensive disclosures regarding the company’s political activities and places Qualcomm as a standard-bearer for other companies.

CASE: *IN RE NEWS CORP. SHAREHOLDER DERIVATIVE LITIGATION*

COURT: Delaware Court of Chancery – Kent County

HIGHLIGHTS: An unprecedented settlement in which News Corp. recoups \$139 million and enacts significant corporate governance reforms that combat self-dealing in the boardroom.

DESCRIPTION: Following News Corp.’s 2011 acquisition of a company owned by News Corp. Chairman and CEO Rupert Murdoch’s daughter, and the phone-hacking scandal within its British newspaper division, we filed a derivative litigation on behalf of the company because of institutional shareholder concern with the conduct of News Corp.’s management. We ultimately obtained an unprecedented settlement in which News Corp. recouped \$139 million for the company coffers, and agreed to enact corporate governance enhancements to strengthen its compliance structure, the independence and functioning of its board, and the compensation and clawback policies for management.

CASE: *IN RE ACS SHAREHOLDER LITIGATION (XEROX)*

COURT: Delaware Court of Chancery – New Castle County

HIGHLIGHTS: BLB&G challenged an attempt by ACS CEO to extract a premium on his stock not shared with the company’s public shareholders in a sale of ACS to Xerox. On the eve of trial, BLB&G obtained a \$69 million recovery, with a substantial portion of the settlement personally funded by the CEO.

DESCRIPTION: Filed on behalf of the **New Orleans Employees’ Retirement System** and similarly situated shareholders of Affiliated Computer Service, Inc., this action alleged that members of the Board of Directors of ACS breached their fiduciary duties by approving a merger with Xerox Corporation which would allow Darwin Deason, ACS’s founder and Chairman and largest stockholder, to extract hundreds of millions of dollars of value that rightfully belongs to ACS’s public shareholders for himself. Per the agreement, Deason’s consideration amounted to over a 50% premium when compared to the consideration paid to ACS’s public stockholders. The ACS Board further breached its fiduciary duties by agreeing to certain deal protections in the merger agreement that essentially locked up the transaction between ACS and Xerox. After seeking a preliminary injunction to enjoin the deal and engaging in intense discovery and litigation in preparation for a looming trial date, Plaintiffs reached a global settlement with Defendants for \$69 million. In the settlement, Deason agreed to pay \$12.8 million, while ACS agreed to pay the remaining \$56.1 million.

CASE: *IN RE DOLLAR GENERAL CORPORATION SHAREHOLDER LITIGATION*

COURT: Sixth Circuit Court for Davidson County, Tennessee; Twentieth Judicial District, Nashville

HIGHLIGHTS: Holding Board accountable for accepting below-value “going private” offer.

DESCRIPTION: A Nashville, Tennessee corporation that operates retail stores selling discounted household goods, in early March 2007, Dollar General announced that its Board of Directors had approved the acquisition of the company by the private equity firm Kohlberg Kravis Roberts & Co. (“KKR”). BLB&G, as Co-Lead Counsel for the **City of Miami General Employees’ & Sanitation Employees’ Retirement Trust**, filed a class action complaint alleging that the “going private” offer was approved as a result of breaches of fiduciary duty by the board and that the price offered by KKR did not reflect the fair value of Dollar General’s publicly-held shares. On the eve of the summary judgment hearing, KKR agreed to pay a \$40 million settlement in favor of the shareholders, with a potential for \$17 million more for the Class.



CASE: *LANDRY'S RESTAURANTS, INC. SHAREHOLDER LITIGATION*

COURT: Delaware Court of Chancery – New Castle County

HIGHLIGHTS: Protecting shareholders from predatory CEO's multiple attempts to take control of Landry's Restaurants through improper means. Our litigation forced the CEO to increase his buyout offer by four times the price offered and obtained an additional \$14.5 million cash payment for the class.

DESCRIPTION: In this derivative and shareholder class action, shareholders alleged that Tilman J. Fertitta – chairman, CEO and largest shareholder of Landry's Restaurants, Inc. – and its Board of Directors stripped public shareholders of their controlling interest in the company for no premium and severely devalued remaining public shares in breach of their fiduciary duties. BLB&G's prosecution of the action on behalf of Plaintiff **Louisiana Municipal Police Employees' Retirement System** resulted in recoveries that included the creation of a settlement fund composed of \$14.5 million in cash, as well as significant corporate governance reforms and an increase in consideration to shareholders of the purchase price valued at \$65 million.

EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS

CASE: *ROBERTS V. TEXACO, INC.*

COURT: United States District Court for the Southern District of New York

HIGHLIGHTS: BLB&G recovered \$170 million on behalf of Texaco's African-American employees and engineered the creation of an independent "Equality and Tolerance Task Force" at the company.

DESCRIPTION: Six highly qualified African-American employees filed a class action complaint against Texaco Inc. alleging that the company failed to promote African-American employees to upper level jobs and failed to compensate them fairly in relation to Caucasian employees in similar positions. BLB&G's prosecution of the action revealed that African-Americans were significantly under-represented in high level management jobs and that Caucasian employees were promoted more frequently and at far higher rates for comparable positions within the company. The case settled for over \$170 million, and Texaco agreed to a Task Force to monitor its diversity programs for five years – a settlement described as the most significant race discrimination settlement in history.

CASE: *ECOA - GMAC/NMAC/FORD/TOYOTA/CHRYSLER - CONSUMER FINANCE DISCRIMINATION LITIGATION*

COURT: Multiple jurisdictions

HIGHLIGHTS: Landmark litigation in which financing arms of major auto manufacturers are compelled to cease discriminatory "kick-back" arrangements with dealers, leading to historic changes to auto financing practices nationwide.

DESCRIPTION: The cases involve allegations that the lending practices of General Motors Acceptance Corporation, Nissan Motor Acceptance Corporation, Ford Motor Credit, Toyota Motor Credit and DaimlerChrysler Financial cause African-American and Hispanic car buyers to pay millions of dollars more for car loans than similarly situated white buyers. At issue is a discriminatory kickback system under which minorities typically pay about 50% more in dealer mark-up which is shared by auto dealers with the Defendants.

NMAC: The United States District Court for the Middle District of Tennessee granted final approval of the settlement of the class action against Nissan Motor Acceptance Corporation ("NMAC") in which NMAC agreed to offer pre-approved loans to hundreds of thousands of current and potential African-American and Hispanic NMAC customers, and limit how much it raises the interest charged to car buyers above the company's minimum acceptable rate.

GMAC: The United States District Court for the Middle District of Tennessee granted final approval of a settlement of the litigation against General Motors Acceptance Corporation ("GMAC") in which GMAC agreed to take the historic step of imposing a 2.5% markup cap on loans with terms up to 60 months, and a cap of 2% on extended term loans. GMAC also agreed to institute a substantial credit pre-approval program designed to provide special financing rates to minority car buyers with special rate financing.

DAIMLERCHRYSLER: The United States District Court for the District of New Jersey granted final approval of the settlement in which DaimlerChrysler agreed to implement substantial changes to the company's practices, including limiting the maximum amount of mark-up dealers may charge customers to between 1.25% and 2.5% depending upon the length of the customer's loan. In addition, the company agreed to send out pre-approved credit offers of no-markup loans to African-American and Hispanic consumers, and contribute \$1.8 million to provide consumer education and assistance programs on credit financing.

FORD MOTOR CREDIT: The United States District Court for the Southern District of New York granted final approval of a settlement in which Ford Credit agreed to make contract disclosures informing consumers that the customer's Annual Percentage Rate ("APR") may be negotiated and that sellers may assign their contracts and retain rights to receive a portion of the finance charge.

CLIENTS AND FEES

We are firm believers in the contingency fee as a socially useful, productive and satisfying basis of compensation for legal services, particularly in litigation. Wherever appropriate, even with our corporate clients, we will encourage retention where our fee is contingent on the outcome of the litigation. This way, it is not the number of hours worked that will determine our fee, but rather the result achieved for our client.

Our clients include many large and well known financial and lending institutions and pension funds, as well as privately-held companies that are attracted to our firm because of our reputation, expertise and fee structure. Most of the firm's clients are referred by other clients, law firms and lawyers, bankers, investors and accountants. A considerable number of clients have been referred to the firm by former adversaries. We have always maintained a high level of independence and discretion in the cases we decide to prosecute. As a result, the level of personal satisfaction and commitment to our work is high.

IN THE PUBLIC INTEREST

Bernstein Litowitz Berger & Grossmann LLP is guided by two principles: excellence in legal work and a belief that the law should serve a socially useful and dynamic purpose. Attorneys at the firm are active in academic, community and *pro bono* activities, as well as participating as speakers and contributors to professional organizations. In addition, the firm endows a public interest law fellowship and sponsors an academic scholarship at Columbia Law School.

BERNSTEIN LITOWITZ BERGER & GROSSMANN PUBLIC INTEREST LAW FELLOWS

COLUMBIA LAW SCHOOL – BLB&G is committed to fighting discrimination and effecting positive social change. In support of this commitment, the firm donated funds to Columbia Law School to create the Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship. This newly endowed fund at Columbia Law School will provide Fellows with 100% of the funding needed to make payments on their law school tuition loans so long as such graduates remain in the public interest law field. The BLB&G Fellows are able to begin their careers free of any school debt if they make a long-term commitment to public interest law.

FIRM SPONSORSHIP OF HER JUSTICE

NEW YORK, NY – BLB&G is a sponsor of Her Justice, a non-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally battered women, in connection with the myriad legal problems they face. The organization trains and supports the efforts of New York lawyers who provide *pro bono* counsel to these women. Several members and associates of the firm volunteer their time to help women who need divorces from abusive spouses, or representation on issues such as child support, custody and visitation. To read more about Her Justice, visit the organization's website at www.herjustice.org.

THE PAUL M. BERNSTEIN MEMORIAL SCHOLARSHIP

COLUMBIA LAW SCHOOL – Paul M. Bernstein was the founding senior partner of the firm. Mr. Bernstein led a distinguished career as a lawyer and teacher and was deeply committed to the professional and personal development of young lawyers. The Paul M. Bernstein Memorial Scholarship Fund is a gift of the firm and the family and friends of Paul M. Bernstein, and is awarded annually to one or more second-year students selected for their academic excellence in their first year, professional responsibility, financial need and contributions to the community.

FIRM SPONSORSHIP OF CITY YEAR NEW YORK

NEW YORK, NY – BLB&G is also an active supporter of City Year New York, a division of AmeriCorps. The program was founded in 1988 as a means of encouraging young people to devote time to public service and unites a diverse group of volunteers for a demanding year of full-time community service, leadership development and civic engagement. Through their service, corps members experience a rite of passage that can inspire a lifetime of citizenship and build a stronger democracy.

MAX W. BERGER PRE-LAW PROGRAM

BARUCH COLLEGE – In order to encourage outstanding minority undergraduates to pursue a meaningful career in the legal profession, the Max W. Berger Pre-Law Program was established at Baruch College. Providing workshops, seminars, counseling and mentoring to Baruch students, the program facilitates and guides them through the law school research and application process, as well as placing them in appropriate internships and other pre-law working environments.

NEW YORK SAYS THANK YOU FOUNDATION

NEW YORK, NY – Founded in response to the outpouring of love shown to New York City by volunteers from all over the country in the wake of the 9/11 attacks, The New York Says Thank You Foundation sends volunteers from New York City to help rebuild communities around the country affected by disasters. BLB&G is a corporate sponsor of NYSTY and its goals are a heartfelt reflection of the firm's focus on community and activism.

OUR ATTORNEYS

MEMBERS

MAX W. BERGER, the firm's senior founding partner, supervises BLB&G's litigation practice and prosecutes class and individual actions on behalf of the firm's clients.

He has litigated many of the firm's most high-profile and significant cases, and has negotiated seven of the largest securities fraud settlements in history, each in excess of a billion dollars: *Cendant* (\$3.3 billion); *Citigroup–WorldCom* (\$2.575 billion); *Bank of America/Merrill Lynch* (\$2.4 billion); *JPMorgan Chase–WorldCom* (\$2 billion); *Nortel* (\$1.07 billion); *Merck* (\$1.06 billion); and *McKesson* (\$1.05 billion). In addition, he has prosecuted seminal cases establishing precedents which have increased market integrity and transparency; held corporate wrongdoers accountable; and improved corporate business practices in groundbreaking ways.

Most recently, before the #MeToo movement came alive, on behalf of an institutional investor client, he handled the prosecution of an unprecedented shareholder derivative litigation against Fox News parent 21st Century Fox, Inc. arising from the systemic sexual and workplace harassment at the embattled network. After nearly 18 months of litigation, discovery and negotiation related to the shocking misconduct and the Board's extensive alleged governance failures, the parties unveiled a landmark settlement with two key components: 1) the first-ever Board-level watchdog of its kind – the “Fox News Workplace Professionalism and Inclusion Council” of experts (WPIC) – majority independent of the Murdochs, the Company and Board; and 2) one of the largest financial recoveries – \$90 million – ever obtained in a pure corporate board oversight dispute. The WPIC is expected to serve as a model for public companies in all industries.

Mr. Berger's work has garnered him extensive media attention, and he has been the subject of feature articles in a variety of major media publications. Unique among his peers, *The New York Times* highlighted his remarkable track record in an October 2012 profile entitled “Investors' Billion-Dollar Fraud Fighter,” which also discussed his role in the *Bank of America/Merrill Lynch Merger* litigation. In 2011, Mr. Berger was twice profiled by *The American Lawyer* for his role in negotiating a \$627 million recovery on behalf of investors in the *In re Wachovia Corp. Securities Litigation*, and a \$516 million recovery in *In re Lehman Brothers Equity/Debt Securities Litigation*. Previously, Mr. Berger's role in the WorldCom case generated extensive media coverage including feature articles in *BusinessWeek* and *The American Lawyer*. For his outstanding efforts on behalf of WorldCom investors, *The National Law Journal* profiled Mr. Berger (one of only eleven attorneys selected nationwide) in its annual 2005 “Winning Attorneys” section. He was subsequently featured in a 2006 *New York Times* article, “A Class-Action Shuffle,” which assessed the evolving landscape of the securities litigation arena.

One of the “100 Most Influential Lawyers in America”

Widely recognized as the “Dean” of the US plaintiff securities bar for his remarkable career and his professional excellence, Mr. Berger has a distinguished and unparalleled list of honors to his name.

He was selected one of the “100 Most Influential Lawyers in America” by *The National Law Journal* for being “front and center” in holding Wall Street banks accountable and obtaining over \$5 billion in cases arising from the subprime meltdown, and for his work as a “master negotiator” in obtaining numerous multi-billion dollar recoveries for investors.

Described as a “standard-bearer” for the profession in a career spanning over 40 years, he was the recipient of *Chambers USA*’s award for Outstanding Contribution to the Legal Profession. In presenting this prestigious honor, *Chambers* recognized Mr. Berger’s “numerous headline-grabbing successes,” as well as his unique stature among colleagues – “warmly lauded by his peers, who are nevertheless loath to find him on the other side of the table.”

Benchmark Litigation recently inducted him into its exclusive “Hall of Fame” in recognition of his career achievements and impact on the field of securities litigation.

Upon its tenth anniversary, *Lawdragon* named Mr. Berger a “Lawdragon Legend” for his accomplishments.

Law360 published a special feature discussing his life and career as a “Titan of the Plaintiffs Bar,” named him one of only six litigators selected nationally as a “Legal MVP,” and selected him as one of “10 Legal Superstars” nationally for his work in securities litigation.

Since their various inception, Mr. Berger has been recognized as a litigation “star” and leading lawyer in his field by *Chambers USA* and the *Legal 500 US Guide*, as well as being named one of the “500 Leading Lawyers in America” and “100 Securities Litigators You Need to Know” by *Lawdragon* magazine. Further, *The Best Lawyers in America*® guide has named Mr. Berger a leading lawyer in his field.

Mr. Berger has lectured extensively for many professional organizations, and is the author and co-author of numerous articles on developments in the securities laws and their implications for public policy. He was chosen, along with several of his BLB&G partners, to author the first chapter – “Plaintiffs’ Perspective” – of Lexis/Nexis’s seminal industry guide *Litigating Securities Class Actions*. An esteemed voice on all sides of the legal and financial markets, in 2008 the SEC and Treasury called on Mr. Berger to provide guidance on regulatory changes being considered as the accounting profession was experiencing tectonic shifts shortly before the financial crisis.

Mr. Berger also serves the academic community in numerous capacities. A long-time member of the Board of Trustees of Baruch College, he served as the President of the Baruch College Fund from 2015-2019 and now serves as its Chairman. A member of the Dean’s Council to Columbia Law School, he has taught Profession of Law, an ethics course at Columbia Law School, and serves on the Advisory Board of Columbia Law School’s Center on Corporate Governance. In May 2006, he was presented with the Distinguished Alumnus Award for his contributions to Baruch College, and in February 2011, Mr. Berger received Columbia Law School’s most prestigious and highest honor, “The Medal for Excellence.” This award is presented annually to Columbia Law School alumni who exemplify the qualities of character, intellect, and social and professional responsibility that the Law School seeks to instill in its students. As a recipient of this award, Mr. Berger was profiled in the fall 2011 issue of *Columbia Law School Magazine*.

Mr. Berger is currently a member of the New York State, New York City and American Bar Associations, and is a member of the Federal Bar Council. He is also a member of the American Law Institute and an Advisor to its Restatement Third: Economic Torts project. In addition, Mr. Berger is a member of the Board of Trustees of The Supreme Court Historical Society.

In 1997, Mr. Berger was honored for his outstanding contribution to the public interest by Trial Lawyers for Public Justice, where he was a “Trial Lawyer of the Year” Finalist for his work in *Roberts, et al. v. Texaco*, the celebrated race discrimination case, on behalf of Texaco’s African-American employees.

Among numerous charitable and volunteer works, Mr. Berger is a significant and long-time contributor to Her Justice, a non-profit organization in New York City dedicated to providing *pro bono* legal representation to indigent women, principally battered women, in connection with the many legal problems they face. He is also an active supporter of City Year New York, a division of AmeriCorps, dedicated to encouraging young people to devote time to public service. In July

2005, he was named City Year New York's "Idealist of the Year," for his commitment to, service for, and work in the community. He and his wife, Dale, have also established The Dale and Max Berger Public Interest Law Fellowship at Columbia Law School and The Max Berger Pre-Law Program at Baruch College.

EDUCATION: Baruch College-City University of New York, B.B.A., Accounting, 1968; President of the student body and recipient of numerous awards. Columbia Law School, J.D., 1971, Editor of the *Columbia Survey of Human Rights Law*.

BAR ADMISSIONS: New York; U.S. District Courts for the Eastern and Southern Districts of New York; U.S. Court of Appeals for the Second Circuit; U.S. Supreme Court.

GERALD H. SILK's practice focuses on representing institutional investors on matters involving federal and state securities laws, accountants' liability, and the fiduciary duties of corporate officials, as well as general commercial and corporate litigation. He also advises creditors on their rights with respect to pursuing affirmative claims against officers and directors, as well as professionals both inside and outside the bankruptcy context.

Mr. Silk is a member of the firm's Management Committee. He also oversees the firm's New Matter department in which he, along with a group of attorneys, financial analysts and investigators, counsels institutional clients on potential legal claims. In December 2014, Mr. Silk was recognized by *The National Law Journal* in its inaugural list of "Litigation Trailblazers & Pioneers" — one of several lawyers in the country who have changed the practice of litigation through the use of innovative legal strategies — in no small part for the critical role he has played in helping the firm's investor clients recover billions of dollars in litigation arising from the financial crisis, among other matters.

In addition, *Lawdragon* magazine, which has named Mr. Silk one of the "100 Securities Litigators You Need to Know," one of the "500 Leading Lawyers in America" and one of America's top 500 "rising stars" in the legal profession, also recently profiled him as part of its "Lawyer Limelight" special series, discussing subprime litigation, his passion for plaintiffs' work and the trends he expects to see in the market. Recognized as one of an elite group of notable practitioners by *Chambers USA*, he is also named as a "Litigation Star" by *Benchmark*, is recommended by the *Legal 500 USA* guide in the field of plaintiffs' securities litigation, and has been selected as a New York *Super Lawyer* every year since 2006.

In the wake of the financial crisis, he advised the firm's institutional investor clients on their rights with respect to claims involving transactions in residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs). His work representing Cambridge Place Investment Management Inc. on claims under Massachusetts state law against numerous investment banks arising from the purchase of billions of dollars of RMBS was featured in a 2010 *New York Times* article by Gretchen Morgenson titled, "Mortgage Investors Turn to State Courts for Relief."

Mr. Silk also represented the New York State Teachers' Retirement System in a securities litigation against the General Motors Company arising from a series of misrepresentations concerning the quality, safety, and reliability of the Company's cars which resulted in a \$300 million settlement. He was also a member of the litigation team responsible for the successful prosecution of *In re Cendant Corporation Securities Litigation* in the District of New Jersey, which was resolved for \$3.2 billion. In addition, he is actively involved in the firm's prosecution of highly successful M&A litigation, representing shareholders in widely publicized lawsuits, including the litigation arising from the proposed acquisition of Caremark Rx, Inc. by CVS Corporation — which led to an increase of approximately \$3.5 billion in the consideration offered to shareholders.

A graduate of the Wharton School of Business, University of Pennsylvania and Brooklyn Law School, in 1995-96, Mr. Silk served as a law clerk to the Hon. Steven M. Gold, U.S.M.J., in the United States District Court for the Eastern District of New York.

Mr. Silk lectures to institutional investors at conferences throughout the country, and has written or substantially contributed to several articles on developments in securities and corporate law, including "Improving Multi-Jurisdictional, Merger-Related Litigation," American Bar Association (February 2011); "The Compensation Game," *Lawdragon*, Fall 2006; "Institutional Investors as Lead Plaintiffs: Is There A New And Changing Landscape?," *75 St. John's Law Review* 31 (Winter 2001); "The Duty To Supervise, Poser, Broker-Dealer Law and Regulation," 3rd Ed. 2000, Chapter 15; "Derivative Litigation In New York after Marx v. Akers," *New York Business Law Journal*, Vol. 1, No. 1 (Fall 1997).

He has also been a commentator for the business media on television and in print. Among other outlets, he has appeared on NBC's *Today*, and CNBC's *Power Lunch*, *Morning Call*, and *Squawkbox* programs, as well as being featured in *The New York Times*, *Financial Times*, *Bloomberg*, *The National Law Journal*, and the *New York Law Journal*.

EDUCATION: Wharton School of the University of Pennsylvania, B.S., Economics, 1991. Brooklyn Law School, J.D., *cum laude*, 1995.

BAR ADMISSIONS: New York; U.S. District Courts for the Southern and Eastern Districts of New York.

AVI JOSEFSON prosecutes securities fraud litigation for the firm's institutional investor clients, and has participated in many of the firm's significant representations, including *In re SCOR Holding (Switzerland) AG Securities Litigation*, which resulted in a recovery worth in excess of \$143 million for investors. He was also a member of the team that litigated the *In re OM Group, Inc. Securities Litigation*, which resulted in a settlement of \$92.4 million.

As a member of the firm's New Matter department, Mr. Josefson counsels institutional clients on potential legal claims. He has presented argument in several federal and state courts, including an appeal he argued before the Delaware Supreme Court.

Mr. Josefson is also actively involved in the M&A litigation practice, and represented shareholders in the litigation arising from the proposed acquisitions of Ceridian Corporation and Anheuser-Busch. A member of the firm's subprime litigation team, he has participated in securities fraud actions arising from the collapse of subprime mortgage lender American Home Mortgage and the actions against Lehman Brothers, Citigroup and Merrill Lynch, arising from those banks' multi-billion-dollar loss from mortgage-backed investments. Mr. Josefson has prosecuted actions against Deutsche Bank and Morgan Stanley arising from their sale of mortgage-backed securities, and is advising U.S. and foreign institutions concerning similar claims arising from investments in mortgage-backed securities.

Mr. Josefson practices in the firm's Chicago and New York Offices.

EDUCATION: Brandeis University, B.A., *cum laude*, 1997. Northwestern University, J.D., 2000; *Dean's List*; Justice Stevens Public Interest Fellowship (1999); Public Interest Law Initiative Fellowship (2000).

BAR ADMISSIONS: Illinois, New York; U.S. District Courts for the Southern District of New York and the Northern District of Illinois.

DAVID STICKNEY is a former partner of the firm. Mr. Stickney practiced in the firm's California office, where he focused on complex litigation in state and federal courts nationwide at both the trial court and appellate levels. He regularly represented institutions and individuals in class actions, derivative cases and individual litigation.

Mr. Stickney was responsible for a number of the firm's prominent cases, including litigation involving *Genworth Financial*, *Morgan Stanley*, *Bear Stearns*, and others.

Mr. Stickney has prosecuted and, together with his partners, successfully resolved a number of the firm's significant cases. Among such cases are *In re McKesson Sec. Litig.*, which settled before trial for a total of \$1.023 billion, the largest settlement amount in history for any securities class action within the Ninth Circuit; *In re Lehman Brothers Debt/Equity Sec. Litig.*, which settled for \$615 million; *Public Employees Ret. Sys. of Miss. vs. Merrill Lynch & Co.*, recovering \$325 million; *Wyatt v. El Paso Corp.*, which settled for \$285 million; *Public Employees Ret. Sys. of Miss. vs. JP Morgan*, which settled for \$280 million; *BFA Liquidation Trust v. Arthur Andersen LLP*, which settled during trial for \$217 million; *In re Wells Fargo Mortgage Pass-Through Certificate Litig.*, which settled for \$125 million; *Public Employees Ret. Sys. of Miss. vs. Morgan Stanley*, which settled for \$95 million. *In re Sunpower Corp.*; *Atlas v. Accredited Home Lenders Holding Company*; *In re Connetics Inc.*; *In re Stone Energy Corp.*; *In re WSB Financial Group Sec. Litig.*; *In re Dura Pharmaceuticals Inc. Sec. Litig.*; *In re EMAC Sec. Litig.*, and additional cases.

EDUCATION: University of California, Davis, B.A., 1993. University of Cincinnati College of Law, J.D., 1996; Jacob B. Cox Scholar; Lead Articles Editor of the *University of Cincinnati Law Review*.

BAR ADMISSIONS: California; U.S. District Courts for the Northern, Southern and Central Districts of California; U.S. Courts of Appeals for the Second, Fifth, Sixth, Eighth and Ninth Circuits; U.S. District Court for the District of Colorado.

JONATHAN D. USLANER prosecutes class and direct actions on behalf of the firm's institutional investor clients.

Mr. Uslander has litigated many of the firm's most high-profile litigations. These include, among others, *In re Bank of America Securities Litigation*, which resulted in a historic settlement shortly before trial of \$2.43 billion, one of the largest shareholder recoveries ever obtained; *In re Genworth Financial, Inc. Securities Litigation*, which settled for \$219 million, the largest recovery ever obtained in a securities class action in Virginia; *In re JPMorgan Chase & Co. Securities Litigation*, which settled for \$150 million; *In re Wells Fargo Mortgage-Backed Certificates Litigation*, which settled for \$125 million; and *In re Rayonier Securities Litigation*, which settled for \$73 million.

Mr. Uslander is also actively involved in the firm's direct action opt-out practice. He currently represents the Firm's clients in direct actions brought against American Realty Capital Properties and Valeant Pharmaceuticals International Inc.

Mr. Uslander has been a member of the Board of Governors of the Association of Business Trial Lawyers (ABTL). He is also a member of the Federal Bar Association (FBA) and the San Diego County Bar Association (SDCBA).

Mr. Uslander is an editor of the American Bar Association's Class Actions and Derivative Suits Committee's Newsletter. He has authored multiple articles relating to class actions and the federal securities laws, including "Much More Than 'Housekeeping': Rule 23(c)(4) in Action," "Keeping Plaintiffs in the Driver's Seat: The Supreme Court Rejects 'Pick-off' Settlement Offers," and "Combating Objectionable Objections."

For his achievements, Mr. Uslaner was featured by Law360 as a national “Rising Star” and has been named among the “Top 40 Under 40” legal professionals in California by the *Daily Journal*. He was also featured by Benchmark Litigation in its “Under 40 Hot List,” which honors the nation’s most accomplished legal partners under the age of 40.

Mr. Uslaner is also a board member of Home of Guiding Hands, a non-profit organization that serves individuals with developmental disabilities and their families in the San Diego community. For his work and contributions to the organization, he was named “Volunteer of the Year.”

Prior to joining BLB&G, Mr. Uslaner was a senior litigation associate at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, where he successfully prosecuted and defended claims from the discovery stage through trial. He also gained significant trial experience as a volunteer prosecutor for the City of Inglewood, California, as well as a judicial extern for Justice Steven Wayne Smith of the Supreme Court of Texas.

EDUCATION: Duke University, B.A., *magna cum laude*, 2001, William J. Griffith Award for Leadership; Chairperson, Duke University Undergraduate Publications Board. The University of Texas School of Law, J.D., 2005; University of Texas Presidential Academic Merit Fellowship; Articles Editor, *Texas Journal of Business Law*.

BAR ADMISSIONS: California; New York; U.S. District Courts for the Central and Northern Districts of California; U.S. District Court for the Southern District of New York.

SENIOR COUNSEL

BRANDON MARSH is a former senior counsel of the firm. Mr. Marsh’s practice focused on complex litigation, including matters involving securities fraud, corporate governance and shareholder rights litigation on behalf of the firm’s institutional investor clients. As a member of the firm’s new matter and foreign securities litigation departments, Mr. Marsh, along with a team of attorneys, financial analysts, forensic accountants, and investigators, also counseled the firm’s institutional clients on their legal claims and options with respect to shareholder litigation worldwide.

Mr. Marsh represented the firm’s institutional investor clients as counsel in a number of significant actions, including the securities class action against Cobalt International Energy. He also represents the firm’s clients in securities class actions against Quality Systems, Inc. and RH, Inc. relating to their misrepresentations to investors. Mr. Marsh was an integral part of the teams that prosecuted securities class actions against Genworth Financial, Inc., Rayonier Inc., and EZCORP, Inc. – which together recovered over \$300 million for investors.

Before joining the firm, Mr. Marsh clerked for the Honorable Jerome Farris of the United States Court of Appeals for the Ninth Circuit and was a senior associate at Irell & Manella. While at Irell & Manella, he represented both plaintiffs and defendants in a broad range of matters, including representing one of the world’s largest gaming companies in a major securities class action.

Mr. Marsh earned his law degree from Stanford Law School, graduating with honors (“with Distinction”). While in law school, he served as an editor of the *Stanford Law Review* and authored “Preventing the Inevitable: The Benefits of Contractual Risk Engineering in Light of Venezuela’s Recent Oil Field Nationalization,” 13 Stan. J. L. Bus. & Fin. 453 (2008).

The *Southern California Super Lawyers* magazine named Mr. Marsh a “Rising Star” for the years 2014, 2016, 2017, 2018 and 2019.

EDUCATION: University of California, Berkeley, B.A., *with Highest Distinction*, History and German, 2000. Stanford Law School, J.D., *with Distinction*, 2009.

BAR ADMISSIONS: California; U.S. District Courts for the Central and Northern Districts of California; U.S. Court of Appeals for the Ninth Circuit.

ASSOCIATES

JENNY BARBOSA, a former associate of the firm, practiced out of the firm's San Diego office, where she prosecuted securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients. She was a member of the teams that prosecuted securities fraud class actions against Rayonier Inc., Cobalt International Energy, Inc. and Vale SA.

Prior to joining BLB&G, Ms. Barbosa worked at the United States District Court for the Southern District of California, where she clerked for the Honorable Jill L. Burkhardt and served as a judicial extern for both the Honorable Anthony J. Battaglia and the Honorable Mitchell D. Dembin. While in law school, Ms. Barbosa was a Comments Editor for the *San Diego Law Review*.

EDUCATION: University of San Diego, B.A., Business Administration, *magna cum laude*, 2006. University of San Diego School of Law, J.D., *cum laude*, 2013; Order of the Coif; Comments Editor, *San Diego Law Review*.

BAR ADMISSION: California.

DAVID L. DUNCAN's practice concentrates on the settlement of class actions and other complex litigation and the administration of class action settlements.

Prior to joining BLB&G, Mr. Duncan worked as a litigation associate at Debevoise & Plimpton, where he represented clients in a wide variety of commercial litigation, including contract disputes, antitrust and products liability litigation, and in international arbitration. In addition, he has represented criminal defendants on appeal in New York State courts and has successfully litigated on behalf of victims of torture and political persecution from Sudan, Côte d'Ivoire and Serbia in seeking asylum in the United States.

While in law school, Mr. Duncan served as an editor of the *Harvard Law Review*. After law school, he clerked for Judge Amalya L. Kearse of the U.S. Court of Appeals for the Second Circuit.

EDUCATION: Harvard College, A.B., Social Studies, *magna cum laude*, 1993. Harvard Law School, J.D., *magna cum laude*, 1997.

BAR ADMISSIONS: New York; Connecticut; U.S. District Court for the Southern District of New York.

SCOTT R. FOGLIETTA focuses his practice on securities litigation and is a member of the firm's New Matter group, in which he, as part of a team of attorneys, financial analysts, and investigators, counsels institutional investors on potential legal claims.

Mr. Foglietta also serves as a member of the litigation team responsible for prosecuting *In re Lumber Liquidators Holdings, Inc. Securities Litigation*. For his accomplishments, Mr. Foglietta was recently named a New York “Rising Star” in the area of securities litigation.

Before joining the firm, Mr. Foglietta represented institutional and individual clients in a wide variety of complex litigation matters, including securities class actions, commercial litigation, and ERISA litigation. While in law school, Mr. Foglietta served as a legal intern in the Financial Industry Regulatory Authority’s (FINRA) Enforcement Division, and in the general counsel’s office of NYSE Euronext. Prior to law school, Mr. Foglietta earned his M.B.A. in finance from Clark University and worked as a capital markets analyst for a boutique investment banking firm.

EDUCATION: Clark University, B.A., Management, *cum laude*, 2006. Clark University, Graduate School of Management, M.B.A., Finance, 2007. Brooklyn Law School, J.D., 2010.

BAR ADMISSIONS: New York; New Jersey.

BENJAMIN RIESENBERG, a former associate of the firm, practiced out of the firm’s New York office. Mr. Riesenbergs focused his practice on securities fraud, corporate governance and shareholder rights litigation. He was a member of the teams prosecuting securities fraud class actions against Cognizant Technology Solutions Corporation, Restoration Hardware and Adeptus Health Inc.

Mr. Riesenbergs interned at several prestigious organizations while in law school, including the Financial Industry Regulator Authority (FINRA), Thomson Reuters, and the Bronx District Attorney's Office.

EDUCATION: Brooklyn Law School, 2016, J.D.; Articles Editor, *Brooklyn Law Review*, Moot Court Honor Society; University of Pittsburgh, 2012, B.A., Dean's List, English Writing

BAR ADMISSION: New York

ROSS SHIKOWITZ, a former associate of the firm, practiced out of the firm’s New York office. Mr. Shikowitz focused his practice on securities litigation and was a member of the firm’s New Matter group, in which he, as part of a team attorneys, financial analysts, and investigators, counseled institutional clients on potential legal claims.

Mr. Shikowitz served as a member of the litigation teams responsible for successfully prosecuting a number of the firm’s significant cases involving wrongdoing related to the securitization and sale of residential mortgage-backed securities (“RMBS”) and has recovered hundreds of millions of dollars on behalf of injured investors. He successfully represented Allstate Insurance Co., Metropolitan Life Insurance Company, Teachers Insurance and Annuity Association of America, Bayerische Landesbank, Dexia SA/NV, Sealink Funding Limited, and Landesbank Baden-Württemberg against various issuers of RMBS in both state and federal courts.

While in law school, Mr. Shikowitz was a research assistant to Brooklyn Law School Professor of Law Emeritus Norman Poser, a widely respected expert in international and domestic securities regulation. He also served as a judicial intern to the Honorable Brian M. Cogan of the Eastern District of New York, and as a legal intern for the Major Narcotics Investigations Bureau of the Kings County District Attorney’s Office.

EDUCATION: Skidmore College, B.A., Music, *cum laude*, 2003. Indiana University-Bloomington, M.M., Music, 2005. Brooklyn Law School, J.D., *magna cum laude*, 2010;

Notes/Comments Editor, *Brooklyn Law Review*; Moot Court Honor Society; Order of Barristers Certificate; CALI Excellence for the Future Award in Products Liability, Professional Responsibility.

BAR ADMISSIONS: New York; U.S. District Courts for the Eastern and Southern Districts of New York.

JACOB SPAID, a former associate of the firm, practiced out of the firm's San Diego office, where he prosecuted securities fraud, corporate governance, and shareholder rights litigation on behalf of the firm's institutional investor clients.

Prior to joining the firm, Mr. Spaid represented national and international insurance companies and businesses in a broad range of litigation. While in law school, Mr. Spaid was a Judicial Extern for the Honorable Ruben Brooks in the Southern District of California and the Honorable Steven R. Denton in the San Diego Superior Court.

EDUCATION: San Diego State University, B.S., Business Administration, *magna cum laude*, 2006. San Diego State University, MBA, 2014. California Western School of Law, J.D., *magna cum laude*, 2009; Associate Writer, Editor and Senior Editor, *California Western Law Review*; Associate Writer and Editor, *California Western International Law Journal*.

BAR ADMISSIONS: California; U.S. District Courts for the Central, Eastern, Northern, and Southern Districts of California; U.S. Court of Appeals for the Ninth Circuit.

ROBERT TRISOTTO, a former associate of the firm, practiced out of the firm's San Diego office, where he represented the firm's institutional investor clients in securities fraud, corporate governance, and shareholder rights matters.

Prior to joining the firm, he was a senior litigation associate at Quinn Emanuel Urquhart & Sullivan LLP, where he gained significant experience in complex commercial litigation, securities litigation, and international disputes.

EDUCATION: New York University, B.A., Economics, 2005. New York Law School, J.D., 2009; *New York Law Review*.

BAR ADMISSIONS: New York; New Jersey; U.S. District Courts for the Eastern and Southern Districts of New York.

STAFF ATTORNEYS

LINDSEY BOND, a former staff attorney of the firm, worked on several matters while at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*, *BlackRock ACS US Equity Tracker Fund, v. American Realty Capital Properties, Inc.*, and *In re RH, Inc. Securities Litigation*. Prior to joining the firm in 2016, Ms. Bond was a Law Clerk at Palomar Law Group.

EDUCATION: University of California, Irvine, B.A., 2012. University of San Diego School of Law, J.D., 2015.

BAR ADMISSIONS: California.

CLARISSA CARDES, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*, *In re Genworth Financial, Inc. Securities Litigation*, *In re Toyota Motor Corporation Securities Litigation* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2012, Ms. Cardes was a Law Clerk at San Francisco Superior Court, Honorable Harold E. Kahn, and a Legal Research Attorney at San Francisco Superior Court, Civil Division.

EDUCATION: University of California, Berkeley, B.A., 2005. University of California, Davis – School of Law, J.D., 2008.

BAR ADMISSIONS: California.

AARON DUMAS, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *Bear Stearns Mortgage Pass-Through Litigation*, *In re RH, Inc. Securities Litigation* and the *RMBS Trustee Class Actions*.

Prior to joining the firm in 2014, Mr. Dumas worked as attorney at Robbins Arroyo LLP.

EDUCATION: University of San Diego School of Law, J.D., 2006.

BAR ADMISSIONS: California.

HANI FARAH, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *City of Sunrise Firefighters' Pension Fund, et al. v. Oracle Corporation, et al.*, *In re Impinj, Inc. Securities Litigation* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2016, Mr. Farah was a contract attorney at E.C.U.R.E., where he litigated claims against insurance companies.

EDUCATION: University of California, San Diego, B.A., *cum laude*, 2011. University of San Diego School of Law, J.D., *cum laude*, 2015.

BAR ADMISSIONS: California.

SIVAN GOLDMAN LUSK, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *Bear Stearns Mortgage Pass-Through Litigation*, *In re Lehman Brothers Equity/Debt Securities Litigation* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2010, Ms. Goldman was a Legal Intern at the San Diego County Office of the Primary Public Defender.

EDUCATION: American University, B.A., 2004. Thomas Jefferson School of Law, J.D., 2009.

BAR ADMISSIONS: California.

KRISTIN GUTHRIE, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *In re Genworth Financial, Inc., Securities Litigation*, *Bear Stearns Mortgage Pass-Through Litigation* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2014, Ms. Guthrie was an associate litigation attorney at G&P/Schick, PC.

EDUCATION: Saint John's University, B.S., *cum laude*, 2007. California Western School of Law, J.D., 2012.

BAR ADMISSIONS: California.

MAHDI IBRAHIM, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *Allstate Insurance Company v. Morgan Stanley & Co., Inc., In re RH, Inc. Securities Litigation*, *Dexia Holdings, Inc. v. JP Morgan* and *In re Lehman Brothers Equity/Debt Securities Litigation*.

Prior to attending law school and joining the firm in 2011, Mr. Ibrahim was a paralegal at Cleary, Gottlieb, Steen & Hamilton LLP.

EDUCATION: Pennsylvania State University, B.S., 2006. University of San Diego School of Law, J.D., 2010.

BAR ADMISSIONS: California.

TAMMY ISSARAPANICHKIT, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *Bear Stearns Mortgage Pass-Through Litigation*, *In re Lehman Brothers Equity/Debt Securities Litigation* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2012, Ms. Issarapanichkit worked as an attorney at Aguirre, Morris and Severson, LLP.

EDUCATION: University of California, Irvine, B.A., *cum laude*, 2005. California Western School of Law, J.D., 2009.

BAR ADMISSIONS: California.

CHRISTINE PARK LEE, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including the *RMBS Trustee Class Actions* and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2016, Ms. Park Lee was a law clerk at Chula Vista City Attorney's Office.

EDUCATION: University of California, San Diego, B.A., 2009. University of San Diego School of Law, J.D., 2014.

BAR ADMISSIONS: California.

ANTHONY MANCE, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *Bear Stearns Mortgage Pass-Through Litigation*, *In re RH, Inc. Securities Litigation* and the *RMBS Trustee Class Actions*.

Prior to joining the firm in 2014, Mr. Mance worked as In-House Legal Counsel at Bridge Mediation, and as a contract attorney at the Law Office of Daria S. Brovchenko.

EDUCATION: Purdue University, B.A., 2005. California Western School of Law, J.D., 2009.

BAR ADMISSIONS: California.

SHANA METZGER, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*, *BlackRock ACS US Equity Tracker Fund, v. American Realty Capital Properties, Inc.*, and *In re RH, Inc. Securities Litigation*.

Prior to joining the firm in 2014, Ms. Metzger was a volunteer attorney at with the San Diego Volunteer Lawyer Program – HIV/AIDS Clinic. Ms. Metzger also has had a solo practice.

EDUCATION: University of Arizona, B.A., 2004. California Western School of Law, J.D., 2013.

BAR ADMISSIONS: California.

JOHN WEBER, a former staff attorney of the firm, worked on numerous matters while at BLB&G, including *In re Cobalt International Energy, Inc. Securities Litigation*, *In re RH, Inc. Securities Litigation* and *In re Quality Systems, Inc. Securities Litigation*.

Prior to joining the firm in 2017, Mr. Weber was an associate trial attorney with The Bickel Law Firm, Inc.

EDUCATION: University of California, Berkeley, B.A., 2013. University of San Diego School of Law, J.D., 2016.

BAR ADMISSIONS: California.

Exhibit 8

EXHIBIT 8

In re RH, Inc. Securities Litigation,
Case No. 4:17-0054-YGR

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
EXPENSE REPORT

CATEGORY	AMOUNT
Court Fees	\$ 940.00
PSLRA Notice Costs	805.00
Service of Process & Hand Delivery	5,120.74
On-Line Legal & Factual Research	30,651.50
Processing of Electronic Documents and Hosting & Maintenance of Electronic Document Database (Epiq eDiscovery Solutions and Precision Discovery, Inc.)	400,339.61
Telephone/Faxes	162.47
Postage & Express Mail	4,109.05
Internal Copying & Printing	21,969.70
In-House Black and White Copies and Pages Printed: (219,697 pages at \$0.10 per page)	
Out-of-Town Travel*	27,992.18
Court Reporting & Transcripts	49,273.10
Experts & Consultants	215,583.50
Crowninshield Financial Research Inc.	144,403.00
Gerson Lehrman Group	31,553.00
Global Economics Group LLC	39,377.50
Mediation Fees (Phillips ADR)	40,102.50
TOTAL EXPENSES:	\$797,049.35

* Out-of-town travel includes only coach fares for air tickets. Hotels in the following higher-cost cities capped are at \$350 per night: Chicago, Oakland, Newport Beach, and San Francisco.

#1316710

Exhibit 9

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

Securities Class Action Settlements

2018 Review and Analysis

Table of Contents

Highlights	1
Author Commentary	2
Total Settlement Dollars	3
Settlement Size	4
Damages Estimates	5
Rule 10b-5 Claims: “Simplified Tiered Damages”	5
’33 Act Claims: “Simplified Statutory Damages”	7
Analysis of Settlement Characteristics	9
Accounting Allegations	9
Institutional Investors	10
Derivative Actions	11
Corresponding SEC Actions	12
Case Stage at the Time of Settlement	13
Time to Settlement and Case Complexity	14
Cornerstone Research’s Settlement Prediction Analysis	15
Research Sample	16
Data Sources	16
Endnotes	17
Appendices	18
About the Authors	22

The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

Table of Figures and Appendices

Figure 1: Settlement Statistics	1
Figure 2: Total Settlement Dollars	3
Figure 3: Distribution of Post-Reform Act Settlements	4
Figure 4: Median and Average “Simplified Tiered Damages”	5
Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges	6
Figure 6: Settlements by Nature of Claims	7
Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges	8
Figure 8: Median Settlements as a Percentage of “Simplified Tiered Damages” and Accounting Allegations	9
Figure 9: Median Settlement Dollars and Public Pension Plans	10
Figure 10: Frequency of Derivative Actions	11
Figure 11: Frequency of SEC Actions	12
Figure 12: Median Settlement Dollars and Resolution Stage at Time of Settlement	13
Figure 13: Median Settlement by Duration from Filing Date to Settlement Hearing Date	14
Appendix 1: Settlement Percentiles	18
Appendix 2: Select Industry Sectors	18
Appendix 3: Settlements by Federal Circuit Court	19
Appendix 4: Mega Settlements	19
Appendix 5: Median and Average Settlements as a Percentage of “Simplified Tiered Damages”	20
Appendix 6: Median and Average Maximum Dollar Loss (MDL)	20
Appendix 7: Median and Average Disclosure Dollar Loss (DDL)	21
Appendix 8: Median Docket Entries by “Simplified Tiered Damages” Range	21

Analyses in this report are based on 1,775 securities class actions filed after passage of the Private Securities Litigation Reform Act of 1995 (Reform Act) and settled from 1996 through year-end 2018. See page 16 for a detailed description of the research sample. For purposes of this report and related research, a settlement refers to a negotiated agreement between the parties to a securities class action that is publicly announced to potential class members by means of a settlement notice.

Highlights

Propelled by mega settlements of \$100 million or higher, total settlement dollars rose to just above \$5 billion in 2018. This was the third-highest total in the prior 10 years. An increase in midsized settlements between \$10 million and \$50 million also contributed to the increased total value of settlements.

- There were 78 securities class action settlements approved in 2018—only slightly fewer than the number of settlements approved in 2017. [\(page 1\)](#)
- Total settlement dollars increased substantially over the 2017 near-historic low to just over \$5 billion, which was 50 percent higher than the average for the prior nine years. [\(page 3\)](#)
- There were five mega settlements (settlements equal to or greater than \$100 million) in 2018. [\(page 4\)](#)
- Compared to the historically low levels in 2017, in 2018 the average settlement amount more than tripled to \$64.9 million, while the median settlement amount (representing the typical case) more than doubled to \$11.3 million. [\(page 1\)](#)
- For 2018 cases with Rule 10b-5 claims, when compared to 2017 results, average “simplified tiered damages” rose 45 percent to \$687 million, while median “simplified tiered damages” rose 88 percent to \$250 million. [\(page 5\)](#)
- The median settlement as a percentage of “simplified tiered damages” in 2018 was 6.0 percent—higher than the median of 5.1 percent over the prior nine years. [\(page 6\)](#)
- Compared to defendant firms involved in cases settled in 2017, defendant firms in 2018 settlements were roughly 50 percent larger, as measured by median total assets. [\(page 5\)](#)
- During 2014–2018, the median settlement for cases that settled before a ruling on a motion for class certification was \$12.6 million, compared to \$18.0 million for cases that settled after such a ruling. [\(page 13\)](#)
- Among 2018 settled cases, the average time to reach a ruling on a motion for class certification was 4.8 years. [\(page 13\)](#)

Figure 1: Settlement Statistics

(Dollars in millions)

	1996–2017	2017	2018
Number of Settlements	1,697	81	78
Total	\$96,982.2	\$1,511.1	\$5,064.3
Minimum	\$0.2	\$0.5	\$0.4
Median	\$8.6	\$5.1	\$11.3
Average	\$57.1	\$18.7	\$64.9
Maximum	\$9,008.9	\$215.1	\$3,000.0

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Figure 1 includes all post-Reform Act settlements. Settlements during 1996–2017 include 13 cases each exceeding \$1 billion—adjusted for inflation, these settlements drive up the average settlement amount.

Author Commentary

2018 Findings

In this section we provide our perspective on the increase in the 2018 median settlement amount, both in dollars and as a percentage of our simplified proxy for plaintiff-style damages.

While there are important determinants of settlement amounts that we are unable to observe, such as case merits, we collect and analyze publicly available data in an effort to represent underlying constructs relevant to settlement determination. These determinants include the strength of the case, potential damages alleged by plaintiffs, resources available to fund the settlement from named defendants and/or their insurers, as well as other factors that may affect the settlement negotiation process.

Over the years, we have identified a number of factors that are associated with higher settlement amounts. The results in 2018 are unusual in that settlement amounts increased—even as a percentage of our simplified damages proxy—despite a decrease in certain factors typically associated with larger settlements.

For example, relative to both the previous year (2017) and the previous nine years (2009–2017), fewer cases settled in 2018 involved accounting allegations. Similarly, settlements also involved fewer public pension plan lead plaintiffs. These findings raise the question: what did cause the increase in settlement amounts in 2018?

One interesting finding in 2018 is that more than 14 percent of settled cases involved an accompanying criminal action—the highest proportion over the last 10 years. Cases associated with a criminal action generally settle for higher amounts.

However, the answer appears to relate primarily to the potential resources available to fund the settlement. Specifically, we study issuer defendant total assets as a proxy for both the resources available directly from the defendant, as well as potential Directors and Officers (D&O) insurance coverage. In 2018, defendant firms in settled cases were 50 percent larger than in 2017, and over 20 percent larger than over the prior five years. Similarly, both the proportions of settlements involving delisted firms, as well as bankrupt firms, were the lowest over the last decade. Taken together, this suggests that economic factors played an important role in the increase in settlement size in 2018.

What is striking in 2018 is the dramatic increase in average and median settlement amounts despite a drop in a number of factors typically associated with higher settlements.

*Dr. Laura E. Simmons
Senior Advisor
Cornerstone Research*

Recent Developments

Recent data on case filings can provide insights into potential settlement trends. Specifically, record levels of market capitalization losses reported for case filings in 2018 may suggest that large settlements will persist in upcoming years. See Cornerstone Research's *Securities Class Action Filings—2018 Year in Review*.¹

In addition, the emergence of event-driven securities case filings over the last couple of years has been widely discussed. These cases have been described as driven by adverse events such as “an explosion, a crash, [or] a mass torts episode.”² Some authors have associated such cases with more rapid filings and the entrance of certain plaintiff law firms lacking connections to institutional investors.³ Accordingly, we have investigated the development of trends related to these suits for case settlements in 2018.

We observe that, overall, settlement amounts, our simplified damages proxy, and defendant assets are all lower for cases in which the law firms associated with event-driven litigation serve as lead counsel. In addition, consistent with expectations, cases in which they serve as lead counsel are less likely to involve institutional investors as lead plaintiffs.

Given that securities cases take, on average, just over three-and-a-half years to resolve, such cases may have a greater impact on future settlement trends, and we will continue to investigate effects related to event-driven litigation in subsequent reports.

—Laarni T. Bulan, Ellen M. Ryan, and Laura E. Simmons

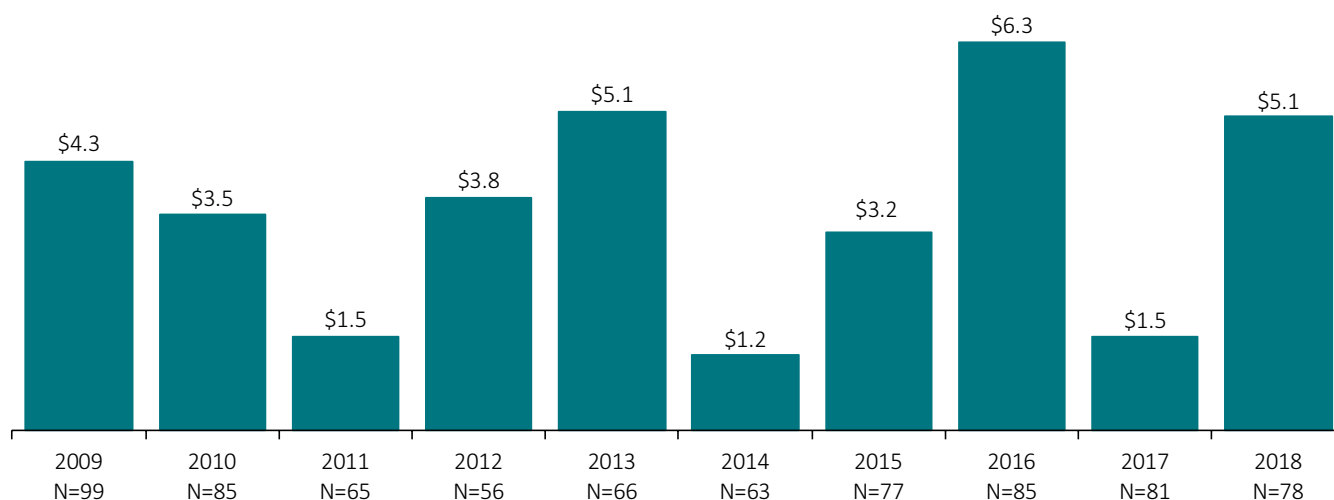
Total Settlement Dollars

- The total value of settlements approved by courts in 2018 was just over \$5 billion—more than three times the total amount approved in 2017.
- The average settlement amount in 2018 was nearly \$65 million, considerably higher than the \$18.7 million average in 2017 and 44 percent higher than the average for the prior nine years.
- In addition, the 2018 median settlement of \$11.3 million was more than double the 2017 median, indicating larger 2018 settlements overall.
- The larger settlement amounts in 2018 were accompanied by higher levels in our proxy for plaintiff-style damages. (See page 5 for a discussion of damages estimates.)

2018 total settlement dollars surpassed the prior nine-year average annual total by 50 percent.

**Figure 2: Total Settlement Dollars
2009–2018**

(Dollars in billions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

Settlement Size

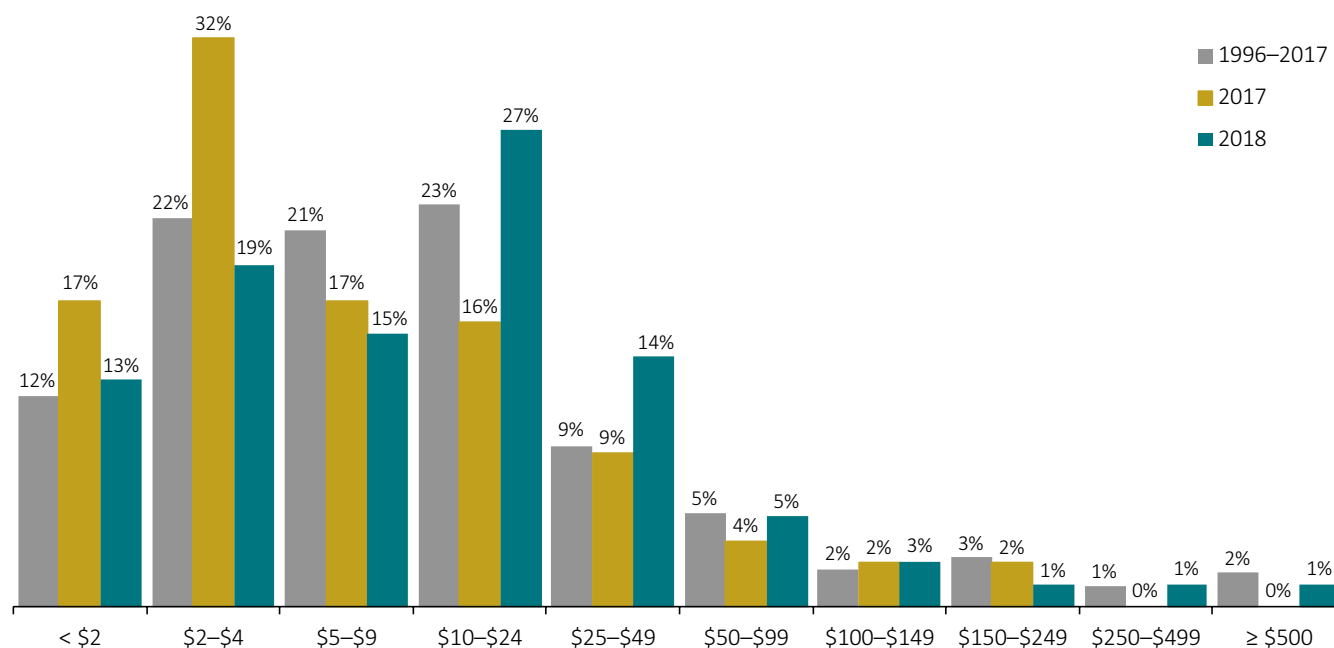
- There were five mega settlements in 2018, with settlements ranging from \$110 million to \$3 billion.

32 cases settled for between \$10 million and \$49 million in 2018, representing an approximate 60 percent increase over 2017.

- The median and average settlement amounts in 2018 were 31 percent and 14 percent higher than the median and average, respectively, for all prior post-Reform Act settlements.
- Contributing to the increase in median and average settlement amounts, the number of small settlements (amounts less than \$5 million) declined by nearly 40 percent, from 40 cases in 2017 to 25 in 2018.

Figure 3: Distribution of Post-Reform Act Settlements 1996–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Percentages may not sum to 100 percent due to rounding.

Damages Estimates

Rule 10b-5 Claims: “Simplified Tiered Damages”

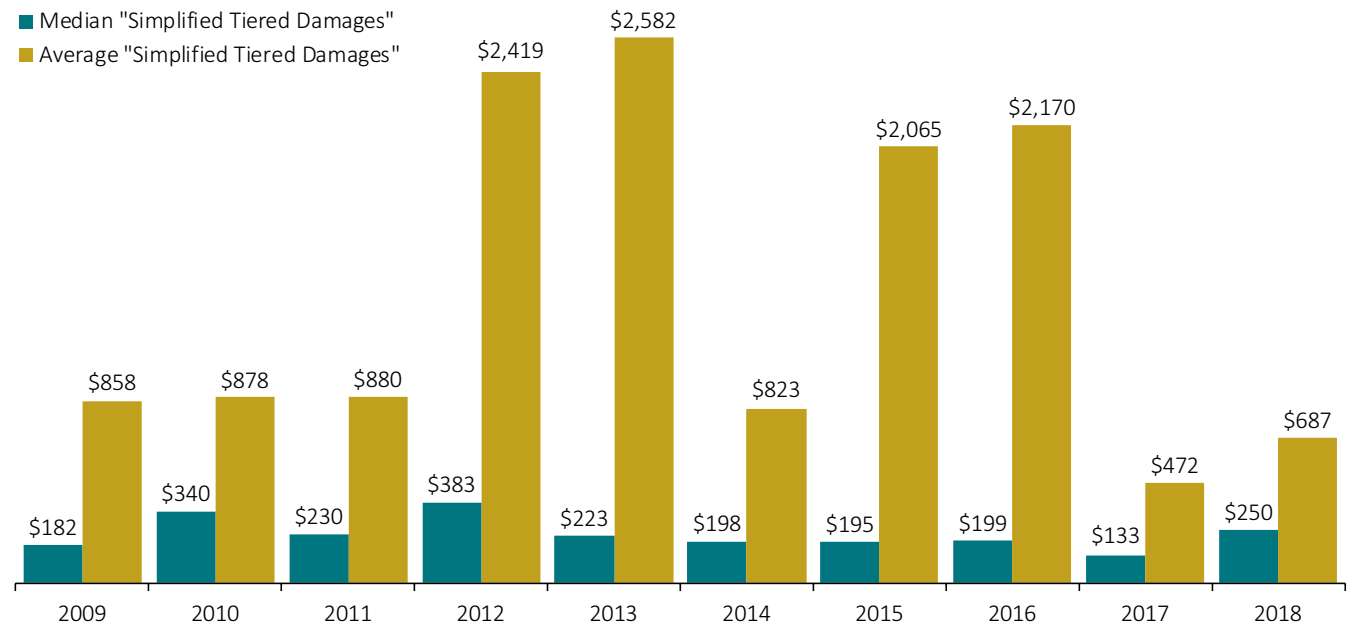
“Simplified tiered damages” uses simplifying assumptions to estimate per-share damages and trading behavior. It provides a measure of potential shareholder losses that allows for consistency across a large volume of cases, thus enabling the identification and analysis of potential trends.⁴ Cornerstone Research’s prediction model finds this measure to be the most important factor in predicting settlement amounts.⁵ However, this measure is not intended to represent actual economic losses borne by shareholders. Determining any such losses for a given case requires more in-depth economic analysis.

Median “simplified tiered damages” increased 88 percent from 2017.

- “Simplified tiered damages” is correlated with stock market volatility at the time of a case filing. The rise in median and average “simplified tiered damages” in 2018 is consistent with increased stock market volatility in 2015 and 2016, when more than half of cases that settled in 2018 were filed.
- “Simplified tiered damages” is also generally correlated with the length of the class period. For cases settled in 2018, the median class period length was over 13 percent longer than the median in 2017.
- Higher “simplified tiered damages” are generally associated with larger issuer defendants (measured by total assets or market capitalization of the issuer). In 2018, the median issuer defendant total assets of \$829 million was almost 50 percent larger than for cases settled in 2017.

Figure 4: Median and Average “Simplified Tiered Damages” 2009–2018

(Dollars in millions)



Note: “Simplified tiered damages” are adjusted for inflation based on class period end dates. Damages are estimated for cases alleging a claim under Rule 10b-5 (whether alone or in addition to other claims).

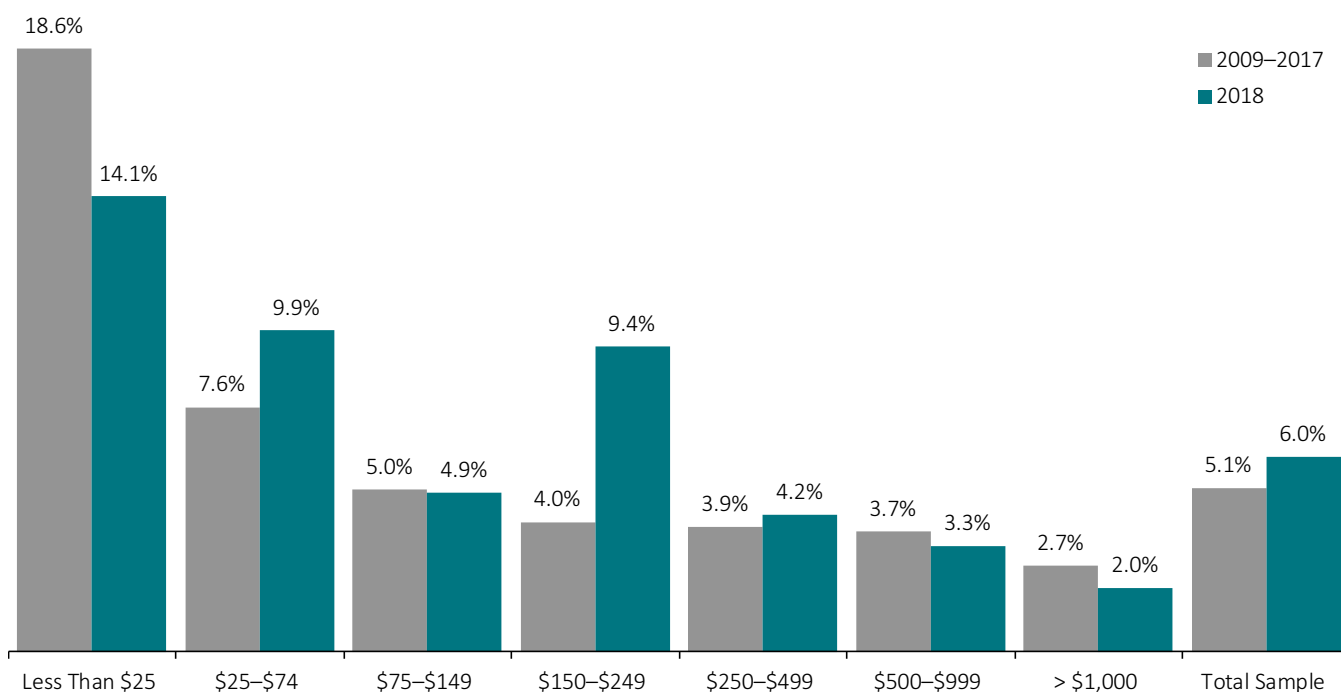
- Larger cases (cases with higher levels of the proxy for shareholder losses) typically settle for a smaller percentage of “simplified tiered damages.”
- The median settlement as a percentage of “simplified tiered damages” increased to 6.0 percent in 2018, compared to a median of 5.1 percent for the prior nine years.
- For the smallest cases (measured by “simplified tiered damages”), the median settlement as a percentage of “simplified tiered damages” decreased by more than 50 percent, from 29 percent in 2017 to 14 percent in 2018.

The median settlement as a percentage of “simplified tiered damages” increased for the third consecutive year.

- As observed over the last decade, smaller cases typically settle more quickly. Cases with less than \$25 million in “simplified tiered damages” settled within 2.9 years on average, compared to 4.5 years for cases with “simplified tiered damages” of greater than \$500 million.

Figure 5: Median Settlements as a Percentage of “Simplified Tiered Damages” by Damages Ranges 2009–2018

(Dollars in millions)



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

'33 Act Claims: "Simplified Statutory Damages"

- For cases involving only Section 11 and/or Section 12(a)(2) claims ('33 Act claims), shareholder losses are estimated using a model in which the statutory loss is the difference between the statutory purchase price and the statutory sales price, referred to here as "simplified statutory damages."⁶ Only the offered shares are assumed to be eligible for damages.
- "Simplified statutory damages" are typically smaller than "simplified tiered damages," reflecting differences in the methodologies used to estimate alleged inflation per share, as well as differences in the shares eligible to be damaged (i.e., only offered shares are included).
- In 2018, among settlements involving only '33 Act claims, the median time to settlement was 2.3 years, compared to slightly more than three years for cases involving only Rule 10b-5 claims.
- Median settlement amounts are substantially higher for cases involving both '33 Act claims and Rule 10b-5 allegations than for those with only Rule 10b-5 claims.

Eight cases involving only '33 Act claims settled in 2018.

Figure 6: Settlements by Nature of Claims
2009–2018

(Dollars in millions)

	Number of Settlements	Median Settlement	Median "Simplified Statutory Damages"	Median Settlement as a Percentage of "Simplified Statutory Damages"
Section 11 and/or Section 12(a)(2) Only	76	\$5.2	\$107.8	8.0%

	Number of Settlements	Median Settlement	Median "Simplified Tiered Damages"	Median Settlement as a Percentage of "Simplified Tiered Damages"
Both Rule 10b-5 and Section 11 and/or Section 12(a)(2)	127	\$14.8	\$339.6	5.8%
Rule 10b-5 Only	537	\$8.2	\$203.9	4.6%

Note: Settlement dollars and damages are adjusted for inflation; 2018 dollar equivalent figures are used. Damages are adjusted for inflation based on class period end dates.

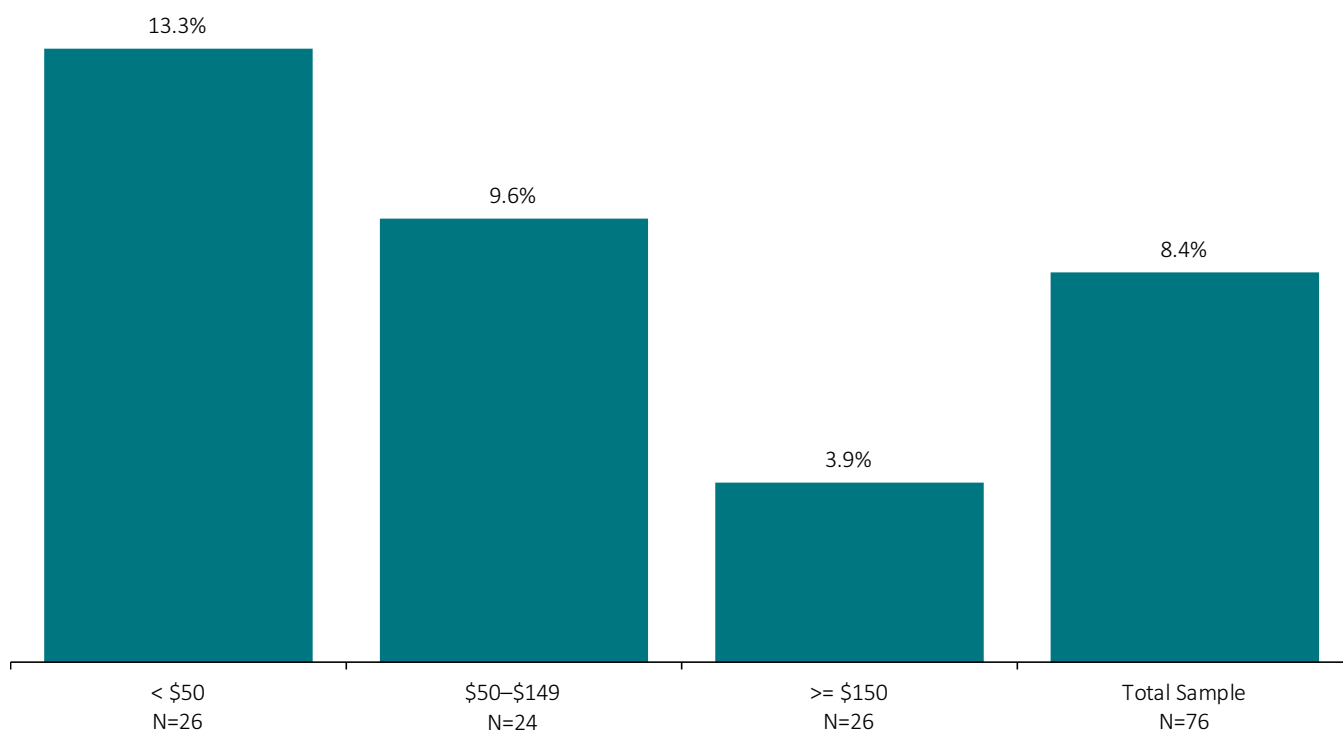
- Similar to cases with Rule 10b-5 claims, settlements as a percentage of “simplified statutory damages” for cases with only ‘33 Act claims are smaller for cases that have larger estimated damages.
- Since 2009, 85 percent of settled cases with only ‘33 Act claims had a named underwriter defendant.
- Over the period 2009–2018, the average settlement as a percentage of “simplified statutory damages” for cases with a named underwriter defendant was 13.2 percent, compared to 5.9 percent for cases without a named underwriter defendant.

50 percent of cases with only ‘33 Act claims settled in 2018 were heard in state courts.

- As discussed in *Securities Class Action Filings—2018 Year in Review*, stand-alone ‘33 Act claim case filings were 45 percent higher in 2018 than the average over the prior five years. These cases will likely reach resolution within the next two to three years and may contribute to an increase in the number of ‘33 Act claim settlements during those years.

Figure 7: Median Settlements as a Percentage of “Simplified Statutory Damages” by Damages Ranges 2009–2018

(Dollars in millions)



Note: N refers to the number of observations.

Analysis of Settlement Characteristics

Accounting Allegations

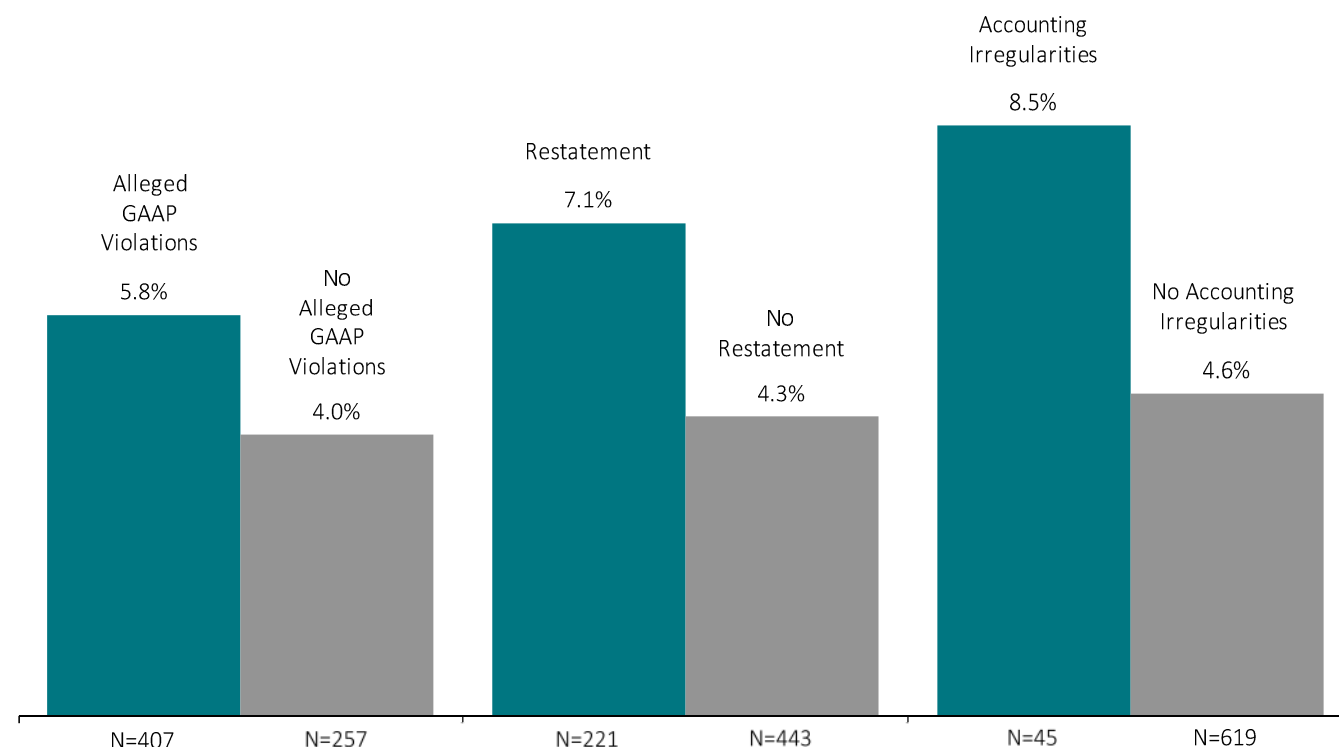
This analysis examines three types of accounting issues among settled cases involving Rule 10b-5 claims: (1) alleged Generally Accepted Accounting Principles (GAAP) violations, (2) restatements, and (3) reported accounting irregularities.⁷ For further details regarding settlements of accounting cases, see Cornerstone Research's annual report on *Accounting Class Action Filings and Settlements*.⁸

- The proportion of settled cases alleging GAAP violations in 2018 was 45 percent, continuing a four-year decline from a high of 67 percent in 2014.
- Settled cases with restatements are generally associated with higher settlements as a percentage of "simplified tiered damages" compared to cases without restatements. In 2018, the median settlement as a percentage of "simplified tiered damages" was 11.3 percent for cases with restatements, but 5.1 percent for cases without restatements.

- Among cases settled in 2018 with accounting-related allegations, approximately 10 percent involved a named auditor codefendant, essentially unchanged from 2017 (10.2 percent). However, these proportions were significantly lower than the average of 21.9 percent over the prior eight years.
- Reported accounting irregularities among settled cases averaged less than 2 percent from 2015 to 2018, compared to almost 10 percent from 2009 to 2014.

The infrequency of reported accounting irregularities among settled cases continued for the fourth straight year.

Figure 8: Median Settlements as a Percentage of "Simplified Tiered Damages" and Accounting Allegations 2009–2018



Note: N refers to the number of observations.

Institutional Investors

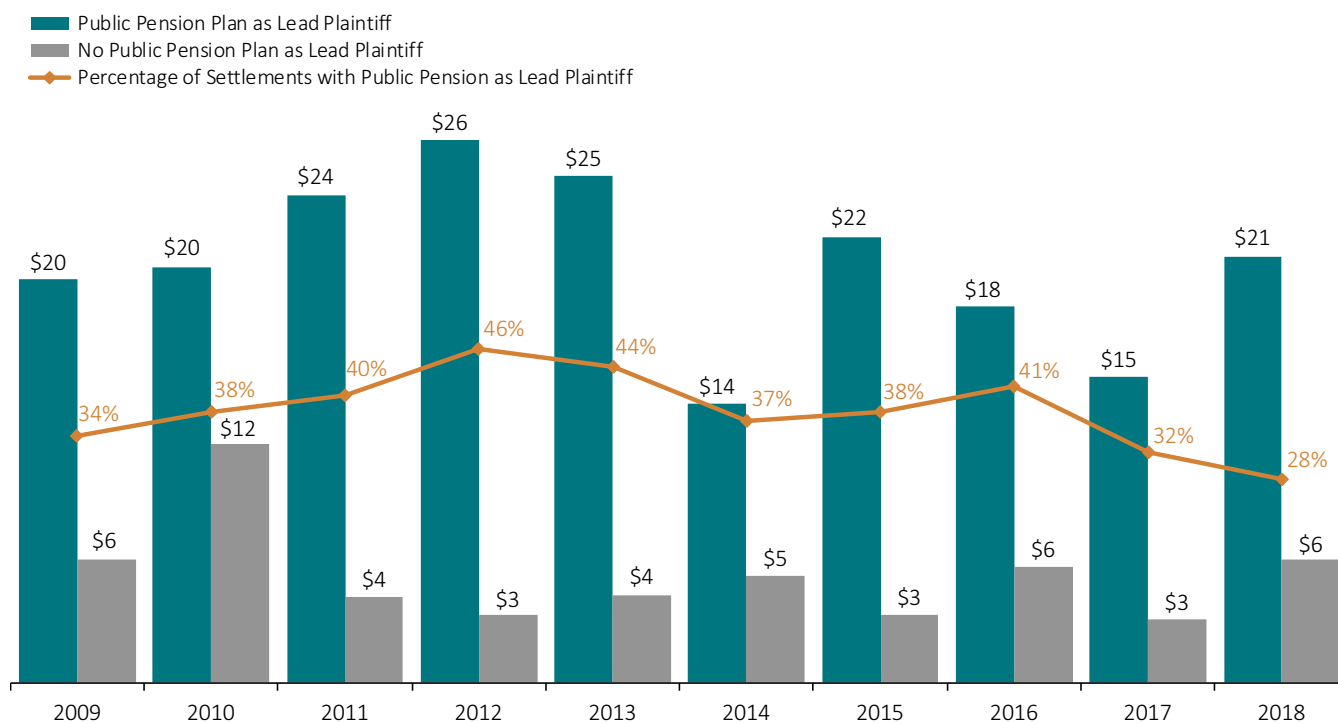
- Institutional investors, including public pension plans (a subset of institutional investors), tend to be involved in larger cases, that is, cases with higher “simplified tiered damages.”
- Median “simplified tiered damages” for cases involving a public pension as a lead plaintiff in 2018 were \$689 million compared to \$213 million for cases without a public pension as a lead plaintiff.
- While public pensions historically have tended to be involved in cases with accounting-related allegations (i.e., alleged GAAP violations, restatements, and accounting irregularities), this was not true in 2018.

The proportion of 2018 settlements with a public pension plan as lead plaintiff was at its lowest level in the last decade.

- In 2018, median total assets for issuer defendants in cases involving an institutional investor as a lead plaintiff were \$1.6 billion compared to \$328 million for cases without institutional investor involvement.

Figure 9: Median Settlement Dollars and Public Pension Plans 2009–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

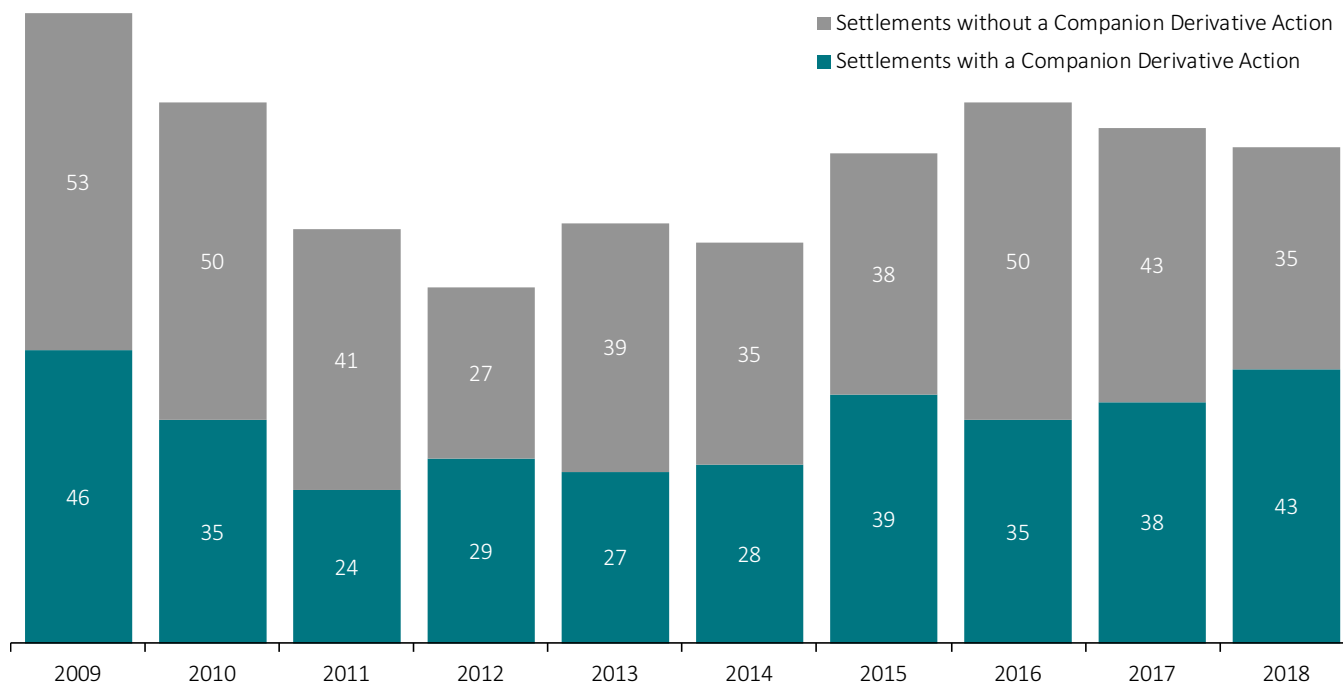
Derivative Actions

Derivative cases accompanying securities class actions are more frequently filed when corresponding securities class actions are relatively large or involve a financial restatement or public pension plan lead plaintiff.

The percentage of settled cases with a public pension plan lead plaintiff that also involved an accompanying derivative action reached 77 percent in 2018, its highest level in the last 10 years.

- The increase in the proportion of settled cases involving an accompanying derivative action is consistent with both the larger cases (measured by “simplified tiered damages”) and the larger settlement amounts observed in 2018.
- The median “simplified tiered damages” for cases with companion derivative actions was \$480 million, compared to \$47 million for cases without accompanying derivative actions.
- The median settlement amount for cases with companion derivative actions was \$18 million, compared to \$5 million for cases without accompanying derivative actions.

Figure 10: Frequency of Derivative Actions
2009–2018



Corresponding SEC Actions

Cases with a corresponding Securities and Exchange Commission (SEC) action related to the allegations are typically associated with significantly higher settlement amounts and higher settlements as a percentage of “simplified tiered damages.”⁹

- The number of settled securities class actions with corresponding SEC actions has remained relatively stable over the last four years.
- Cases with corresponding SEC actions tend to involve larger issuer defendants. For cases settled during 2009–2018, the median total assets of issuer defendant firms at the time of settlement were \$946 million for cases with corresponding SEC actions, compared to \$653 million for cases without a corresponding SEC action.

- Corresponding SEC actions are also frequently associated with distressed firms. For purposes of this research, a distressed firm has either declared bankruptcy or been delisted from a major U.S. exchange prior to settlement.

At 54 percent, 2018 had one of the highest rates of SEC actions among distressed firms in the past decade.

Figure 11: Frequency of SEC Actions
2009–2018



Case Stage at the Time of Settlement

In collaboration with Stanford Securities Litigation Analytics (SSLA),¹⁰ we have analyzed settlements in relation to the stage in the litigation process at the time of settlement, expanding on the stages analyzed in our prior reports.

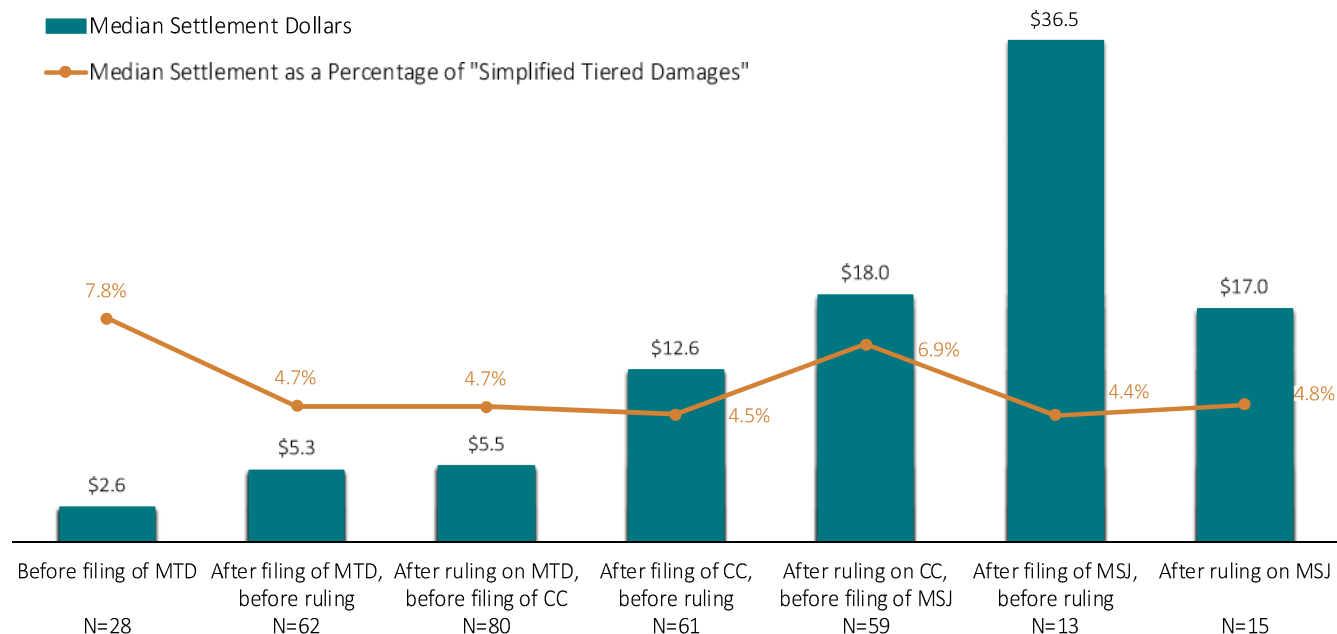
- In 2018, cases settled after a motion to dismiss was filed but prior to a ruling had a median settlement of \$7.9 million, significantly lower than for cases settled at later stages.
- In addition, among 2018 settlements, median total assets at the time of settlement were almost 100 percent larger for cases settled after a ruling on a motion to dismiss than for cases settled at earlier stages.

The average time to reach a ruling on a motion for class certification among settlements in 2018 was 4.8 years.

- In the five-year period from 2014 to 2018, the median settlement for cases settled after a motion for class certification was filed but prior to a ruling was \$12.6 million, compared to \$18 million for cases settled after a ruling.
- Over the same period, the median “simplified tiered damages” for cases settled after a filing of a motion for summary judgment was over four times the median for cases settled prior to such a motion being filed. This contributed to higher settlement amounts but lower settlements as a percentage of “simplified tiered damages” for cases settled at this stage.

Figure 12: Median Settlement Dollars and Resolution Stage at Time of Settlement 2014–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. MTD refers to “motion to dismiss,” CC refers to “class certification,” and MSJ refers to “motion for summary judgment.” This analysis is limited to cases alleging Rule 10b-5 claims.

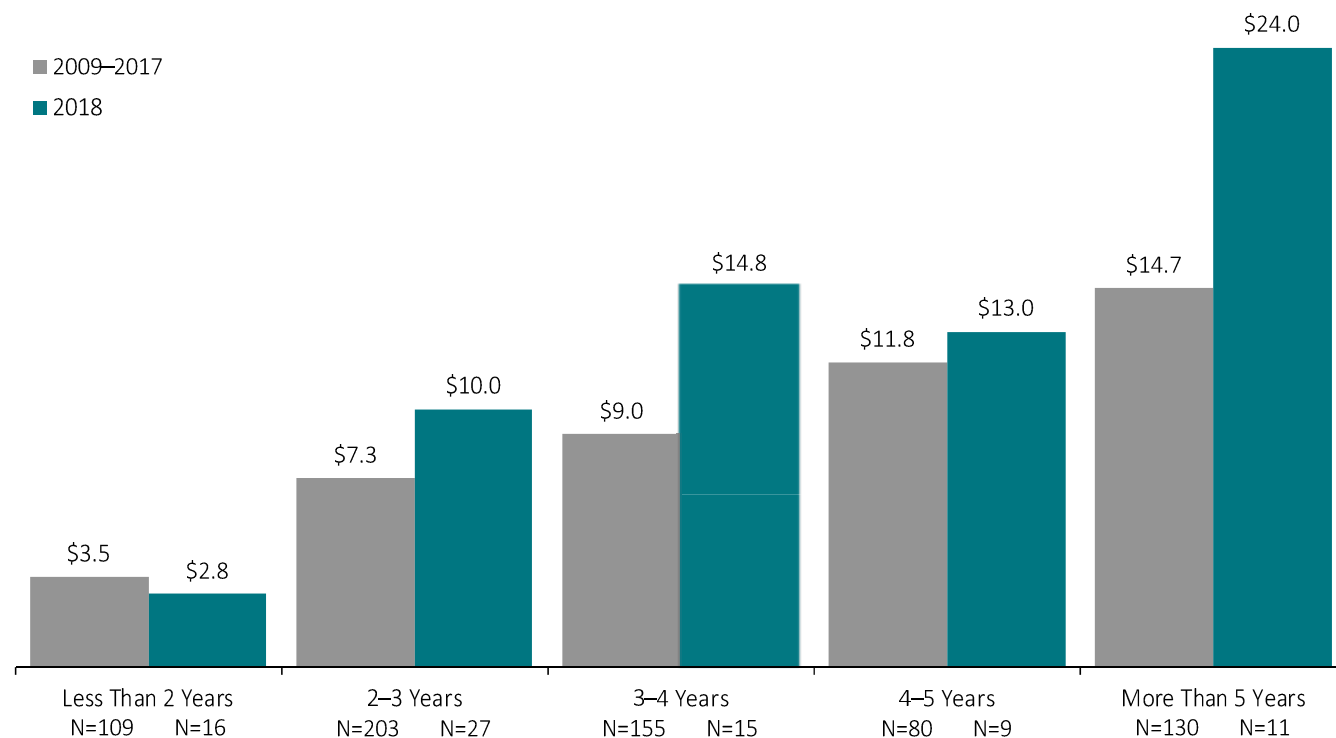
Time to Settlement and Case Complexity

- In 2018, 21 percent of cases settled within two years of filing, 12 percent higher than the prior five-year average.
- Cases that settle quickly tend to be smaller (measured by “simplified tiered damages” or total assets of the issuer defendant). Rule 10b-5 cases settled in less than two years in 2018 had median “simplified tiered damages” of \$67 million, compared to a median of \$319 million for settlements that took more than two years to be resolved.
- While, on average, settled cases in 2018 reached resolution more quickly than in prior years, almost 15 percent of cases took more than five years to settle in 2018 and settled for substantially higher amounts. Over 80 percent of these cases had accompanying derivative actions, and median assets of the defendant firms were more than twice as large as in other cases.
- For the period 2013–2018, cases settled within two years of filing had higher attorney fees as a percentage of the settlement fund than cases that took longer to settle.¹¹

The average time from filing to settlement in 2018 was 3.3 years.

Figure 13: Median Settlement by Duration from Filing Date to Settlement Hearing Date 2009–2018

(Dollars in millions)



Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. N refers to the number of observations.

Cornerstone Research's Settlement Prediction Analysis

This research applies regression analysis to examine the relationships between settlement outcomes and certain security case characteristics. Regression analysis is employed to better understand and predict the total settlement amount, given the characteristics of a particular securities case. Regression analysis can also be applied to estimate the probabilities associated with reaching alternative settlement levels. It is also helpful in exploring hypothetical scenarios, including how the presence or absence of particular factors affects predicted settlement amounts.

Determinants of Settlement Outcomes

Based on the research sample of post-Reform Act cases that settled through December 2018, the factors that were important determinants of settlement amounts included the following:

- “Simplified tiered damages”
- Maximum Dollar Loss (MDL)—market capitalization change from its peak to post-disclosure value
- Most recently reported total assets of the issuer defendant firm
- A measure of how long the issuer defendant has been a public company
- Number of entries on the lead case docket
- The year in which the settlement occurred
- Whether a restatement of financials related to the alleged class period was announced
- Whether there was a corresponding SEC action and/or criminal indictments/charges against the issuer, other defendants, or related parties

- Whether an outside auditor or underwriter was named as a codefendant
- Whether Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims
- Whether the issuer defendant was distressed
- Whether a public pension was a lead plaintiff
- Whether the plaintiffs alleged that securities other than common stock were damaged

Regression analyses show that settlements were higher when “simplified tiered damages,” MDL, issuer defendant asset size, the length of time the company has been public, or the number of docket entries were larger, or when Section 11 and/or Section 12(a) claims were alleged in addition to Rule 10b-5 claims.

Settlements were also higher in cases involving financial restatements, a corresponding SEC action, a public pension involved as lead plaintiff, a third party such as an outside auditor or underwriter was named as a codefendant, or securities other than common stock were alleged to be damaged.

Settlements were lower if the settlement occurred in 2012 or later, or if the issuer was distressed.

Almost 75 percent of the variation in settlement amounts can be explained by the factors discussed above.

Research Sample

- The database used in this report contains cases alleging fraudulent inflation in the price of a corporation's common stock (i.e., excluding cases with alleged classes of only bondholders, preferred stockholders, etc., and excluding cases alleging fraudulent depression in price and merger and acquisition (M&A) cases).
- The sample is limited to cases alleging Rule 10b-5, Section 11, and/or Section 12(a)(2) claims brought by purchasers of a corporation's common stock. These criteria are imposed to ensure data availability and to provide a relatively homogeneous set of cases in terms of the nature of the allegations.
- The current sample includes 1,775 securities class actions filed after passage of the Reform Act (1995) and settled from 1996 through 2018. These settlements are identified based on a review of case activity collected by Securities Class Action Services LLC (SCAS).¹²
- The designated settlement year, for purposes of this report, corresponds to the year in which the hearing to approve the settlement was held.¹³ Cases involving multiple settlements are reflected in the year of the most recent partial settlement, provided certain conditions are met.¹⁴

Data Sources

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

Endnotes

- ¹ See *Securities Class Action Filings—2018 Year in Review*, Cornerstone Research (2019), <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2018-Year-in-Review.pdf>
- ² See John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- ³ See Kevin LaCroix, “Scrutinizing Event-Driven Securities Litigation,” D&O Diary, March 27, 2018, <https://www.dandodiary.com/2018/03/articles/securities-litigation/scrutinizing-event-driven-securities-litigation/>; John C. Coffee Jr., “Securities Litigation in 2017: ‘It Was the Best of Times, It Was the Worst of Times,’” CLS Blue Sky Blog, March 19, 2018, <http://clsbluesky.law.columbia.edu/2018/03/19/securities-litigation-in-2017-it-was-the-best-of-times-it-was-the-worst-of-times/>.
- ⁴ The “simplified tiered damages” approach used for purposes of this settlement research does not examine the mix of information associated with the specific dates listed in the plan of allocation, but simply applies the stock price movements on those dates to an estimate of the “true value” of the stock during the alleged class period (or “value line”). This proxy for damages uses an estimate of the number of shares damaged based on reported trading volume and the number of shares outstanding. Specifically, reported trading volume is adjusted using volume reduction assumptions based on the exchange on which the issuer defendant’s common stock is listed. No adjustments are made to the underlying float for institutional holdings, insider trades, or short-selling activity during the alleged class period. Because of these and other simplifying assumptions, the damages measures used in settlement outcome modeling may be overstated relative to damages estimates developed in conjunction with case-specific economic analysis.
- ⁵ See Laarni T. Bulan et al., *Estimating Damages in Settlement Outcome Modeling*, Cornerstone Research (2017), <https://www.cornerstone.com/Publications/Research/Estimating-Damages-in-Settlement-Outcome-Modeling.pdf>.
- ⁶ The statutory purchase price is the lesser of the security offering price or the security purchase price. Prior to the first complaint filing date, the statutory sales price is the price at which the security was sold. After the first complaint filing date, the statutory sales price is the greater of the security sales price or the security price on the first complaint filing date. Similar to “simplified tiered damages,” the estimation of “simplified statutory damages” makes no adjustments to the underlying float for institutional holdings, insider trades, or short-selling activity. Shares subject to a lock-up period are not added to the float for purposes of this calculation.
- ⁷ The three categories of accounting issues analyzed in this report are: (1) GAAP violations—cases with allegations involving Generally Accepted Accounting Principles (GAAP); (2) restatements—cases involving a restatement (or announcement of a restatement) of financial statements; and (3) accounting irregularities—cases in which the defendant has reported the occurrence of accounting irregularities (intentional misstatements or omissions) in its financial statements.
- ⁸ See *Accounting Class Action Filings and Settlements*, Cornerstone Research (2018), <https://www.cornerstone.com/Publications/Reports/2017-Accounting-Class-Action-Filings-and-Settlements.pdf>. Update forthcoming in April 2019.
- ⁹ It could be that the merits in such cases are stronger, or simply that the presence of a corresponding SEC action provides plaintiffs with increased leverage when negotiating a settlement. For purposes of this research, an SEC action is evidenced by the presence of a litigation release or an administrative proceeding posted on www.sec.gov.
- ¹⁰ Stanford Securities Litigation Analytics (SSLA) tracks and collects data on private shareholder securities litigation and public enforcements brought by the SEC and the U.S. Department of Justice (DOJ). The SSLA dataset includes all traditional class actions, SEC actions, and DOJ criminal actions filed since 2000. Available on a subscription basis at <https://sla.law.stanford.edu/>.
- ¹¹ Data provided by SSLA.
- ¹² Available on a subscription basis. For further details see <https://www.issgovernance.com/securities-class-action-services/>.
- ¹³ Movements of partial settlements between years can cause differences in amounts reported for prior years from those presented in earlier reports.
- ¹⁴ This categorization is based on the timing of the settlement approval. If a new partial settlement equals or exceeds 50 percent of the then-current settlement fund amount, the entirety of the settlement amount is recategorized to reflect the settlement hearing date of the most recent partial settlement. If a subsequent partial settlement is less than 50 percent of the then-current total, the partial settlement is added to the total settlement amount and the settlement hearing date is left unchanged.

Appendices

Appendix 1: Settlement Percentiles

(Dollars in millions)

	Average	10th	25th	Median	75th	90th
2018	\$64.9	\$1.5	\$3.6	\$11.3	\$24.8	\$52.1
2017	\$18.7	\$1.5	\$2.6	\$5.1	\$15.4	\$35.3
2016	\$73.8	\$2.0	\$4.4	\$8.9	\$34.5	\$152.7
2015	\$41.7	\$1.4	\$2.3	\$6.9	\$17.2	\$99.6
2014	\$19.3	\$1.8	\$3.0	\$6.4	\$14.0	\$53.0
2013	\$77.9	\$2.0	\$3.2	\$7.0	\$23.9	\$88.9
2012	\$67.0	\$1.3	\$2.9	\$10.3	\$38.8	\$125.8
2011	\$23.4	\$2.1	\$2.8	\$6.4	\$20.1	\$46.6
2010	\$41.1	\$2.3	\$4.9	\$13.0	\$28.8	\$91.7
2009	\$43.9	\$2.8	\$4.5	\$9.4	\$23.4	\$77.7
1996–2018	\$45.4	\$1.7	\$3.6	\$8.6	\$21.9	\$75.1

Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used.

Appendix 2: Select Industry Sectors 2009–2018

(Dollars in millions)

Industry	Number of Settlements	Median Settlement	Median “Simplified Tiered Damages”	Median Settlement as a Percentage of “Simplified Tiered Damages”
Financial	111	\$21.7	\$452.8	4.8%
Technology	108	\$9.2	\$217.9	5.1%
Pharmaceuticals	91	\$8.7	\$251.5	3.9%
Telecommunications	41	\$8.6	\$220.3	4.5%
Retail	38	\$6.6	\$189.6	4.3%
Healthcare	20	\$8.2	\$136.0	6.4%

Note: Settlement dollars and “simplified tiered damages” are adjusted for inflation; 2018 dollar equivalent figures are used. “Simplified tiered damages” are calculated only for cases involving Rule 10b-5 claims.

Appendix 3: Settlements by Federal Circuit Court 2009–2018

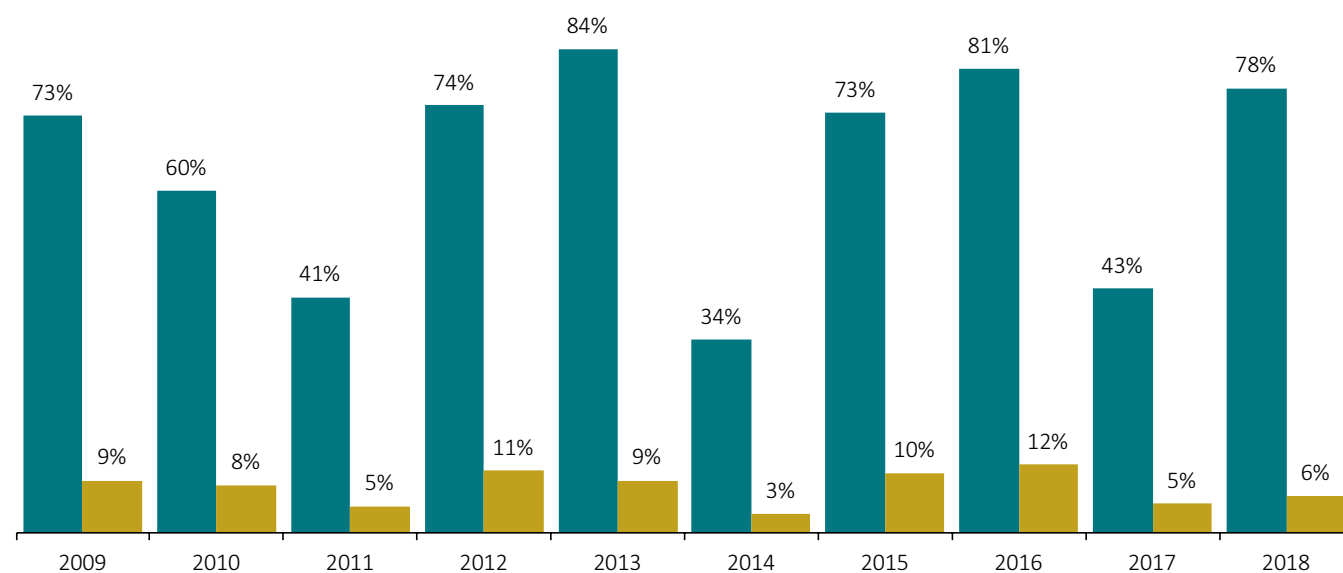
(Dollars in millions)

Circuit	Number of Settlements	Median Settlement	Median Settlement as a Percentage of “Simplified Tiered Damages”
First	24	\$7.1	3.4%
Second	177	\$11.4	4.7%
Third	61	\$7.0	4.6%
Fourth	26	\$12.5	3.2%
Fifth	35	\$8.9	4.5%
Sixth	33	\$13.0	7.4%
Seventh	37	\$10.3	4.4%
Eighth	14	\$11.7	5.9%
Ninth	196	\$8.3	5.1%
Tenth	19	\$8.8	4.8%
Eleventh	36	\$7.2	5.7%
DC	4	\$23.0	2.2%

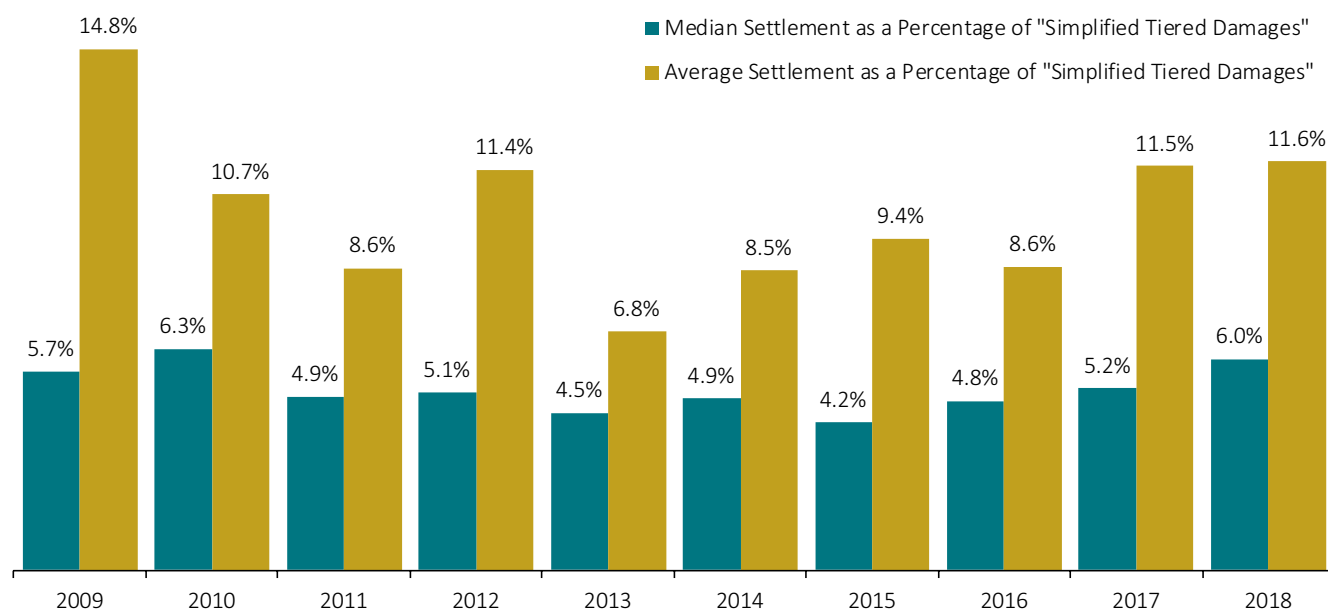
Note: Settlement dollars are adjusted for inflation; 2018 dollar equivalent figures are used. Settlements as a percentage of “simplified tiered damages” are calculated only for cases alleging Rule 10b-5 claims.

Appendix 4: Mega Settlements 2009–2018

- Total Mega Settlement Dollars as a Percentage of All Settlement Dollars
- Number of Mega Settlements as a Percentage of All Settlements



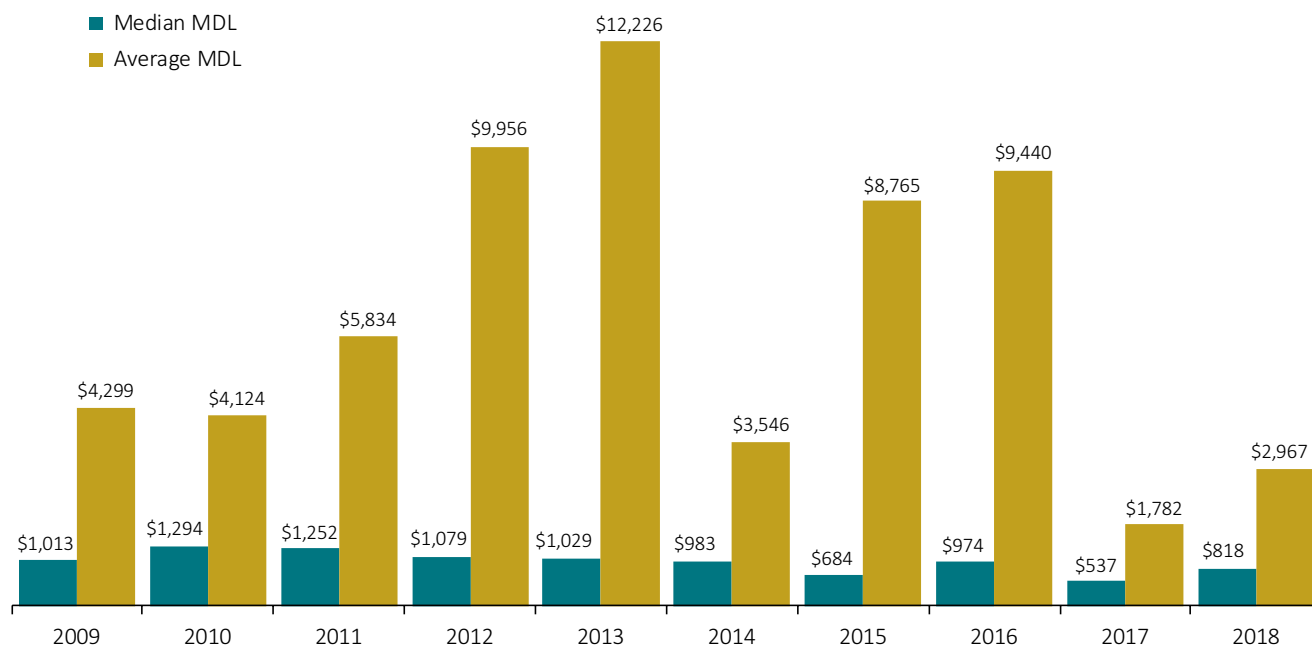
Appendix 5: Median and Average Settlements as a Percentage of "Simplified Tiered Damages" 2009–2018



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

Appendix 6: Median and Average Maximum Dollar Loss (MDL) 2009–2018

(Dollars in millions)

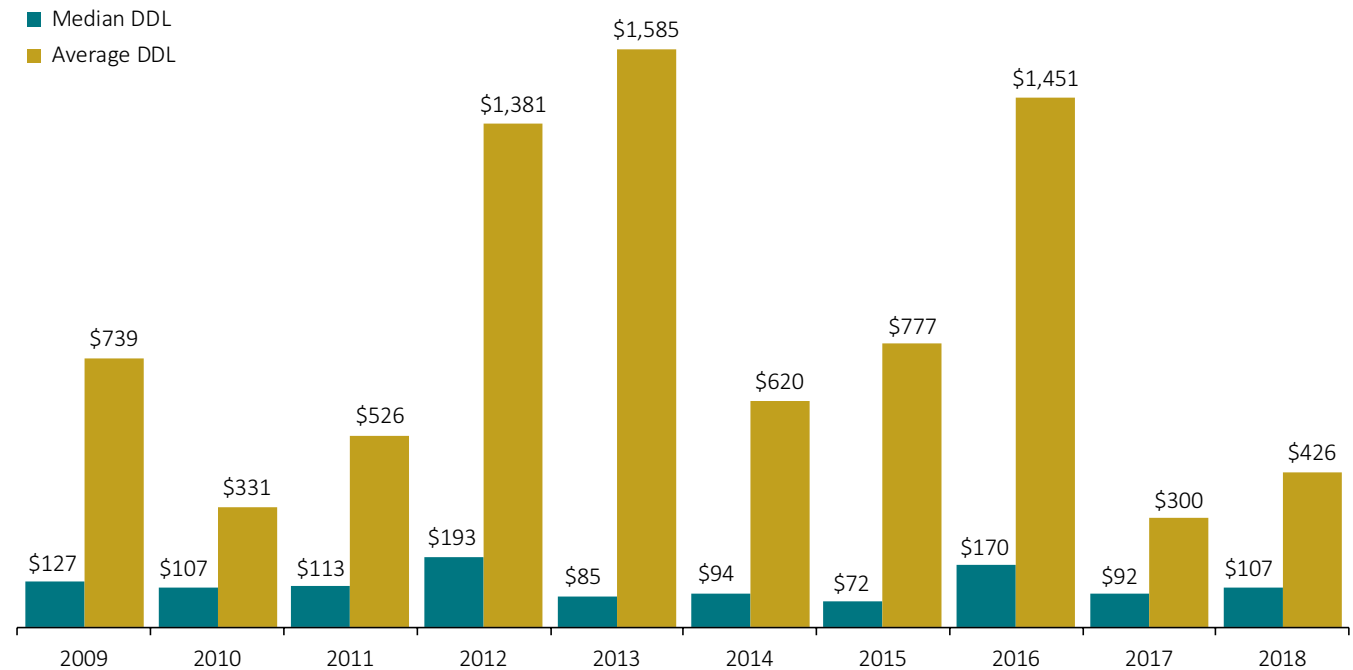


Note: MDL is adjusted for inflation based on class period end dates. MDL is the dollar value change in the defendant firm's market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period.

Appendix 7: Median and Average Disclosure Dollar Loss (DDL)

2009–2018

(Dollars in millions)

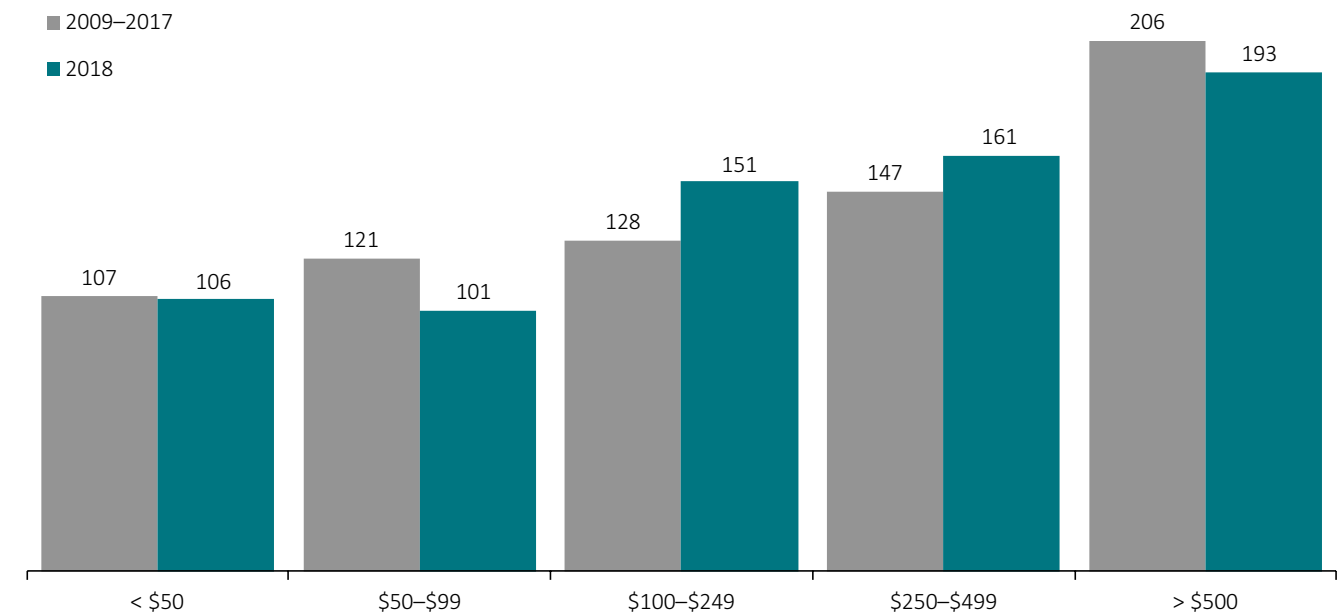


Note: DDL is adjusted for inflation based on class period end dates. DDL is the dollar value change in the defendant firm's market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. This analysis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

Appendix 8: Median Docket Entries by "Simplified Tiered Damages" Range

2009–2018

(Dollars in millions)



Note: "Simplified tiered damages" are calculated only for cases alleging Rule 10b-5 claims.

About the Authors

Laarni T. Bulan

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

Laarni Bulan is a principal in Cornerstone Research's Boston office, where she specializes in finance. Her work has focused on securities damages and class certification issues, insider trading, merger valuation, risk management, market manipulation and trading behavior, and real estate markets. She has also consulted on cases related to financial institutions and the credit crisis, municipal bond mutual funds, asset-backed commercial paper conduits, credit default swaps, foreign exchange, and securities clearing and settlement. Dr. Bulan has published several academic articles in peer-reviewed journals. Her research covers topics in dividend policy, capital structure, executive compensation, corporate governance, and real options. Prior to joining Cornerstone Research, Dr. Bulan had a joint appointment at Brandeis University as an assistant professor of finance in its International Business School and in the economics department.

Ellen M. Ryan

M.B.A., American Graduate School of International Management; B.A., Saint Mary's College

Ellen Ryan is a director in Cornerstone Research's Boston office, where she works in the securities practice. Ms. Ryan has consulted on economic and financial issues in a variety of cases, including securities class actions, financial institution breach of contract matters, and antitrust litigation. She also has worked with testifying witnesses in corporate governance and breach of fiduciary duty matters. Prior to joining Cornerstone Research, Ms. Ryan worked for Salomon Brothers in New York and Tokyo. Currently she focuses on post-Reform Act settlement research as well as general practice area business and research.

Laura E. Simmons

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

Laura Simmons is a senior advisor with Cornerstone Research. She is a certified public accountant and has more than 25 years of experience in accounting practice and economic and financial consulting. Dr. Simmons has focused on damages and liability issues in securities litigation, as well as on accounting issues arising in a variety of complex commercial litigation matters. She has served as a testifying expert in cases involving accounting analyses, securities case damages, research on securities lawsuits, and other issues involving empirical analyses.

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

The authors acknowledge the research efforts and significant contributions of their colleagues at Cornerstone Research.

Many publications quote, cite, or reproduce data, charts, or tables from Cornerstone Research reports. The authors request that you reference Cornerstone Research in any reprint, quotation, or citation of the charts, tables, or data reported in this study.

Please direct any questions and requests for additional information to the settlement database administrator at settlement.database@cornerstone.com.

Boston

617.927.3000

Chicago

312.345.7300

London

+44.20.3655.0900

Los Angeles

213.553.2500

New York

212.605.5000

San Francisco

415.229.8100

Silicon Valley

650.853.1660

Washington

202.912.8900

www.cornerstone.com



Exhibit 10

29 January 2019



Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth

Average Case Size Surges to Record High

Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh

Foreword

I am excited to share NERA's *Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review* with you. This year's edition builds on work carried out over numerous years by many members of NERA's Securities and Finance Practice. In this year's report, we continue our analyses of trends in filings and settlements and present new analyses, such as how post-class-period stock price movements relate to voluntary dismissals. While space does not permit us to present all the analyses the authors have undertaken while working on this year's edition, or to provide details on the statistical analysis of settlement amounts, we hope you will contact us if you want to learn more about our work related to securities litigation. On behalf of NERA's Securities and Finance Practice, I thank you for taking the time to review our work and hope you find it informative.

Dr. David Tabak
Managing Director

A handwritten signature in white ink, appearing to be 'D. Tabak', is positioned above a grid of blue cubes. One cube in the lower-left foreground is highlighted in a lighter, yellowish-blue color.

Recent Trends in Securities Class Action Litigation: 2018 Full-Year Review

Record Pace of Filings, Despite Slower Merger-Objection Growth

Average Case Size Surges to Record High

Settlement Values Rebound from Near-Record Lows

By Stefan Boettrich and Svetlana Starykh¹

29 January 2019

Introduction and Summary²

In 2018, the pace of securities class action filings was the highest since the aftermath of the 2000 dot-com crash, with 441 new cases. While merger objections constituted about half the total, filing growth of such cases slowed versus 2017, indicating that the explosion in filings sparked by the *Trulia* decision may have run its course.³ Filings alleging violations of Rule 10b-5, Section 11, and/or Section 12 of the Securities Act of 1933 (“Securities Act”) were roughly unchanged compared to 2017, but accelerated over the second half of the year, with the fourth quarter being one of the busiest on record.

The steady pace of new securities class actions masked fundamental changes in filing characteristics. Aggregate NERA-defined Investor Losses, a measure of total case size, came to a record \$939 billion, nearly four times the preceding five-year average. Even excluding substantial litigation against General Electric (GE), aggregate Investor Losses doubled versus 2017. Most growth in Investor Losses stemmed from cases alleging issues with accounting, earnings, or firm performance, contrasting with prior years when most growth was tied to regulatory allegations. Filings against technology firms jumped nearly 70% from 2017, primarily due to cases alleging accounting issues or missed earnings guidance.

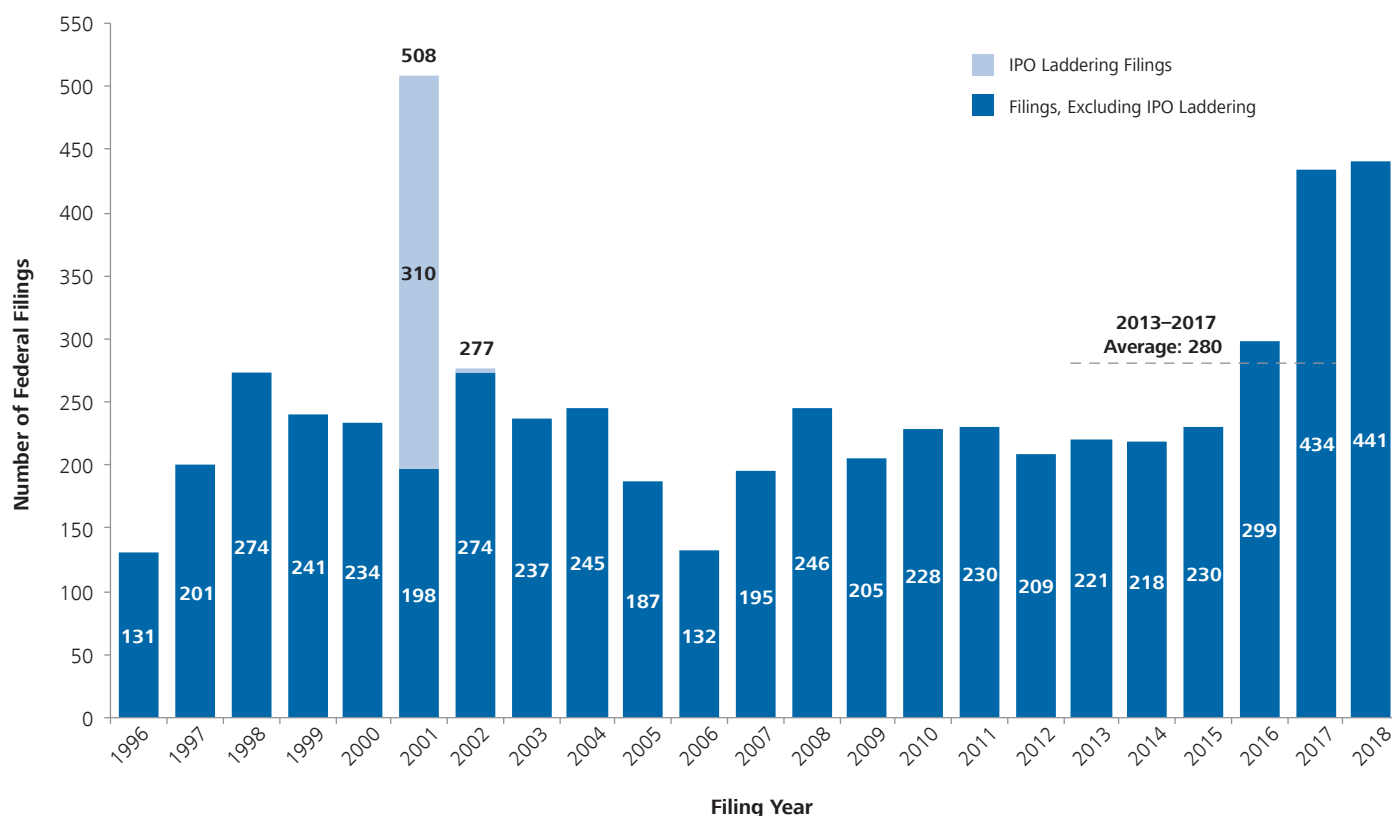
The average settlement value rebounded from the 2017 near-record low, mostly due to the \$3 billion settlement against *Petróleo Brasileiro S.A.—Petrobras*. The median settlement nearly doubled, primarily due to higher settlements of many moderately sized cases. Despite a rebound in settlement values in 2018, the number of settlements remained low, with dismissals outnumbering settlements more than two-to-one. An adverse number of cases were voluntarily dismissed, which can partially be explained by positive returns of targeted securities during the PSLRA bounce-back periods. The robust rate of case resolutions has not kept up with the record filing rate, driving pending litigation up more than 6%.

Trends in Filings

Number of Cases Filed

There were 441 federal securities class actions filed in 2018, the fourth consecutive year of growth (see Figure 1). The filing rate was the highest since passage of the PSLRA, with the exception of 2001 when new IPO laddering cases dominated federal dockets. The dramatic year-over-year growth seen in each of the past few years resulted in a near doubling of filings since 2015, but growth moderated considerably in 2018 to 1.6%. The 2018 filing rate is well above the post-PSLRA average of approximately 253 cases per year, and solidifies a departure from the generally stable filing rate in the years following the 2008 financial crisis.

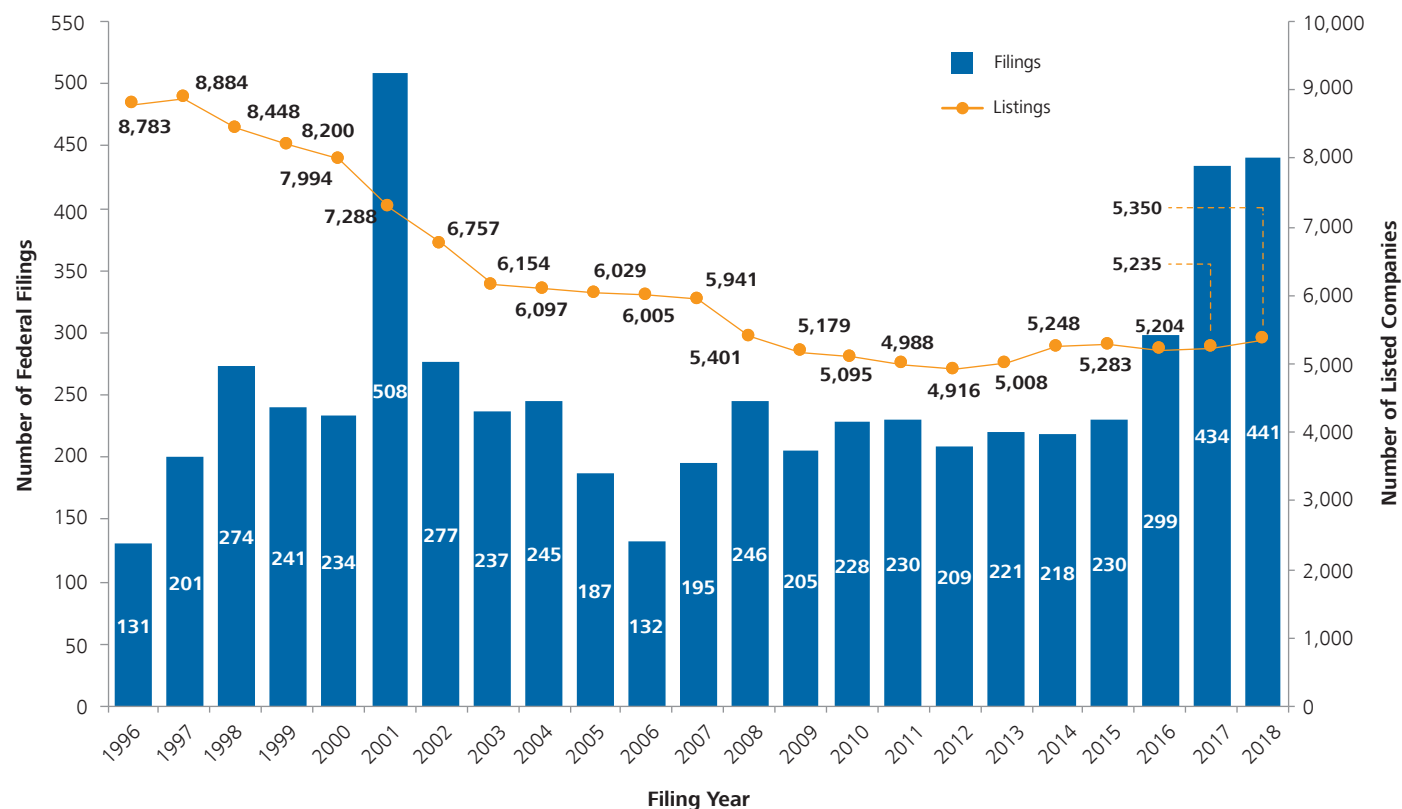
Figure 1. **Federal Filings**
January 1996–December 2018



As of November 2018, there were 5,350 companies listed on the major US securities exchanges (see Figure 2). The 441 federal securities class action suits filed in 2018 involved approximately 8.2% of publicly listed companies. The overall risk of litigation to listed firms has increased substantially since early in the decade, when only about 4.0% of public companies listed on US exchanges were subject to a securities class action.

Broadly, the chance of a publicly listed company being subject to securities litigation depends on the number of filings relative to the number of listed companies. While the number of listed companies has increased by 7% over the last five years, the longer-term trend is toward fewer listings. Since the passage of the PSLRA in 1995, the number of listings on major US exchanges has steadily declined by about 3,000, or nearly 40%. Recent research attributed this decline to fewer new listings and an increase in delistings, mostly through mergers and acquisitions.⁴

Figure 2. **Federal Filings and Number of Companies Listed in the United States**
January 1996–December 2018



Note: Listed companies include those listed on the NYSE and Nasdaq. Listings data from 2016 through 2018 were obtained from World Federation of Exchanges (WFE). The 2018 listings data is as of November 2018. Data for prior years was obtained from Meridian Securities Markets and WFE.

Despite the long-term drop in the number of listed companies, the average number of securities class action filings has *increased* from 216 per year over the first five years after the PSLRA to about 324 per year over the past five years. The long-term trend toward fewer listed companies coupled with more class actions implies that the average probability of a listed firm being subject to such litigation has increased from about 2.6% after passage of the PSLRA to 3.7% over the past five years, and 8.0% over the past two years.

Recently, the rising average risk of class action litigation was driven by dramatic growth in merger-objection cases that, prior to 2016, were mostly filed in various state courts. Since then, state court rulings have driven such litigation onto federal dockets. Hence the increase in the typical firm's litigation risk might be less than indicated above, since 1) the risk of merger-objection litigation is specific to firms planning or engaged in M&A activity and 2) many merger-objection cases would otherwise have been filed in state courts.

The average probability of a firm being targeted by what is often regarded as a "Standard" securities class action—one that alleges violations of Rule 10b-5, Section 11, and/or Section 12—was only 4.0% in 2018, albeit higher than the average probability of about 2.6% following the PSLRA and 3.5% between 2013 and 2017.

Filings by Type

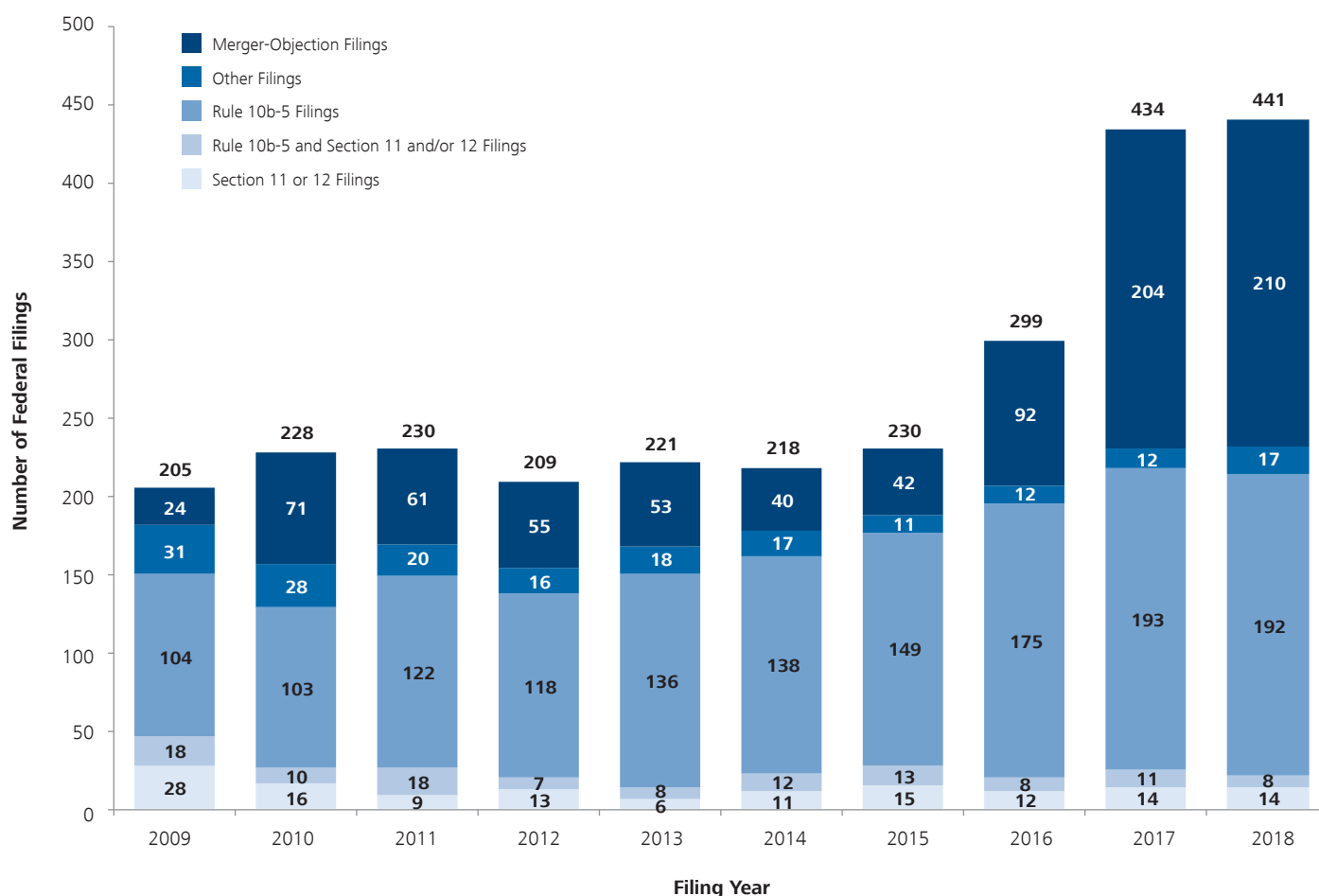
In 2018, the 441 securities class action filings were about evenly split between Standard securities class actions and merger objections, roughly matching the number seen in 2017 (see Figure 3). There were 214 Standard securities cases filed, down slightly from 2017. Prior to 2018, Standard filings grew for five consecutive years, the longest expansion on record, and by over 50% since 2013. Despite the slowdown in 2018, monthly filing growth over the second half of the year was robust, and capped by 64 filings in the fourth quarter, one of the busiest quarters on record.

Despite the 210 merger-objection filings in 2018 making up about half of all filings, yearly filing growth of such cases slowed to almost zero, as the number of filings roughly matched the level seen in 2017. The tepid filing growth implies that the rapid growth following various state-level decisions limiting "disclosure-only" settlements (including the *Trulia* decision) has likely run its course.⁵ Rather, the stagnant growth in federal merger-objection filings was likely driven by relatively stagnant M&A activity.⁶

Although aggregate merger-objection filings (including those at the state level) may correspond with the rate of mergers and acquisitions, such deal activity does not appear to have historically been the primary driver of federal merger-objection filings over multiple years. The number of federal merger-objection filings generally fell between 2010 and 2015, despite increased M&A activity. The higher filing counts in 2016 and 2017 likely stemmed from trends in the choice of jurisdiction rather than trends in deal volume.⁵

Besides Standard and merger-objection cases, a variety of other filings rounded out 2018. Several filings alleged fraudulent initial coin and cryptocurrency offerings, manipulation of derivatives (e.g., VIX products and metals futures), and breaches of fiduciary duty (including client-broker disputes involving churning and improper asset allocation).

Figure 3. **Federal Filings by Type**
January 2009–December 2018



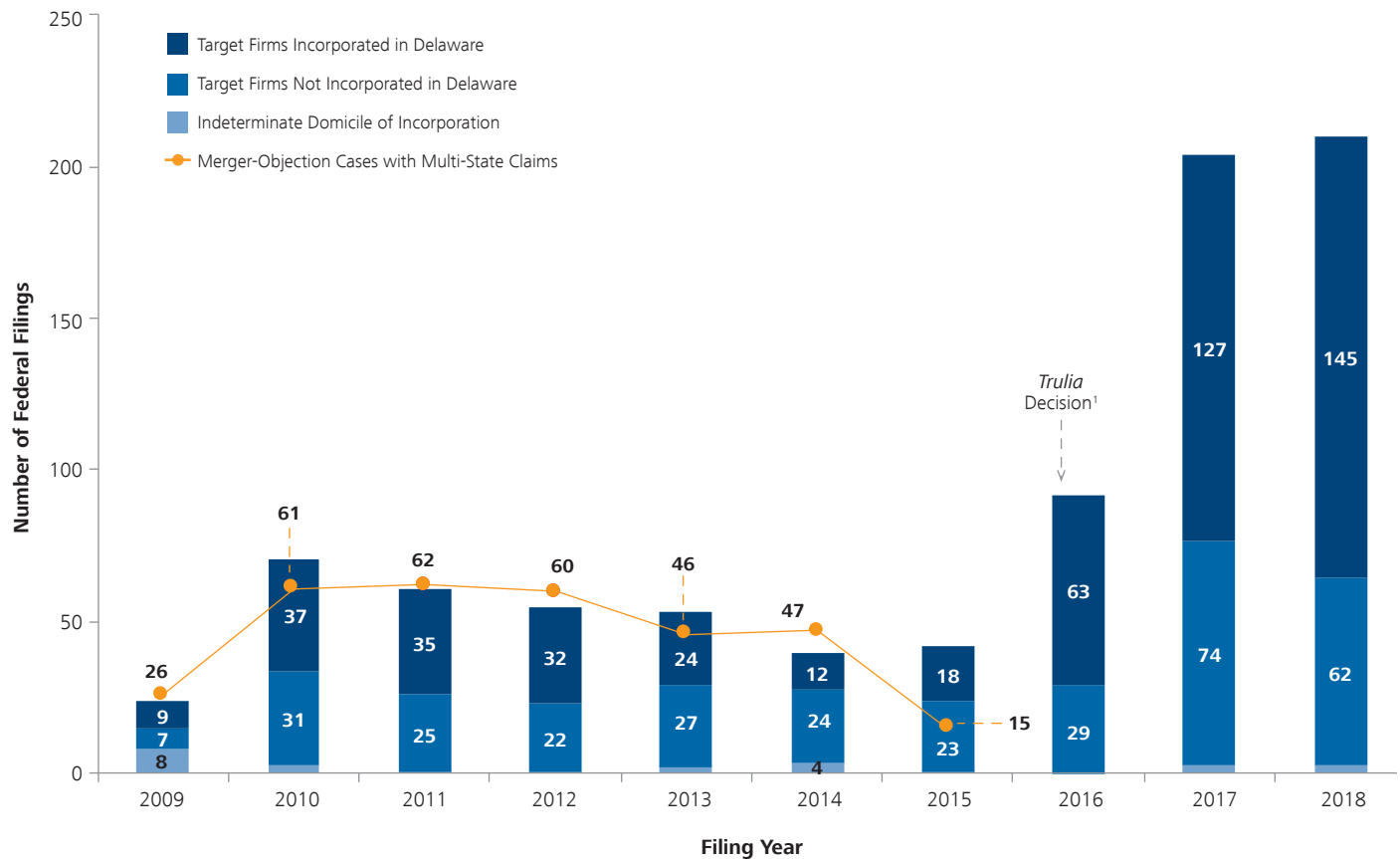
Merger-Objection Filings

In 2018, federal merger-objection filings were relatively unchanged versus 2017 (see Figure 4). Growth in federal merger-objection filings in 2016 and 2017 largely followed various state court rulings barring disclosure-only settlements, the most notable being the 22 January 2016 *Trulia* decision in the Delaware Court of Chancery.⁷ Research suggested that such state court decisions would simply drive merger objections to alternative jurisdictions, such as federal courts.⁸ This has largely been borne out thus far.

The dramatic slowdown in merger-objection filings growth implies that plaintiff forum selection is less of a growth factor; in 2018 and going forward, merger and acquisition activity will likely be the primary driver of federal merger-objection litigation. This assumes, however, that corporations don't increasingly adopt forum selection bylaws, and that federal courts don't increasingly follow the Delaware Court of Chancery's lead on rejecting disclosure-only settlements.⁹ For instance, after the Seventh Circuit ruled strongly against a disclosure-only settlement in *In re: Walgreen Co. Stockholder Litigation*, the proportion of merger objections filed in that circuit fell by more than 60% the following year.¹⁰

Federal merger-objection filings typically allege a violation of Section 14(a), 14(d), and/or 14(e) of the Securities Exchange Act of 1934, and/or a breach of fiduciary duty by managers of a firm being acquired. Such filings are frequently voluntarily dismissed.

Figure 4. **Federal Merger-Objection Cases and Merger-Objection Cases with Multi-State Claims**
January 2009–December 2018



Notes: Counts of merger-objection cases with multi-state claims based on data obtained from Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016. Data on multi-state claims unavailable for 2016–2018. State of incorporation obtained from the Securities and Exchange Commission.

¹In re Trulia, Inc. Stockholder Litigation, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).

Filings Targeting Foreign Companies

Foreign companies with securities listed on US exchanges have been disproportionately targeted in Standard securities class actions since 2010 (see Figure 5).¹¹ In 2018, foreign companies were targeted in about 25% fewer cases than in 2017, and in only about 20% of complaints, just above the share of listings. This contrasts with persistent growth in foreign firm exposure to securities litigation over the preceding four years.

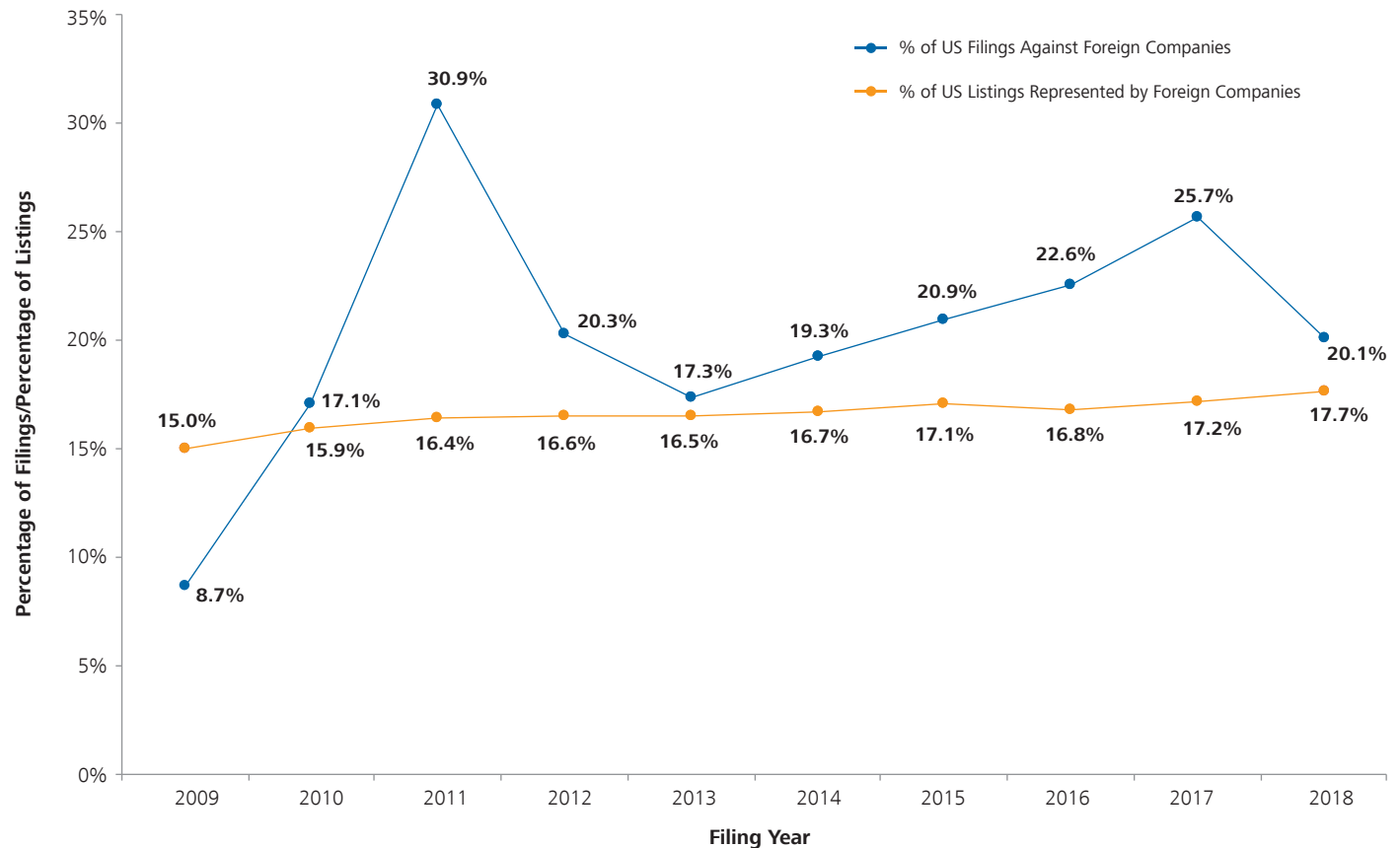
The reversion in claims against foreign firms mirrors a wider slowdown in filings with regulatory allegations. Over the last few years, growth in regulatory filings explained much of the growth in foreign filings, with 50% to 80% of new foreign cases including such allegations. That trend has reversed; in 2018, 75% of the drop in foreign filings stemmed from fewer claims related to regulation.

The slowdown in foreign regulatory filings can also be tied to fewer complaints in 2018 alleging similar regulatory violations, which adversely targeted foreign firms and particularly those domiciled in Europe. For instance, in 2017 there were multiple filings related to pharmaceutical price fixing, emissions defeat devices, and financing schemes by Kalani Investments Limited.

Filings against foreign companies spanned several economic sectors, led by a considerable jump against firms in the Electronic Technology and Technology Services sector (accounting issues were most common). Filings against foreign companies in the Health Technology and Services sector dropped by half. In past years, such filings usually claimed regulatory violations; none did in 2018.

In 2011, a record 31% of filings targeted foreign companies, mostly due to a surge in litigation against Chinese companies, which was mainly related to a proliferation in so-called “reverse mergers” years earlier. A reverse merger is a merger in which a private company merges with a publicly traded company listed in the US, thereby enabling access to US capital markets without going through the process of obtaining a new listing.

Figure 5. **Foreign Companies: Share of Filings and Share of Companies Listed on US Exchanges**
 Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
 January 2009–December 2018

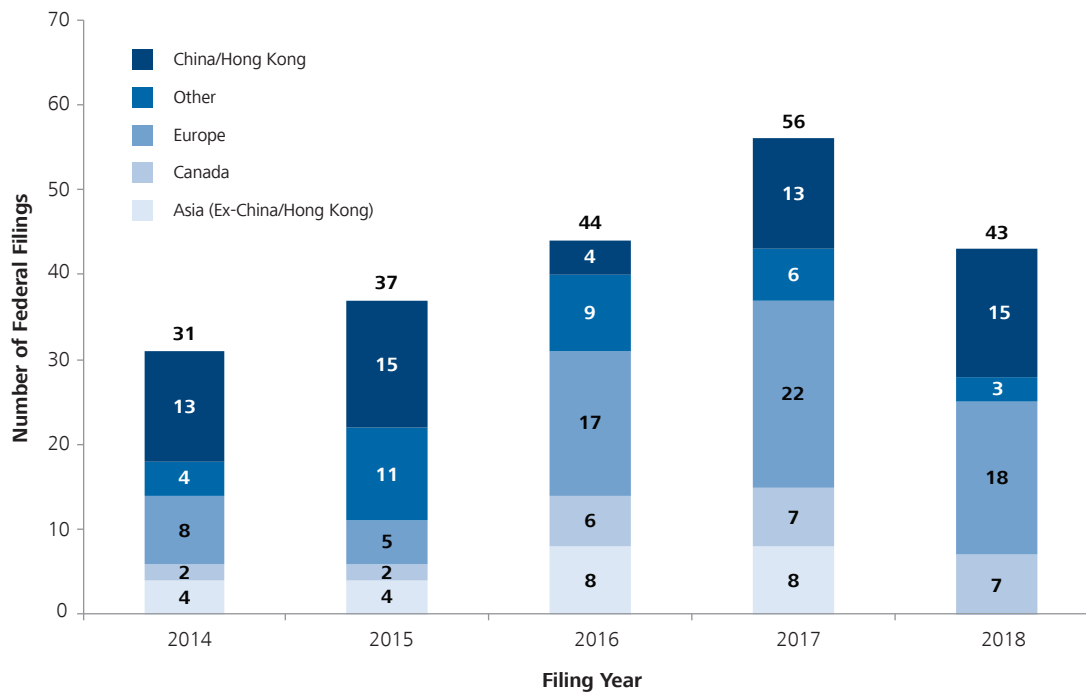


Note: Foreign issuer status determined based on location of principal executive offices.

Internationally, only Chinese firms listed on US exchanges were subject to more securities class actions in 2018 than in 2017 (see Figure 6). Filings against European firms slowed, partially due to fewer regulatory filings. There were zero filings against Israeli companies, despite an increase in listings and litigation against such companies in previous years.

Figure 6. **Filings Against Foreign Companies**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12 by Region
January 2014–December 2018



Note: Foreign issuer status determined based on location of principal executive offices.

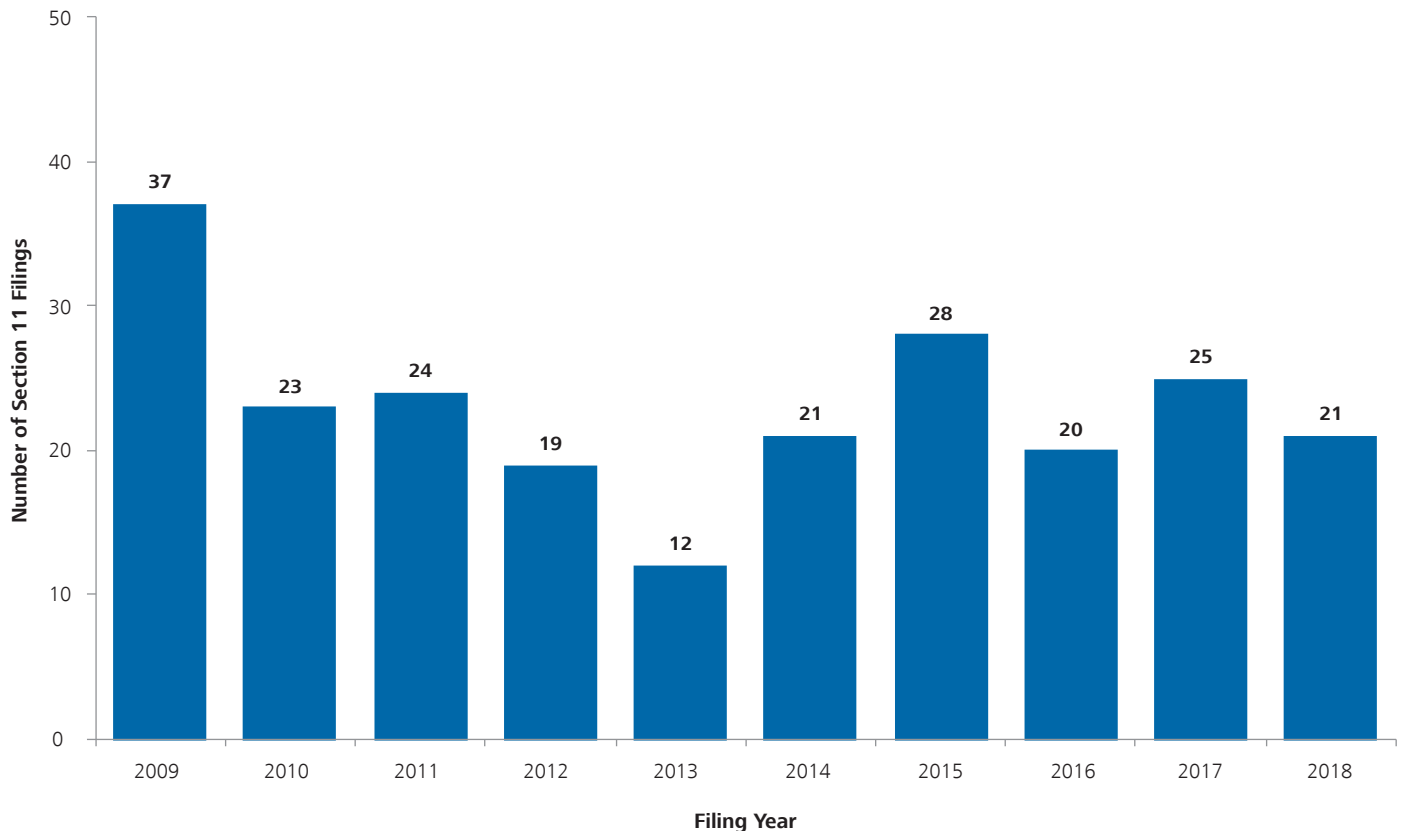
Section 11 Filings

There were 21 federal filings alleging violations of Section 11 in 2018, which approximates the five-year average (see Figure 7).

On 20 March 2018, the US Supreme Court ruled in *Cyan, Inc. v. Beaver County Employees Retirement Fund* that state courts have jurisdiction over class actions with claims brought under the Securities Act.¹² The ruling allows plaintiffs to litigate Section 11 claims in state courts, including plaintiff-friendly California state courts.

The full effect of the *Cyan* decision on federal filing trends remains to be seen, but of the 21 Section 11 filings in 2018, 14% involved firms headquartered in California, down from a quarter in 2016 (prior to the US Supreme Court granting certiorari). Of the three California firms, at least two have stated in filings with the SEC that claims under the Securities Act must only be brought in federal courts.¹²

Figure 7. **Section 11 Filings**
January 2009–December 2018



Aggregate NERA-Defined Investor Losses

In addition to the number of cases filed, we also consider the total potential size of these cases using a metric we label “NERA-defined Investor Losses.”

NERA’s Investor Losses variable is a proxy for the aggregate amount that investors lost from buying the defendant’s stock, rather than investing in the broader market during the alleged class period. Note that the Investor Losses variable is not a measure of damages because any stock that underperforms the S&P 500 would have Investor Losses over the period of underperformance; rather, it is a rough proxy for the relative size of investors’ potential claims. Historically, Investor Losses have been a powerful predictor of settlement size. Investor Losses can explain more than half of the variance in the settlement values in our database.

We do not compute NERA-defined Investor Losses for all cases included in this publication. For instance, class actions in which only bonds and not common stock are alleged to have been damaged are not included. The largest excluded groups are IPO laddering cases and merger-objection cases.

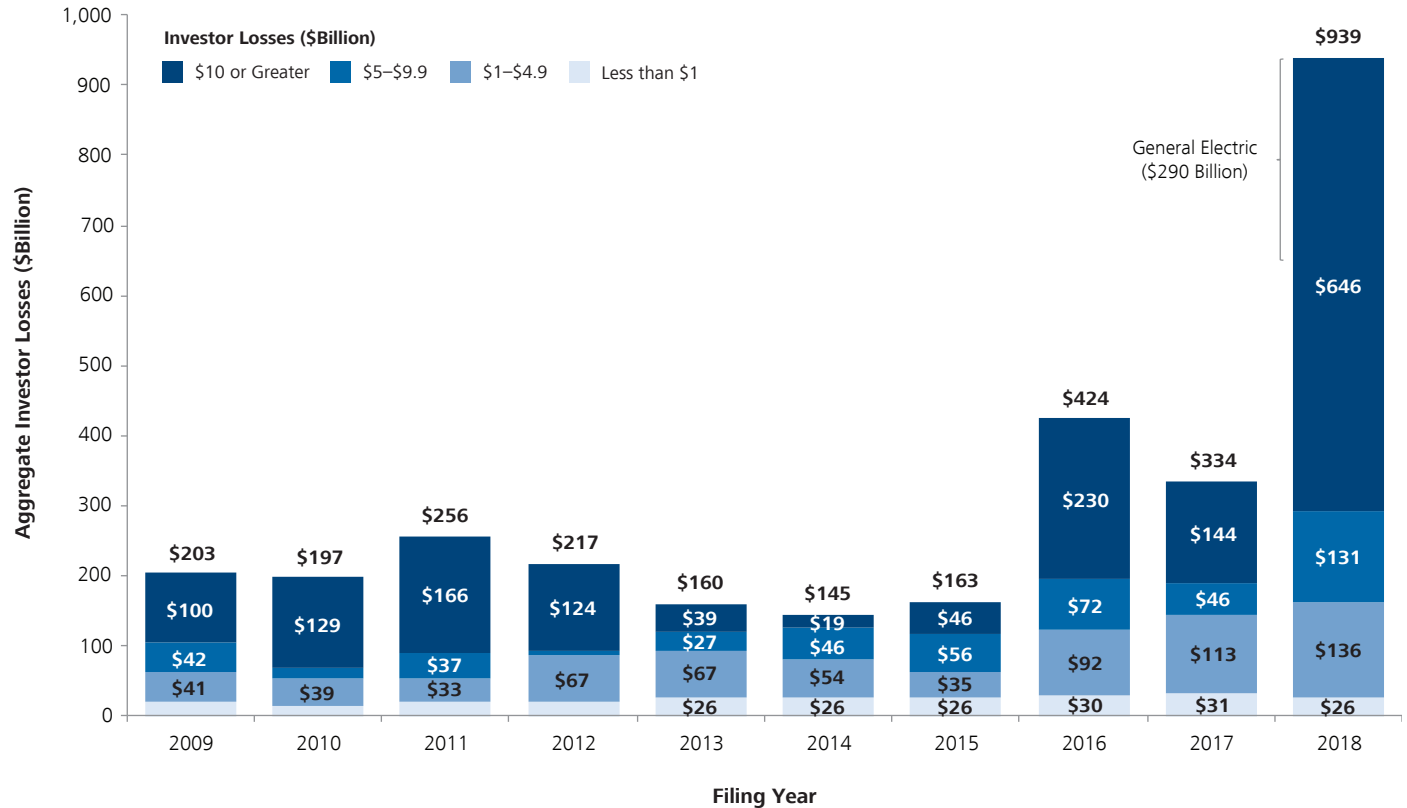
Despite a relatively constant rate of Standard filings in 2018, the size of those filings (as measured by NERA-defined Investor Losses) surged to nearly \$1 trillion (see Figure 8). Total Investor Losses were dominated by litigation against GE, equal to about 45% of Investor Losses from all other cases combined, an especially impressive metric given the record aggregate case size.

NERA-defined Investor losses in 2018 totaled \$939 billion, more than double that of any prior year and nearly four times the preceding five-year average of \$245 billion. The total size of filings in all but the smallest strata grew, led by cases with more than \$10 billion in Investor Losses. Coupled with the relatively stable overall filing rate, this suggests a systematic shift toward larger filings. In 2018, there were a record number of filings in each of the three largest strata, while only 88 cases had Investor Losses less than \$1 billion, a record low.

Once again, there were several very large filings alleging regulatory violations, including a stock drop case against Johnson & Johnson related to claims of allegedly carcinogenic talcum powder, and a data privacy case against Facebook. Besides cases alleging regulatory violations, other very large cases included a filing against NVIDIA regarding excess inventory of GPUs (used for cryptocurrency mining) and large drug development cases against Bristol-Myers Squibb and Celgene.

Figure 8. **Aggregate NERA-Defined Investor Losses**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
January 2009–December 2018



Over the past couple of years, growth in aggregate Investor Losses was concentrated in filings alleging regulatory violations, a substantial number of which were also *event-driven* securities cases (i.e., stock drop cases stemming from a specific event or occurrence). Between 2015 and 2017, growth in the total size of regulatory cases was due to an increased filing rate (from 31 to 57 cases) and higher median Investor Losses (from \$308 million to \$811 million).

In 2018, regulatory cases were again large (half had Investor Losses greater than \$4 billion), but the vast majority of total Investor Losses stemmed from what have historically been more typical securities cases, namely those that allege accounting issues, misleading earnings guidance, and/or firm performance issues.¹⁴ This was led by litigation related to accounting issues at GE. Excluding GE, aggregate Investor Losses of such cases nearly doubled to a record \$258 billion (see Figure 9).

Growth in the total size of cases alleging accounting, earnings, and/or performance issues primarily stems from growth in individual case size, as opposed to more filings. The median case with such allegations had more than \$650 million in Investor Losses, about twice the average of \$322 million over the preceding five years.

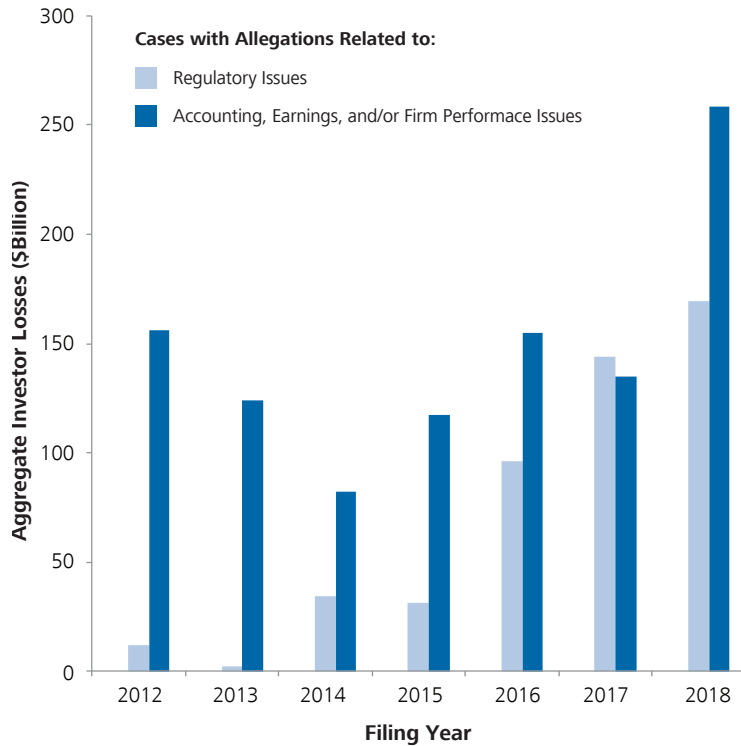
Details of the size of cases with specific types of allegations are discussed in the *Allegations* section below.

Figure 9. **NERA-Defined Investor Losses**

Filings Alleging Accounting Issues, Missed Earnings Guidance, and/or Misleading Future Performance
Excludes 2018 GE Filings

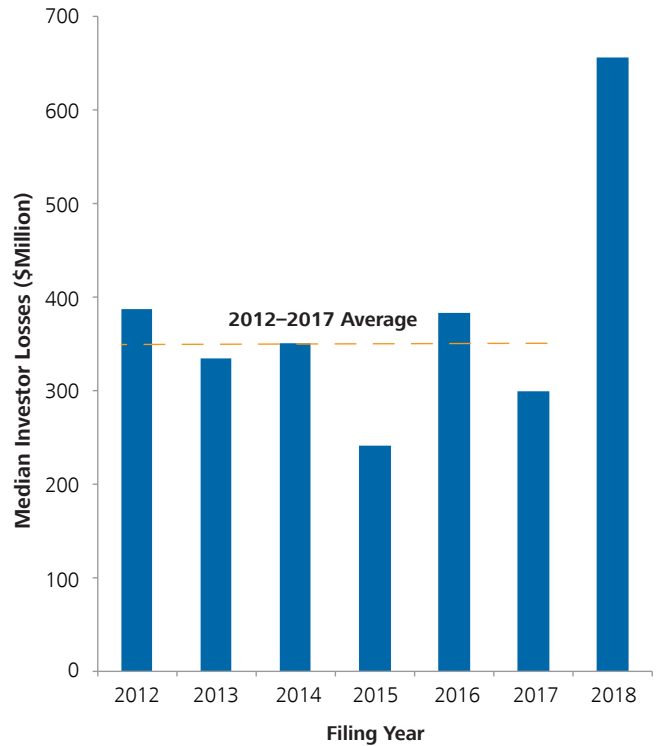
Aggregate NERA-Defined Investor Losses

January 2012–December 2018



Median NERA-Defined Investor Losses

January 2012–December 2018



Note: Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.

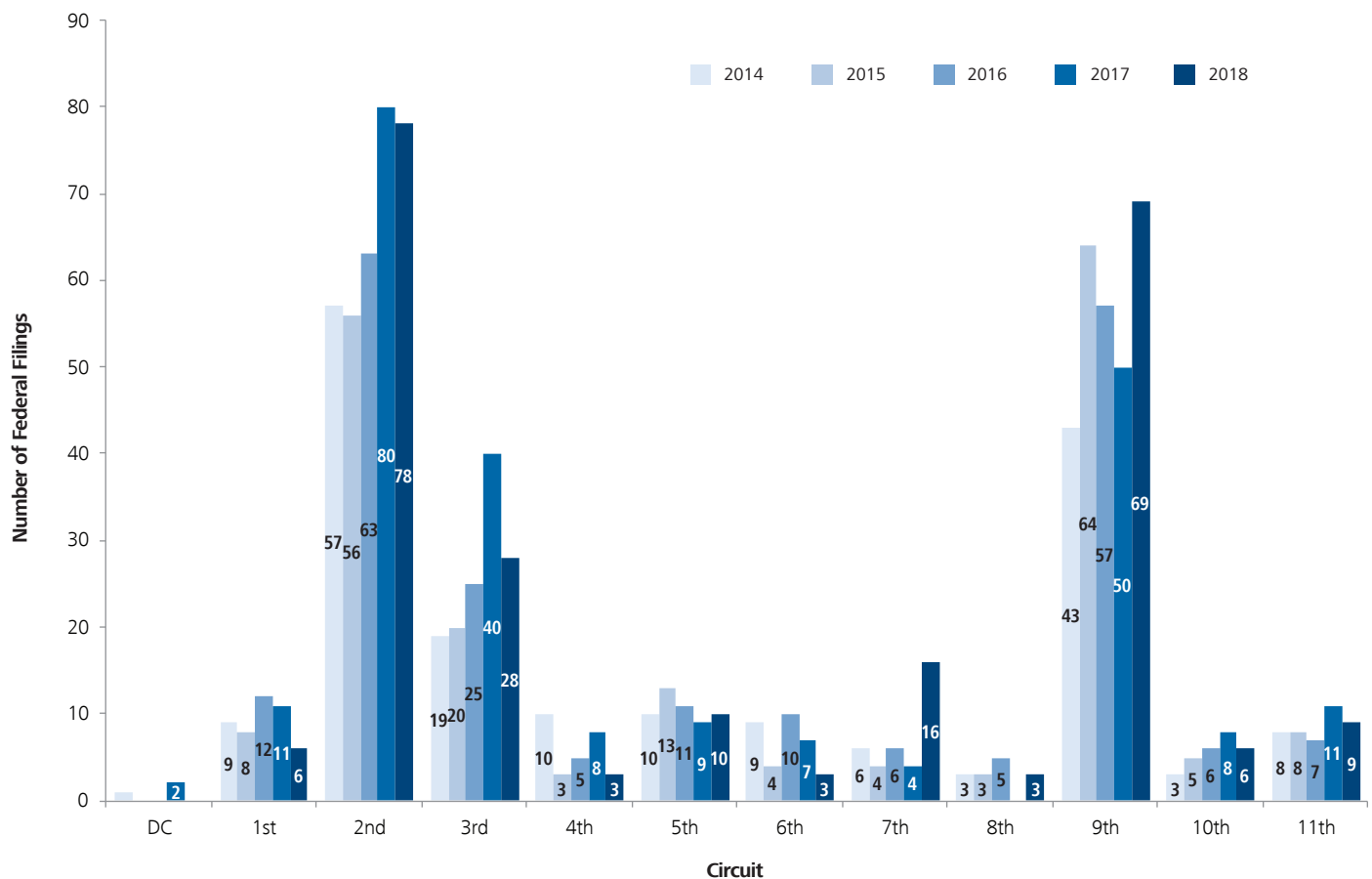
Filings by Circuit

Filings in 2018 (excluding merger objections) were again concentrated in the Second and Ninth Circuits. The concentration of filings in these circuits has increased in 2018, during which they received 64% of filings, up from an average of 57% over the prior two years (see Figure 10). While the Second Circuit received the most filings, the most growth was in the Ninth Circuit, which includes Silicon Valley, mostly due to more litigation against firms in the Electronic Technology and Technology Services sector.

Merger-objection filings, not included in Figure 10, have become increasingly active in the Third Circuit, which includes Delaware. The Third Circuit received 82 merger-objection cases in 2018, double the number in 2017 and more than an eightfold increase over 2016. Nearly four-in-ten merger-objection cases were filed in the Third Circuit, twice the concentration of 2017 and coming amidst only a slight increase in the percentage of target firms incorporated in Delaware (see Figure 4). This corresponds with a decline in filings in every other circuit except the Second Circuit, where filings increased from 15 to 26.

Figure 10. **Federal Filings by Circuit and Year**

Excludes Merger Objections
January 2014–December 2018



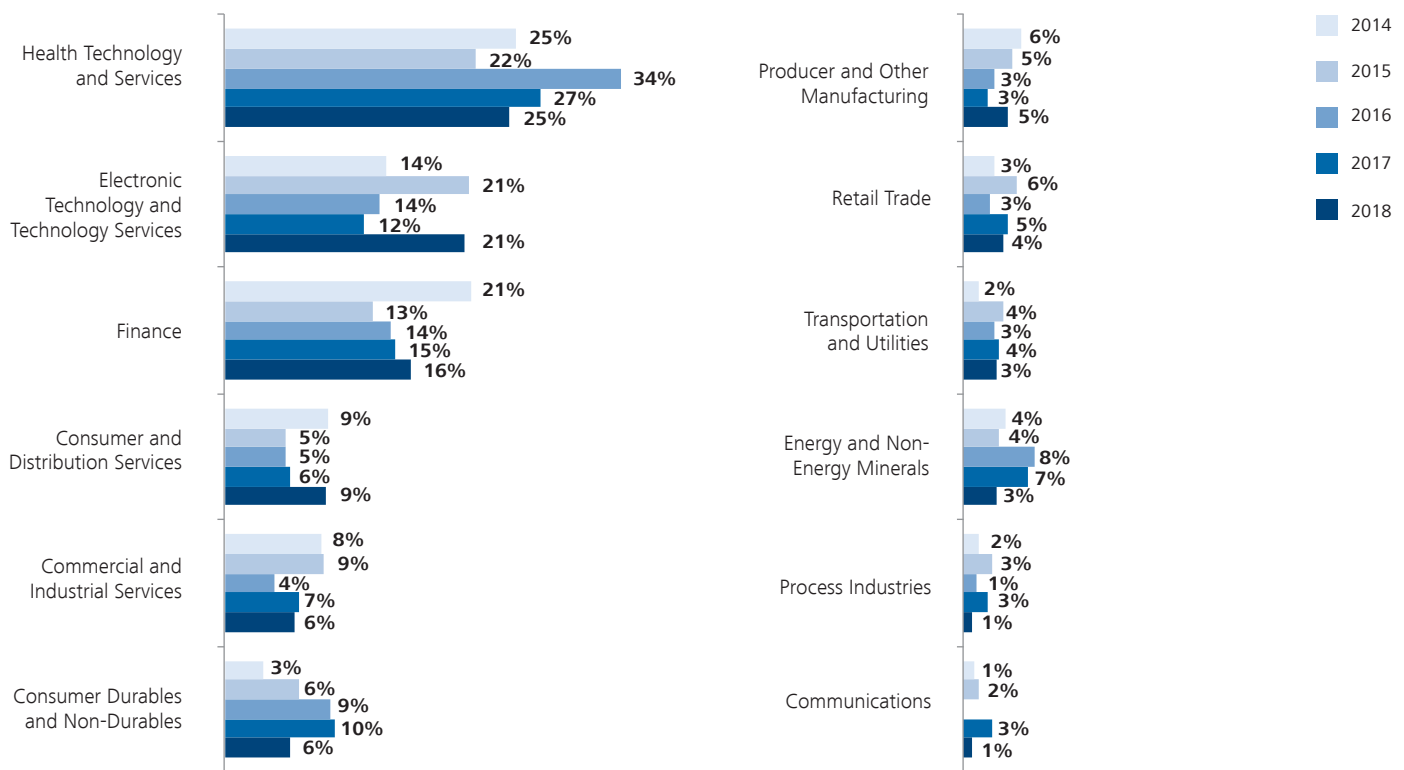
Filings by Sector

In 2018, filing counts were highest in the three historically dominant sectors, which include firms involved in health care, technology, and financial services (see Figure 11). The share of filings in these sectors increased to 62% in 2018 from about 54% in 2017, primarily due to a surge in filings against firms in the technology sector. Despite the drop in the percentage of health care companies targeted, the percentage of targeted firms in the Drugs industry (SIC 283) was nearly unchanged from 2017.

Firms in technological industries were especially at risk of securities class actions alleging accounting issues, misleading earnings guidance, or firm performance issues.¹⁵ The industry with the highest percentage of constituent companies targeted with such allegations was the Computer and Office Equipment industry (SIC 357), with more than 9% of listed companies subject to litigation. This was followed by the Electronic Components and Accessories industry (SIC 367), with 6% of firms targeted. In the Drugs industry (SIC 283), 5% of firms were targeted with a filing with such claims (mostly related to misleading announcements regarding future performance).

Figure 11. **Percentage of Filings by Sector and Year**

Excludes Merger Objections
January 2014–December 2018



Note: This analysis is based on the FactSet Research Systems, Inc. economic sector classification. Some of the FactSet economic sectors are combined for presentation.

Allegations

In contrast with growth observed in recent years, filings with regulatory claims (i.e., those alleging a failure to disclose a regulatory issue) slowed to 41 in 2018 from 57 in 2017, a drop from 26% of Standard cases to 19% (see Figure 12). While fewer regulatory cases were filed, the median case size grew fourfold to over \$4 billion (as measured by NERA-defined Investor Losses). The slowdown in regulatory filings was partially offset by more allegations of accounting issues and missed earnings guidance, which grew 8% and 13%, respectively.

While the size of filed cases (as measured by NERA-defined Investor Losses) grew in each allegation category, those alleging accounting issues and missed earnings guidance were especially large and more frequently targeted technology firms. The median size of accounting claims exceeded \$600 million in 2018 (a level not seen since 2008), with filings over the second half of the year being especially large. Firms in the technology sector had the most accounting claims, making up 29% of the total (up from 21% in 2017). Moreover, more than one-in-three filings against firms in the technology sector alleged accounting issues.

Filings claiming missed earnings guidance grew for the second straight year. Although the percentage of filings alleging missed guidance roughly matched that of 2015, the median case size (as measured by Investor Losses) was three times larger in 2018 than in 2015. Filings against firms in the technology sector with missed earnings guidance claims grew 70% since 2017 and constituted the largest share of such claims (at 27%).

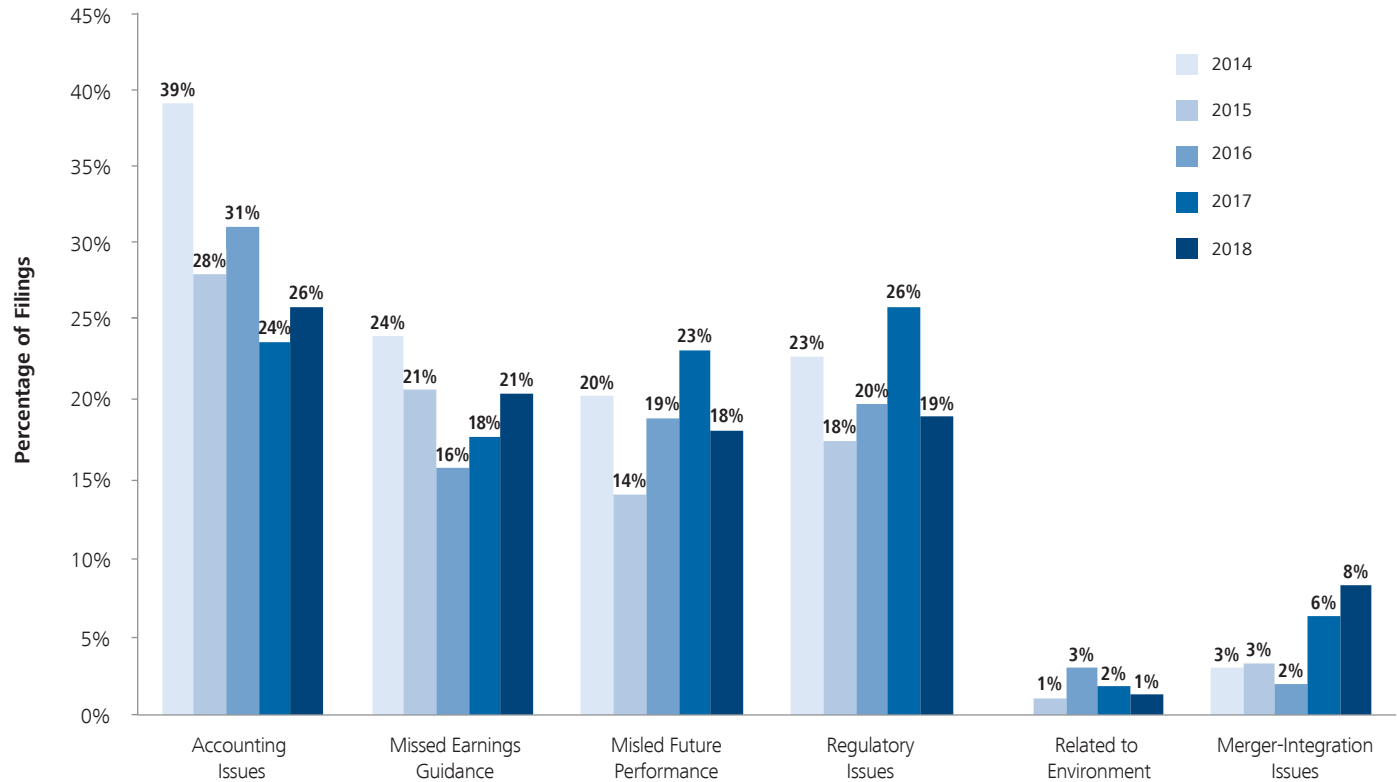
In 2018, 8% of filings included merger integration allegations (i.e., claims of misrepresentations by a firm involved in a merger or acquisition). The substantial increase in litigation in 2017 corresponded with a 14% increase in announced M&A deals with US targets.¹⁶ However, in 2018, despite a 12% slowdown in announced deal activity over the first three quarters, the number of federal merger integration filings rose.¹⁷ The largest merger integration filing related to the failed Tribune Media/Sinclair merger, making up 20% of total Investor Losses.

As in prior years, most allegations related to misleading firm performance in 2018 were against firms in the health care sector. Within health care, firms in the Drugs industry (SIC 283) were subject to two-in-three filings.

Most complaints include a wide variety of allegations, not all of which are depicted here. Due to multiple types of allegations in complaints, the same case may be included in multiple categories.

Figure 12. **Allegations**

Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, and/or Section 12
January 2014–December 2018

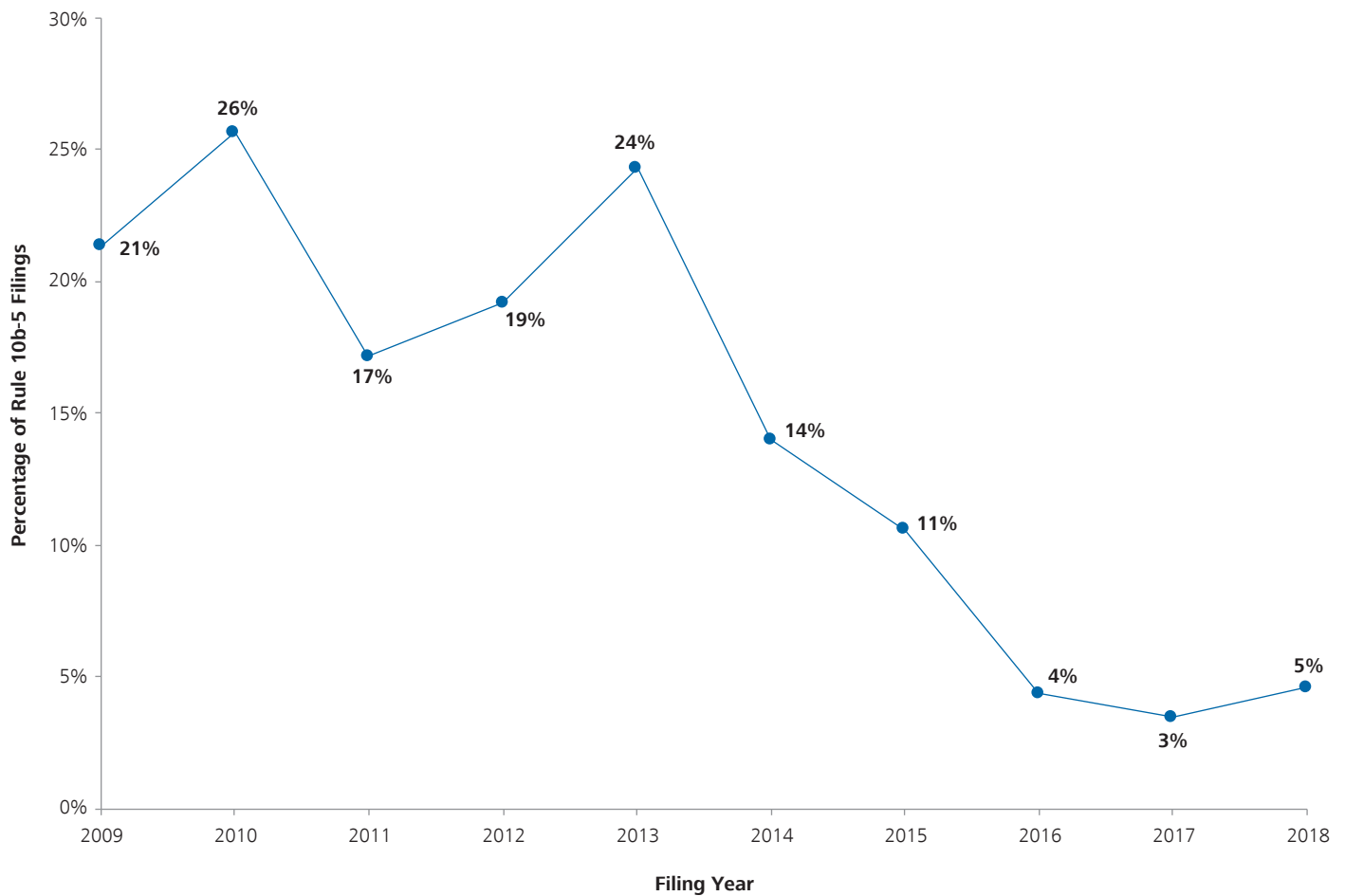


Alleged Insider Sales

Historically, Rule 10b-5 class action complaints have frequently alleged insider sales by directors and officers, usually as part of a scienter argument. Since 2013, in the wake of a multiyear crackdown on insider trading by prosecutors, the percentage of 10b-5 class actions that alleged insider sales has decreased nearly every year (see Figure 13).¹⁸ This trend also corresponds with increased corporate adoption of 10b5-1 trading plans, allowing insiders to plan share sales while purportedly not in possession of material non-public information.¹⁹

Cases alleging insider sales were more common in the aftermath of the financial crisis, when a quarter of filings included insider trading claims. In 2005, half of class actions filed included such claims.

Figure 13. **Percentage of Rule 10b-5 Filings Alleging Insider Sales by Filing Year**
January 2009–December 2018



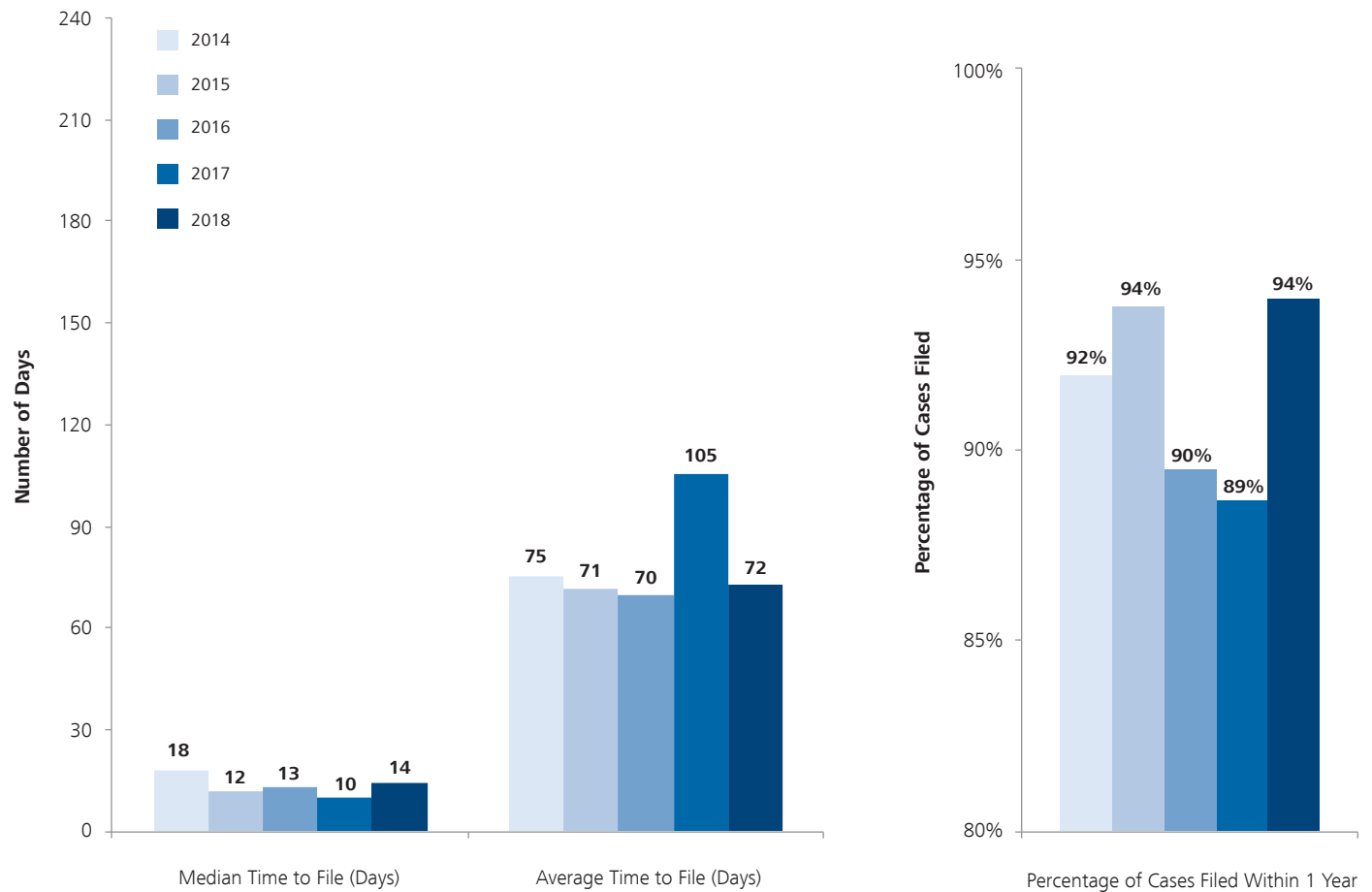
Time to File

The term “time to file” denotes the time that has elapsed between the end of the alleged class period and the filing date of the first complaint. Figure 14 illustrates how the median time and average time to file Rule 10b-5 cases (in days) have changed over the past five years.

The median time to file fell by about half over the last decade, to 14 days in 2018, indicating that it took 14 days or less to file a complaint in 50% of cases. Since the beginning of the decade, there has been a lower frequency of cases with long periods between the point when an alleged fraud was revealed and the filing of a related claim. The average time to file has followed a similar trajectory, but in 2017 was affected by 10 cases with very long filing delays. In 2017, one case against Rio Tinto, regarding the valuation of mining assets in Mozambique, took more than 4.5 years to file and boosted the average time to file by nearly 9%.²⁰

Despite the small minority of cases with very long times to file, the data generally point toward a lower incidence of cases with long periods between revelations of alleged fraud and the date a related claim is filed.

Figure 14. **Time to File Rule 10b-5 Cases from End of Alleged Class Period to File Date**
January 2014–December 2018



Note: This analysis excludes cases where the alleged class period could not be unambiguously determined.

Analysis of Motions

NERA's statistical analysis has found robust relationships between settlement amounts and the stage of the litigation at which settlements occur. We track filings and decisions on three types of motions: motion to dismiss, motion for class certification, and motion for summary judgment. For this analysis, we include securities class actions in which purchasers of common stock are part of the class and in which a violation of Rule 10b-5, Section 11, and/or Section 12 is alleged (i.e., Standard cases).

As shown in the figures below, we record the status of any motion as of the resolution of the case. For example, a motion to dismiss that had been granted but was later denied on appeal is recorded as denied.

Motions for summary judgment were filed by defendants in 7.1%, and by plaintiffs in only 1.9%, of the securities class actions filed and resolved over the 2000–2018 period, among those we tracked.²¹

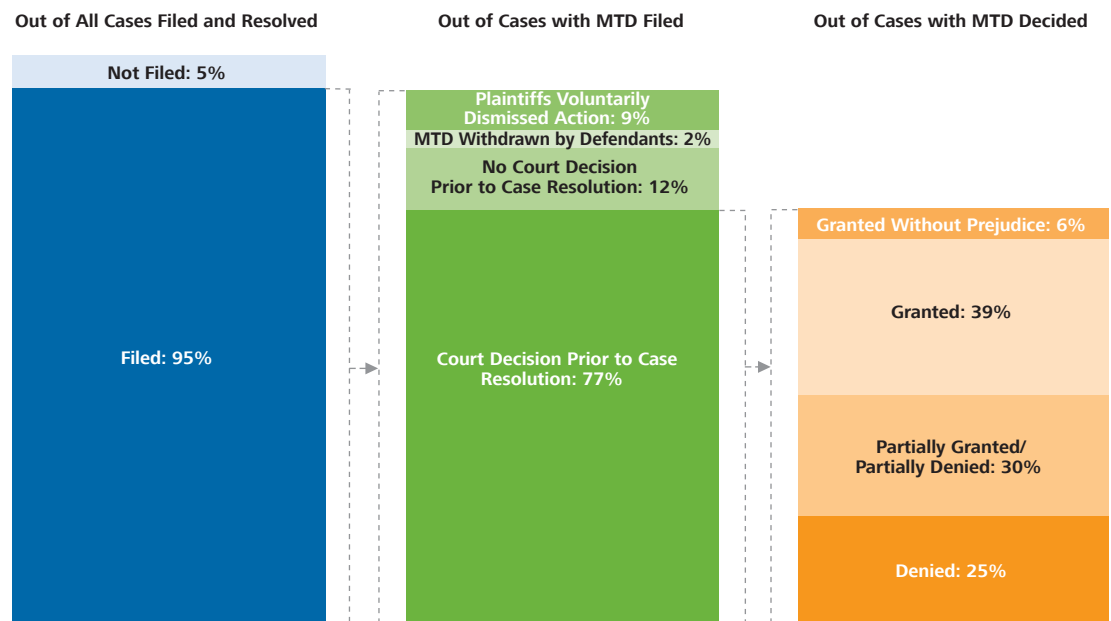
Outcomes of motions to dismiss and motions for class certification are discussed below.

Motion to Dismiss

A motion to dismiss was filed in 95% of the securities class actions tracked. However, the court reached a decision on only 77% of the motions filed. In the remaining 23% of cases, either the case resolved before a decision was reached, plaintiffs voluntarily dismissed the action, or the motion to dismiss was withdrawn by defendants (see Figure 15).

Out of the motions to dismiss for which a court decision was reached, the following three outcomes classify all of the decisions: granted with or without prejudice (45%), granted in part and denied in part (30%), and denied (25%).

Figure 15. **Filing and Resolutions of Motions to Dismiss**
Cases Filed and Resolved January 2000–December 2018



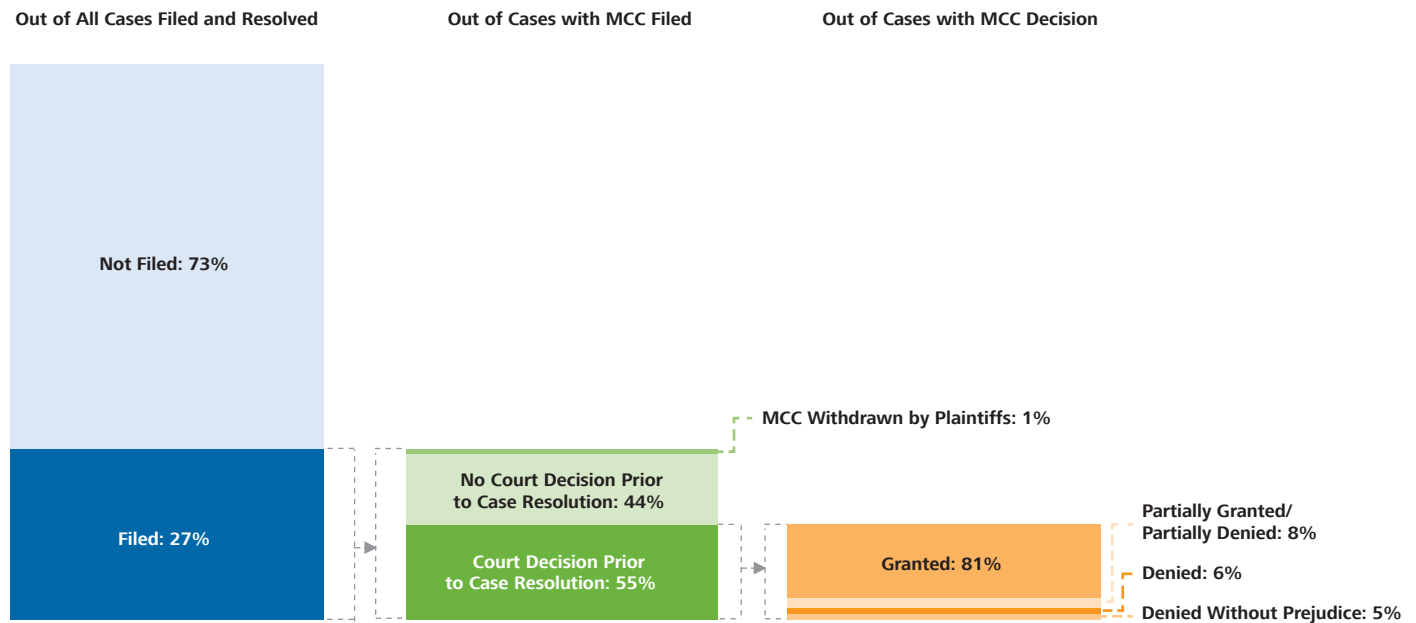
Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO ladder cases.

Motion for Class Certification

Most cases were settled or dismissed before a motion for class certification was filed: 73% of cases fell into this category. Of the remaining 27% (in which a motion for class certification was filed), the court reached a decision in only 55% of cases. Overall, only 15% of the securities class actions filed (or 55% of the 27%) reached a decision on the motion for class certification (see Figure 16).

According to our data, 89% of the motions for class certification that were decided were granted partially or in full.

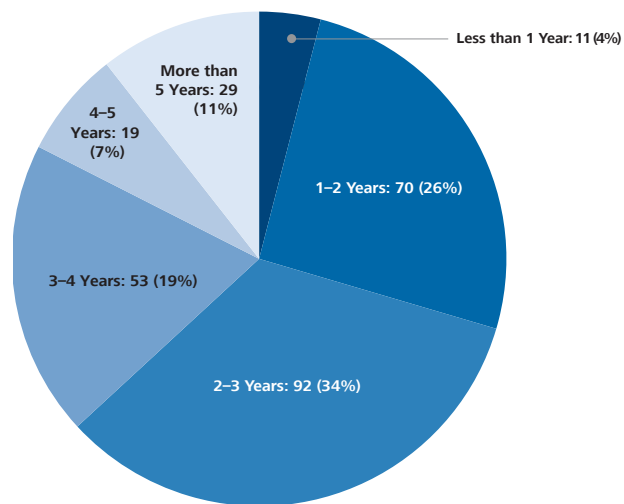
Figure 16. **Filing and Resolutions of Motions for Class Certification**
Cases Filed and Resolved January 2000–December 2018



Note: Includes cases in which holders of common stock are part of the class and a Rule 10b-5, Section 11, and/or Section 12 is alleged.
Excludes IPO laddering cases.

Approximately 64% of the decisions handed down on motions for class certification were reached within three years of the complaint's original filing date (see Figure 17). The median time was about 2.5 years.

Figure 17. **Time from First Complaint Filing to Class Certification Decision**
Cases Filed and Resolved January 2000–December 2018



Note: Includes cases in which holders of common stock are part of the class and a 10b-5 or Rule 10b-5, Section 11, and/or Section 12 is alleged. Excludes IPO ladder cases.

Trends in Case Resolutions

Number of Cases Settled or Dismissed

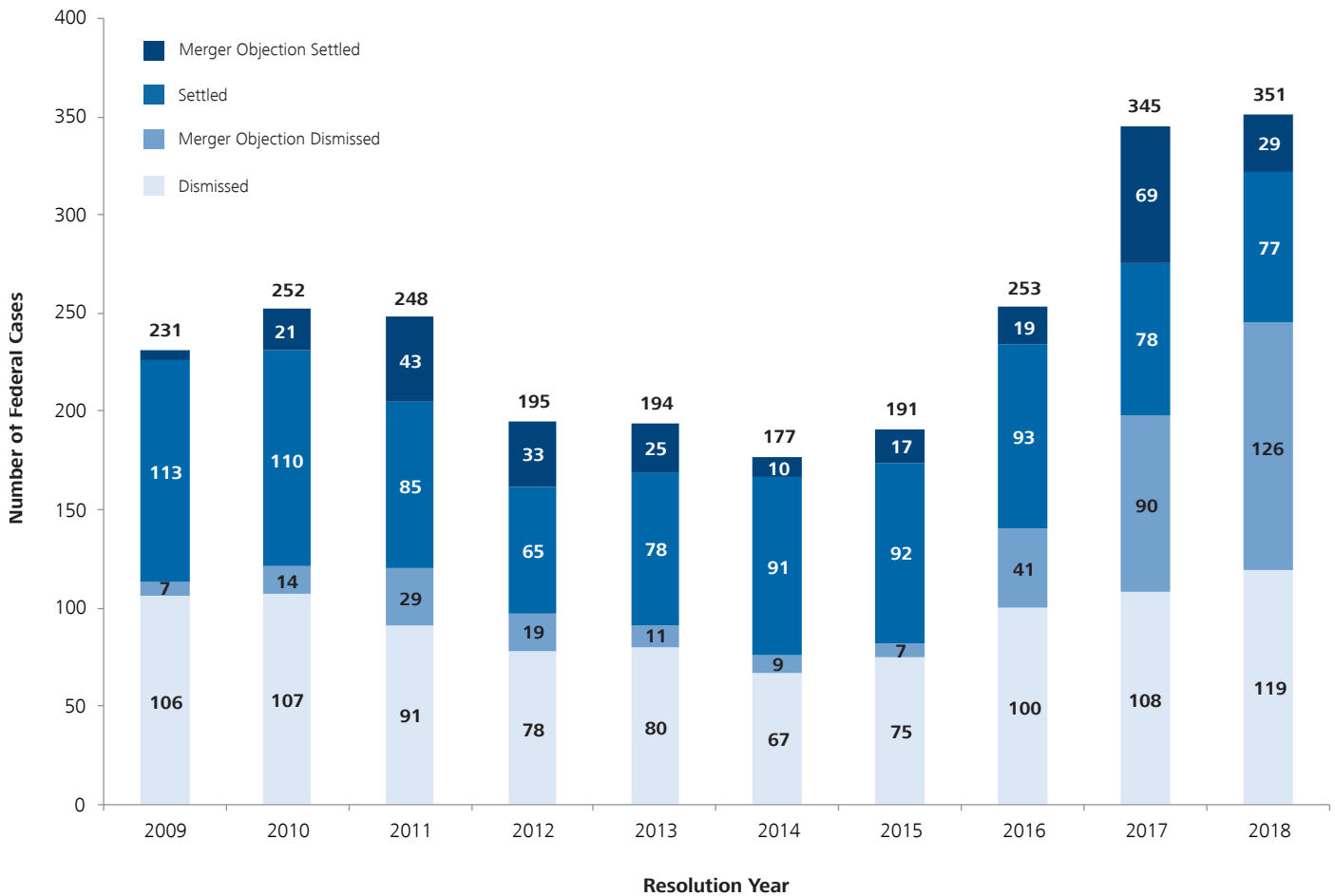
In total, 351 securities class actions were resolved in 2018, the second consecutive year in which a record number of cases concluded (see Figure 18). Resolution numbers were once again dominated by a record number of dismissals, which outnumbered settlements two-to-one for the first time.

Of the 351 resolutions, slightly less than half were resolutions of merger-objection cases (most of which were voluntarily dismissed). The uptick in resolutions over the last few years is largely due to the surge of federal merger-objection cases in the wake of the *Trulia* decision in early 2016.²² Prior to *Trulia*, only about 13% of resolutions concerned merger-objection litigation. Merger objections had an outsized impact on resolution statistics: despite making up only about 33% of all active cases, they constituted 44% of resolutions.²³

In 2018, 196 resolutions were of “Standard” securities class actions—those alleging violations of Rule 10b-5, Section 11, and/or Section 12. Standard settlement and dismissal counts closely matched those of 2017, and again more cases were dismissed than settled.

For the second consecutive year, an inordinate number of Standard cases were dismissed within a year of filing, most of which were voluntary dismissals. As shown in Figure 31, the decision to voluntarily dismiss litigation may change with the size of estimated damages to the class. For instance, plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases during the PSLRA bounce-back period.

Figure 18. **Number of Resolved Cases: Dismissed or Settled**
January 2009–December 2018



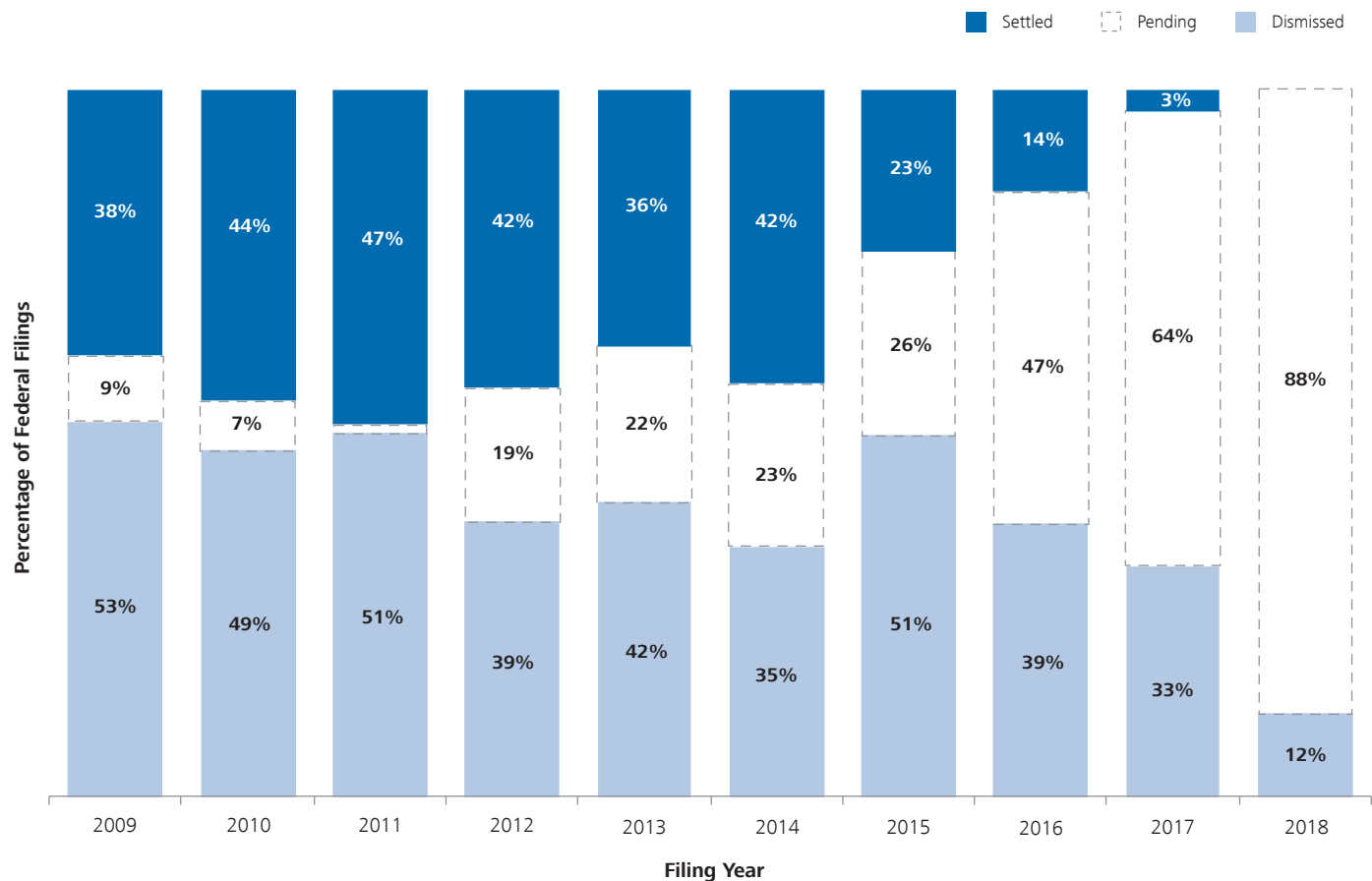
Case Status by Year

Figure 19 shows the current resolution status of cases by filing year. Each percentage represents the current resolution status of cases filed in each year as a proportion of all cases filed in that year. Merger-objection cases are excluded, as are verdicts.

Historically, more cases settled than were dismissed. However, the rate of case dismissal has steadily increased. While only about a third of cases filed between 2000 and 2002 were dismissed, in 2015, the most recent year with substantial resolution data, at least half of filed cases were dismissed.²⁴

While dismissal rates have been climbing since 2000, the ultimate dismissal rate for cases filed in more recent years is less certain. On one hand, the dismissal rate may increase further, as there are more pending cases awaiting resolution. On the other hand, it may decrease because recent dismissals have more potential than older ones to be appealed or re-filed, and cases that were recently dismissed without prejudice may ultimately result in settlements.

Figure 19. **Status of Cases as Percentage of Federal Filings by Filing Year**
 Excludes Merger Objections and Verdicts
 January 2009–December 2018



Note: Dismissals may include dismissals without prejudice and dismissals under appeal.

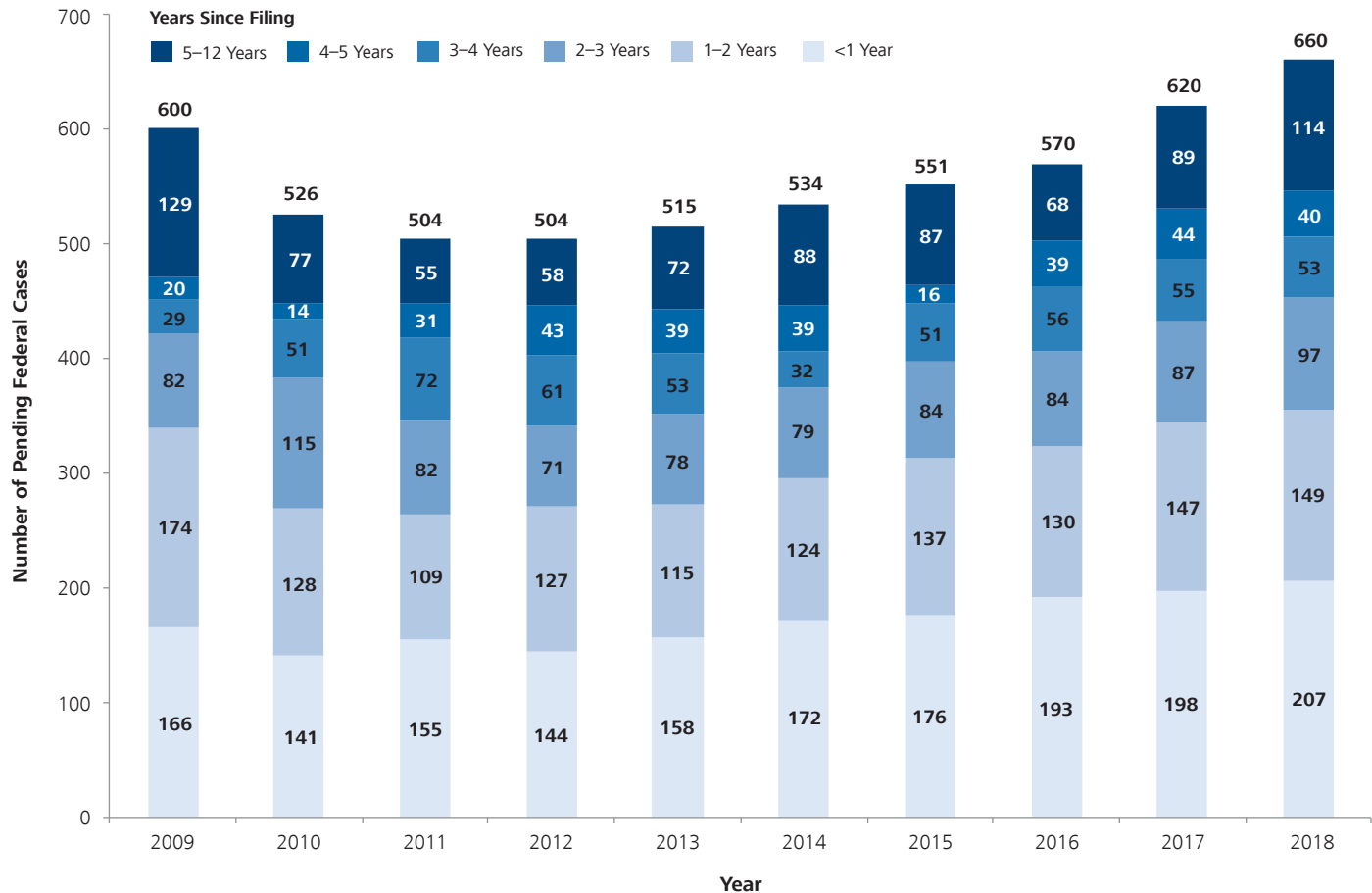
Number of Cases Pending

The number of Standard securities class actions pending in the federal system has steadily increased from a post-PSLRA low of 504 in 2012 (see Figure 20).²⁵ Since then, pending case counts have increased between 2% and 9% annually. In 2018, the number of pending Standard cases on federal dockets increased to 660, up 6% from 2017 and 31% from 2012.

Generally, since cases are either pending or resolved, a change in filing rate or a lengthening of the time to case resolution potentially contributes to changes in the number of cases pending. If the number of new filings is constant, the change in the number of pending cases can be indicative of whether the time to case resolution is generally shortening or lengthening.

About 50% of the long-term growth in pending litigation can be explained by recent filing growth (filed over the past two years), the vast majority of which is simply due to more cases being filed that have yet to be resolved. Delayed resolution of older filings (i.e., cases filed before 2017) explains the other 50% or so of growth in pending litigation since 2011. More old cases on federal dockets has driven the median age of pending cases up 14% since 2015 to about 1.9 years, the highest since 2010.²⁶

Figure 20. **Number of Pending Federal Cases**
Excludes Merger Objections
January 2009–December 2018



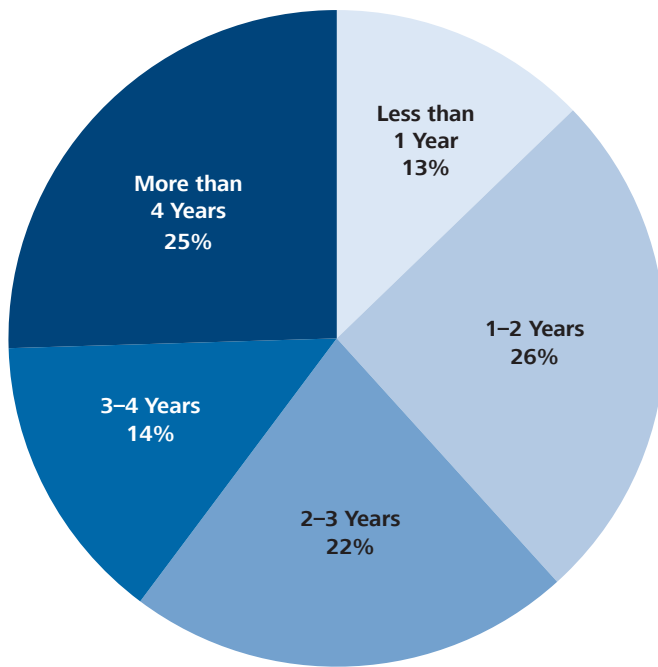
Note: The figure excludes, in each year, cases that had been filed more than 12 years earlier. Years since filing are end-of-year calculations. The figure also excludes IPO laddering cases. The 12-year limit ensure that all pending cases were filed post-PSLRA.

Time to Resolution

The term “time to resolution” denotes the time between the filing of the first complaint and resolution (whether through settlement or dismissal). Figure 21 illustrates the time to resolution for all securities class actions filed between 2001 and 2014, and shows that about 39% of cases are resolved within two years of initial filing and about 61% are resolved within three years.²⁷

The median time to resolution for cases filed in 2016 (the last year with sufficient resolution data) was 2.3 years, similar to the range over the preceding five years. Over the past decade, the median time to resolution declined by more than 10%, primarily due to an increase in the dismissal rate (dismissals are generally resolved faster than settlements).

Figure 21. **Time from First Complaint Filing to Resolution**
Cases Filed January 2001–December 2014



Trends in Settlements

We present several settlement metrics to highlight attributes of cases that settled in 2018 and to compare them with cases settled in past years. We discuss two ways of measuring average settlement amounts and calculate the median settlement amount. Each calculation excludes merger-objection cases and cases that settle with no cash payment to the class, as settlements of such cases may obscure trends in what have historically been more typical cases.

In 2018, the average settlement rebounded to \$69 million from a near-record low in 2017, largely due to the \$3 billion settlement involving Petróleo Brasileiro S.A.—Petrobras, the fifth-highest settlement ever. Even excluding Petrobras (the only settlement of the year exceeding \$1 billion), the average settlement exceeded \$30 million, which is about average in the post-PSLRA era (after adjusting for inflation). The median settlement in 2018 was more than twice that of 2017, primarily due to higher settlements of many moderately sized cases and, generally, fewer very small settlements.

The upswing in 2018 settlement metrics may be a prelude to higher settlements in the future. Aggregate NERA-defined Investor Losses of pending cases, a factor that has historically been significantly correlated with settlement amounts, increased for the third consecutive year and currently exceeds \$1.4 trillion (or \$1.1 trillion excluding 2018 litigation against GE). Excluding GE, average Investor Losses of pending Standard cases have also increased for the third consecutive year to \$2.4 billion, but have receded from a 10-year high of \$3.8 billion in 2011.

To illustrate how many cases settled over various ranges in 2017 compared with prior years, we provide a distribution of settlements over the past five years. We also tabulated the 10 largest settlements of the year.

Average and Median Settlement Amounts

The average settlement exceeded \$69 million in 2018, somewhat less than three times the \$25 million average settlement in 2017 (see Figure 22). Infrequent large settlements, such as the 2018 Petrobras settlement, are generally responsible for the wide variability in average settlements over the past decade. Similar spikes to the one observed this year were also seen in 2010, 2013, and 2016, each primarily stemming from mega-settlements.

Figure 22. **Average Settlement Value**

Excludes Merger Objections and Settlements for \$0 to the Class
January 2009–December 2018

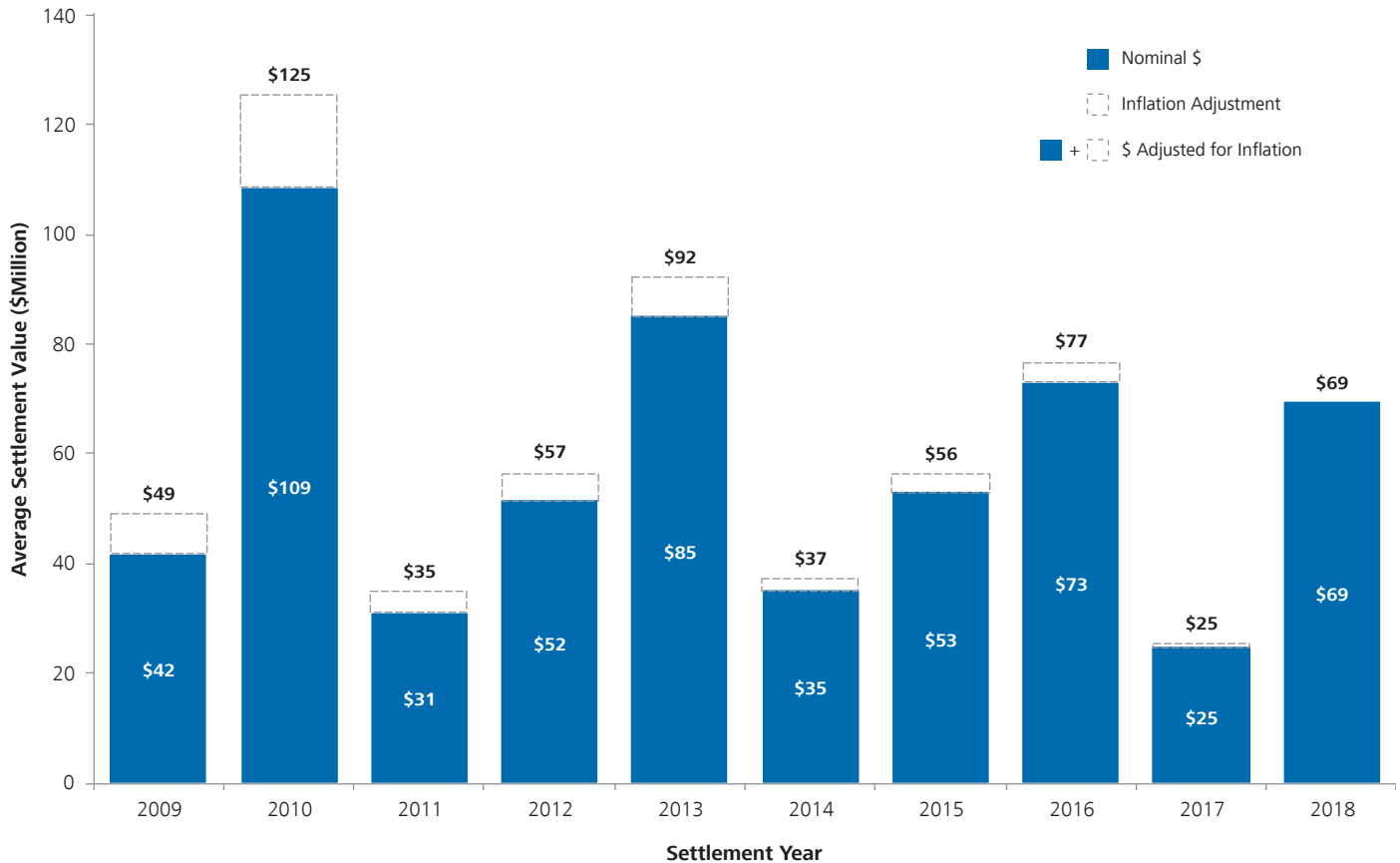
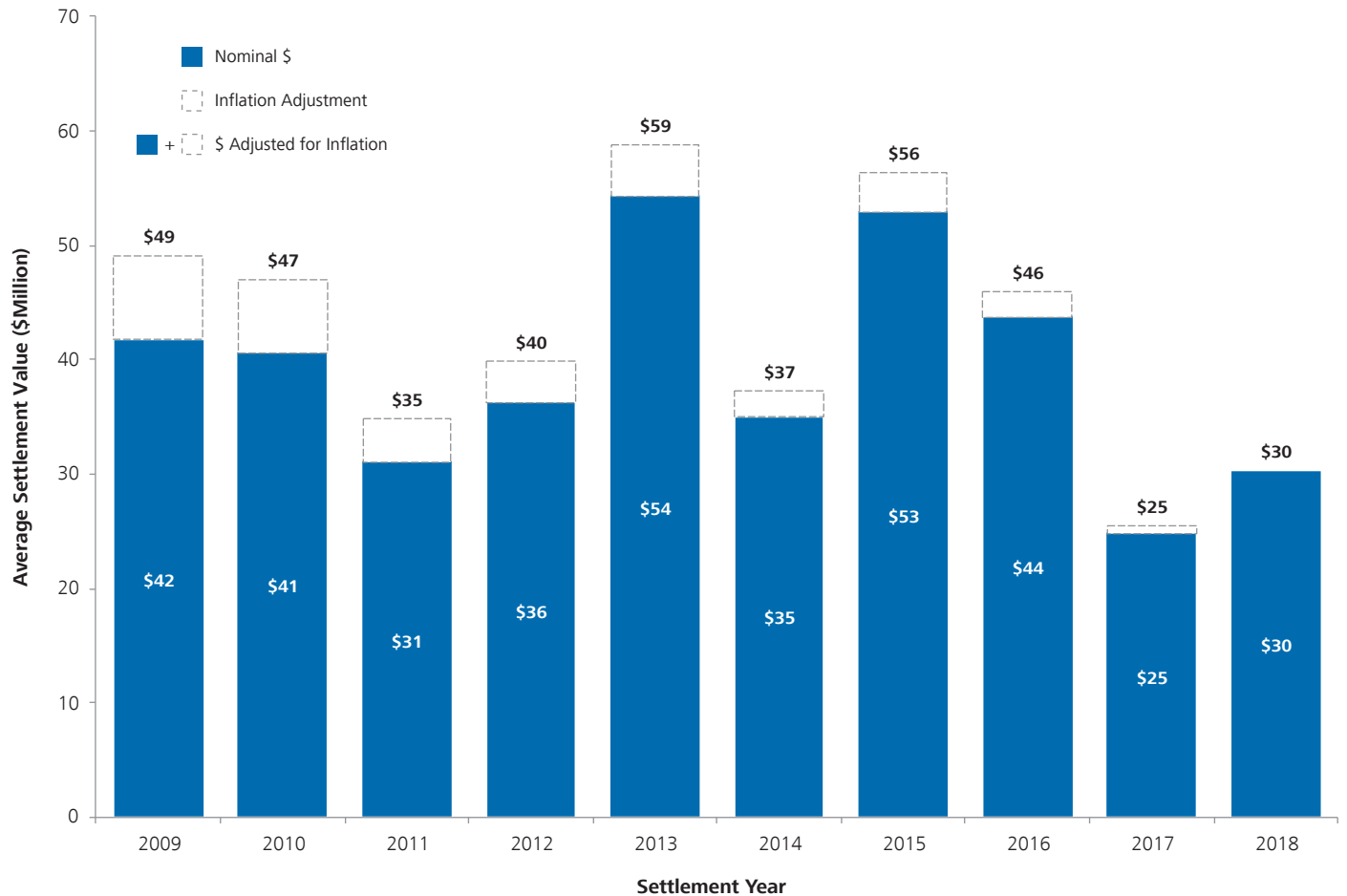


Figure 23 illustrates that, excluding settlements over \$1 billion, the average settlement rebounded from the record low seen in 2017 to \$30 million. Despite this rebound, and setting aside the \$3 billion Petrobras settlement, the 2018 average settlement remained below average compared to the past decade. The metric would have roughly matched the near-record low seen in 2017 but for the \$480 million Wells Fargo settlement that was finalized in mid-December 2018.

Figure 23. **Average Settlement Value**

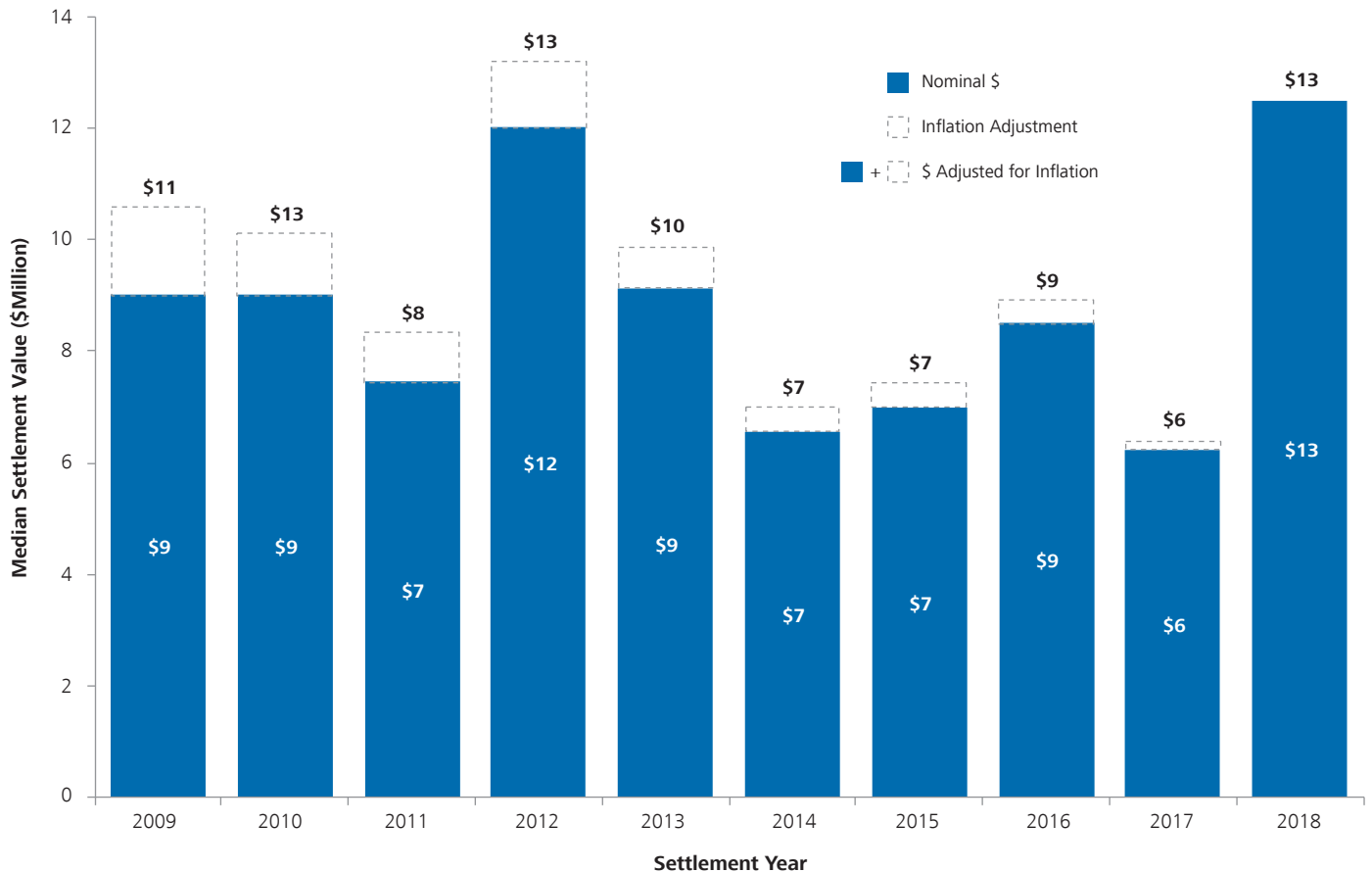
Excludes Settlements over \$1 Billion, Merger Objections, and Settlements for \$0 to the Class
January 2009–December 2018



The 2018 median settlement was a near-record \$13 million. This was driven primarily by relatively high settlements of moderately sized cases (as measured by NERA-defined Investor Losses). Cases of moderate size not only made up the bulk of settlements in 2018 but also had a median ratio of settlement to Investor Losses more than 50% higher than in past years. Moreover, unlike 2017, there were generally few very small settlements.

Figure 24. **Median Settlement Value**

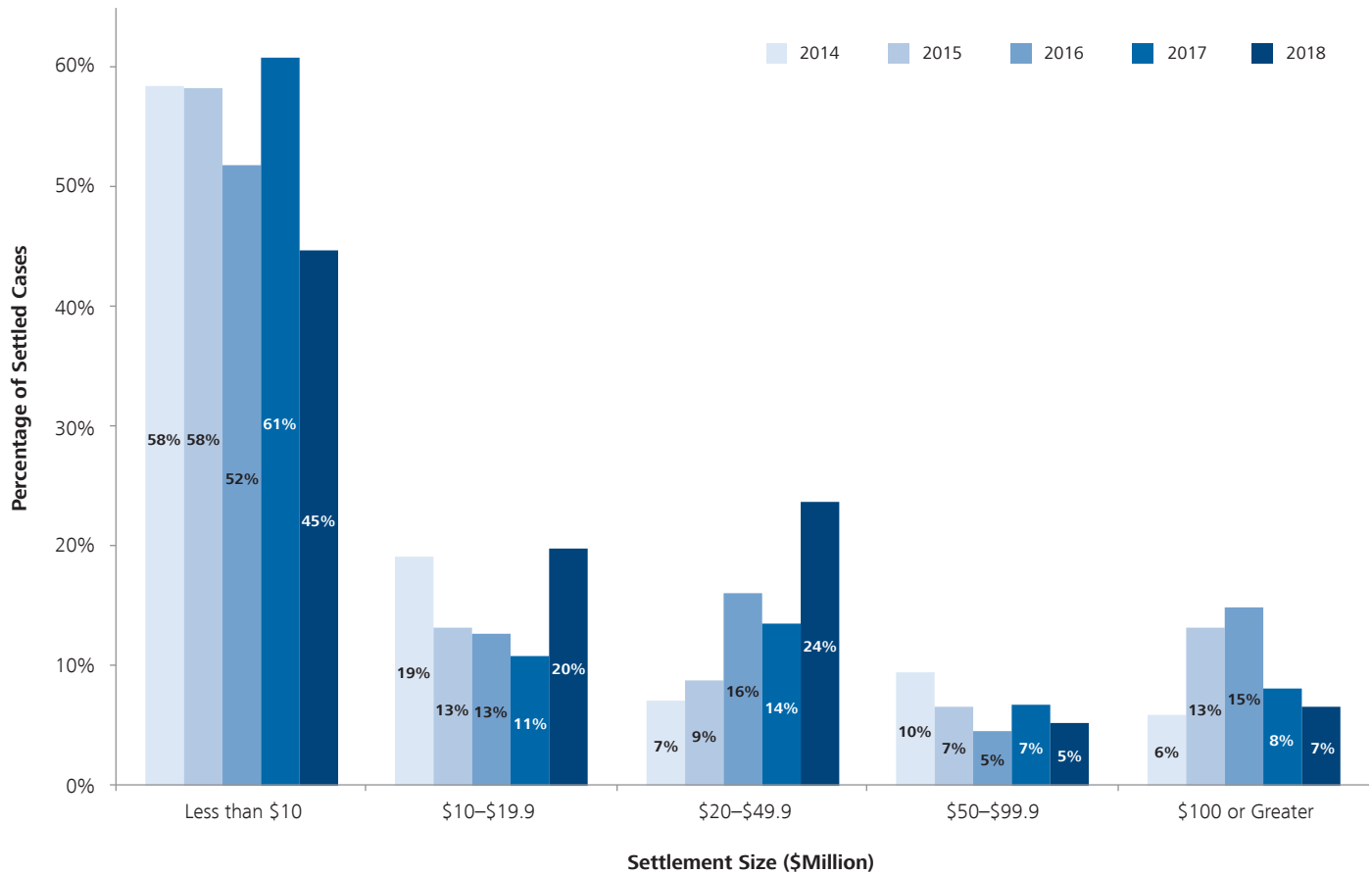
Excludes Settlements over \$1 Billion, Merger Objections, and Settlements for \$0 to the Class
January 2009–December 2018



Distribution of Settlement Amounts

The relatively high settlements of moderately sized cases in 2018 are also captured in the distribution of settlement values (see Figure 25). In 2018, fewer than 45% of settlements were for less than \$10 million (the lowest rate since 2010), which stands in stark contrast with 2017, when more than 60% of settlements were in the smallest strata (the highest rate since 2011).

Figure 25. **Distribution of Settlement Values**
Excludes Merger Objections and Settlements for \$0 to the Class
January 2014–December 2018



The 10 Largest Settlements of Securities Class Actions of 2018

The 10 largest securities class action settlements of 2018 are shown in Table 1. The two largest settlements, against Petrobras and Wells Fargo & Company, are among many large regulatory cases filed in recent years. Three of the 10 largest settlements involved defendants in the Finance sector. Overall, these 10 cases accounted for about \$4.4 billion in settlement value, a near-record 84% of the \$5.3 billion in aggregate settlements.

Despite the size of the Petrobras settlement, it is not even half the size of the second-largest settlement since passage of the PSLRA, WorldCom, Inc., at \$6.2 billion (see Table 2).

Table 1. **Top 10 2018 Securities Class Action Settlements**

Ranking	Case Name	Total Settlement Value (\$Million)	Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)
1	Petróleo Brasileiro S.A.—Petrobras (2014)	\$3,000.0	\$205.0
2	Wells Fargo & Company (2016)	\$480.0	\$96.4
3	Allergan, Inc.	\$290.0	\$71.0
4	Wilmington Trust Corporation	\$210.0	\$66.3
5	LendingClub Corporation	\$125.0	\$16.8
6	Yahoo! Inc. (2017)	\$80.0	\$14.8
7	SunEdison, Inc.	\$73.9	\$19.0
8	Marvell Technology Group Ltd. (2015)	\$72.5	\$14.1
9	3D Systems Corporation	\$50.0	\$15.5
10	Medtronic, Inc. (2013)	\$43.0	\$8.6
	Total	\$4,424.4	\$527.4

Table 2. **Top 10 Securities Class Action Settlements**
As of 31 December 2018

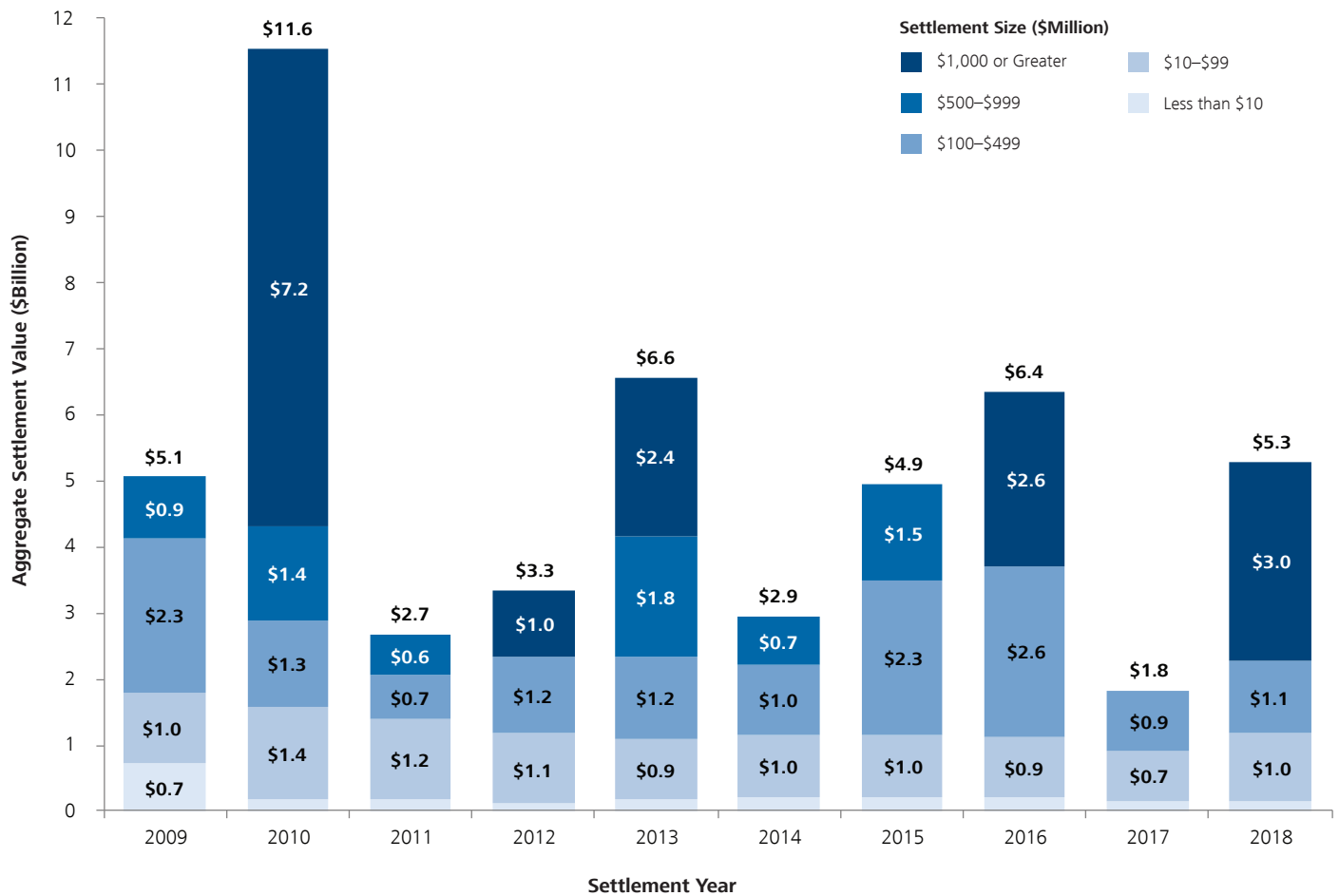
Ranking	Defendant	Settlement Year(s)	Total Settlement Value (\$Million)	Codefendant Settlements		Plaintiffs' Attorneys' Fees and Expenses Value (\$Million)
				Financial Institutions Value (\$Million)	Accounting Firms Value (\$Million)	
1	ENRON Corp.	2003–2010	\$7,242	\$6,903	\$73	\$798
2	WorldCom, Inc.	2004–2005	\$6,196	\$6,004	\$103	\$530
3	Cendant Corp.	2000	\$3,692	\$342	\$467	\$324
4	Tyco International, Ltd.	2007	\$3,200	No codefendant	\$225	\$493
5	Petróleo Brasileiro S.A.—Petrobras	2018	\$3,000	\$0	\$50	\$205
6	AOL Time Warner Inc.	2006	\$2,650	No codefendant	\$100	\$151
7	Bank of America Corp.	2013	\$2,425	No codefendant	No codefendant	\$177
8	Household International, Inc.	2006–2016	\$1,577	Dismissed	Dismissed	\$427
9	Nortel Networks (I)	2006	\$1,143	No codefendant	\$0	\$94
10	Royal Ahold, NV	2006	\$1,100	\$0	\$0	\$170
	Total		\$32,224	\$13,249	\$1,017	\$3,368

Aggregate Settlements

We use the term “aggregate settlements” to denote the total amount of money to be paid to settle litigation by (non-dismissed) defendants based on the court-approved settlements during a year.

Aggregate settlements rebounded to nearly \$5.3 billion in 2018, more than double the 2017 total (see Figure 26). More than 80% of the growth stems from the \$3.0 billion Petrobras settlement. Excluding Petrobras and Wells Fargo, aggregate settlements are near the 2017 record low, reflecting a persistent slowdown in overall settlement activity.

Figure 26. **Aggregate Settlement Value by Settlement Size**
January 2009–December 2018



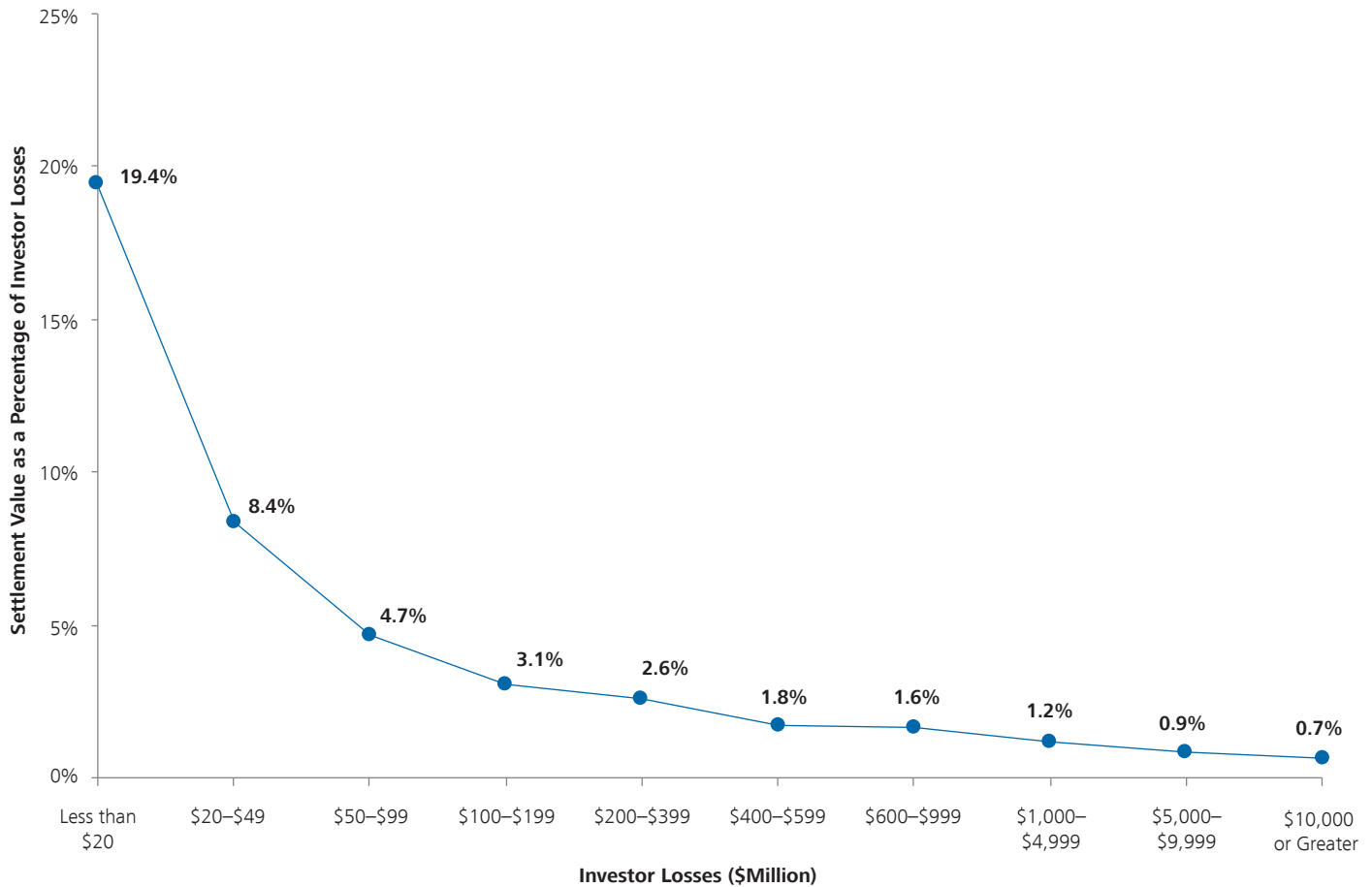
NERA-Defined Investor Losses vs. Settlements

As noted above, our proxy for case size, NERA-defined Investor Losses, is a measure of the aggregate amount investors lost from buying the defendant's stock rather than investing in the broader market during the alleged class period.

In general, settlement size grows as NERA-defined Investor Losses grow, but the relationship is not linear. Based on our analysis of data from 1996 to 2018, settlement size grows less than proportionately with Investor Losses. In particular, small cases typically settle for a higher fraction of Investor Losses (i.e., more cents on the dollar) than larger cases. For example, the ratio of settlement to Investor Loss for the median case was 19.4% for cases with Investor Losses of less than \$20 million, while it was 0.7% for cases with Investor Losses over \$10 billion (see Figure 27).

Our findings about the ratio of settlement amount to NERA-defined Investor Losses should not be interpreted as the share of damages recovered in settlement, but rather as the recovery compared to a rough measure of the "size" of the case. Notably, the percentages given here apply *only* to NERA-defined Investor Losses. Using a different definition of investor losses would result in a different ratio. Also, the use of the ratio alone to forecast the likely settlement amount would be inferior to a proper all-encompassing analysis of the various characteristics shown to impact settlement amounts, as discussed in the section *Explaining Settlement Values*.

Figure 27. **Median of Settlement Value as a Percentage of NERA-Defined Investor Losses by Level of Investor Losses**
 Excludes Settlements for \$0 to the Class
 January 1996–December 2018

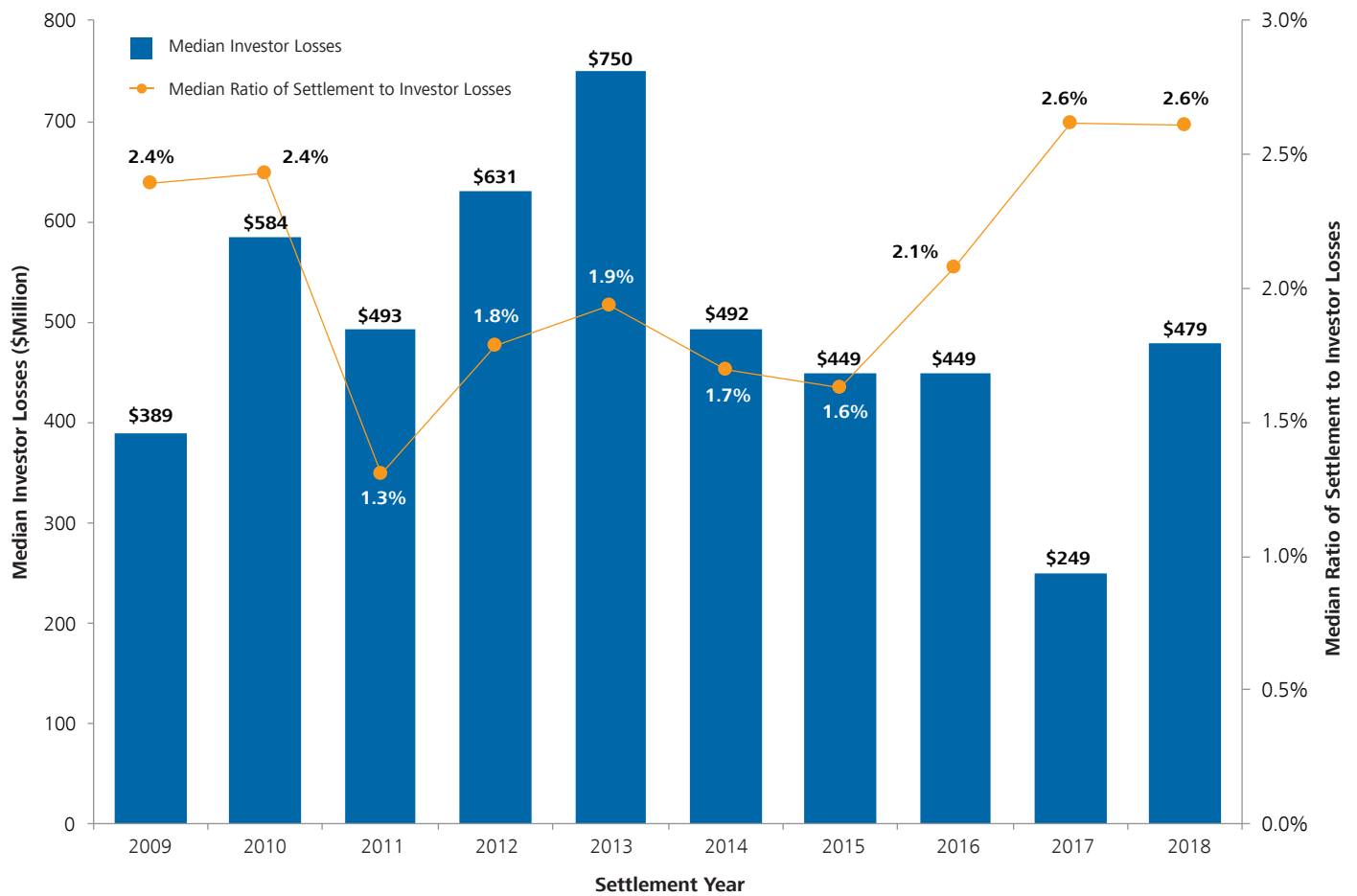


Median NERA-Defined Investor Losses over Time

Prior to 2014, median NERA-defined Investor Losses for settled cases had been on an upward trajectory since the passage of the PSLRA. As described above, the median ratio of settlement size to Investor Losses generally decreases as Investor Losses increase. Over time, the increase in median Investor Losses coincided with a decreasing trend in the median ratio of settlement to Investor Losses. Of course, there are also year-to-year fluctuations.

As shown in Figure 28, the median ratio of settlements to NERA-defined Investor Losses was 2.6% in 2018. This was the third consecutive year of at least a short-term reversal of a long-term downtrend of the ratio between passage of the PSLRA and 2015.

Figure 28. **Median NERA-Defined Investor Losses and Median Ratio of Settlement to Investor Losses by Settlement Year**
January 2009–December 2018



Explaining Settlement Amounts

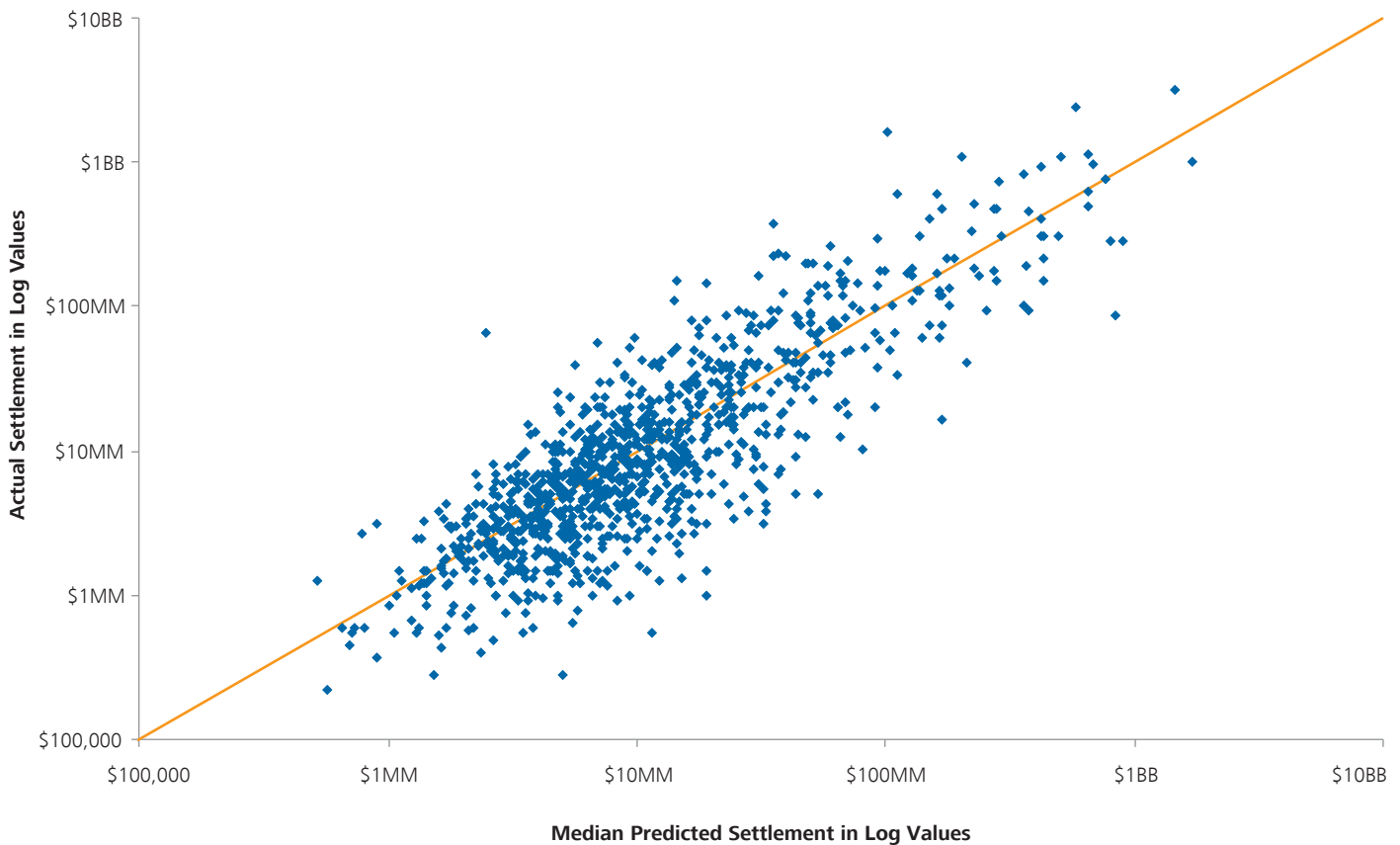
The historical relationship between case attributes and other case- and industry-specific factors can be used to measure the factors correlated with settlement amounts. NERA has examined settlements in more than 1,000 securities class actions and identified key drivers of settlement amounts, many of which have been summarized in this report.

Generally, we find that the following factors have historically been significantly correlated with settlements:

- NERA-defined Investor Losses (a proxy for the size of the case);
- The market capitalization of the issuer;
- Types of securities alleged to have been affected by the fraud;
- Variables that serve as a proxy for the “merit” of plaintiffs’ allegations (such as whether the company has already been sanctioned by a governmental or regulatory agency or paid a fine in connection with the allegations);
- Admitted accounting irregularities or restated financial statements;
- The existence of a parallel derivative litigation; and
- An institution or public pension fund as lead plaintiff.

Together, these characteristics and others explain most of the variation in settlement amounts, as illustrated in Figure 29.²⁸

Figure 29. **Predicted vs. Actual Settlements**

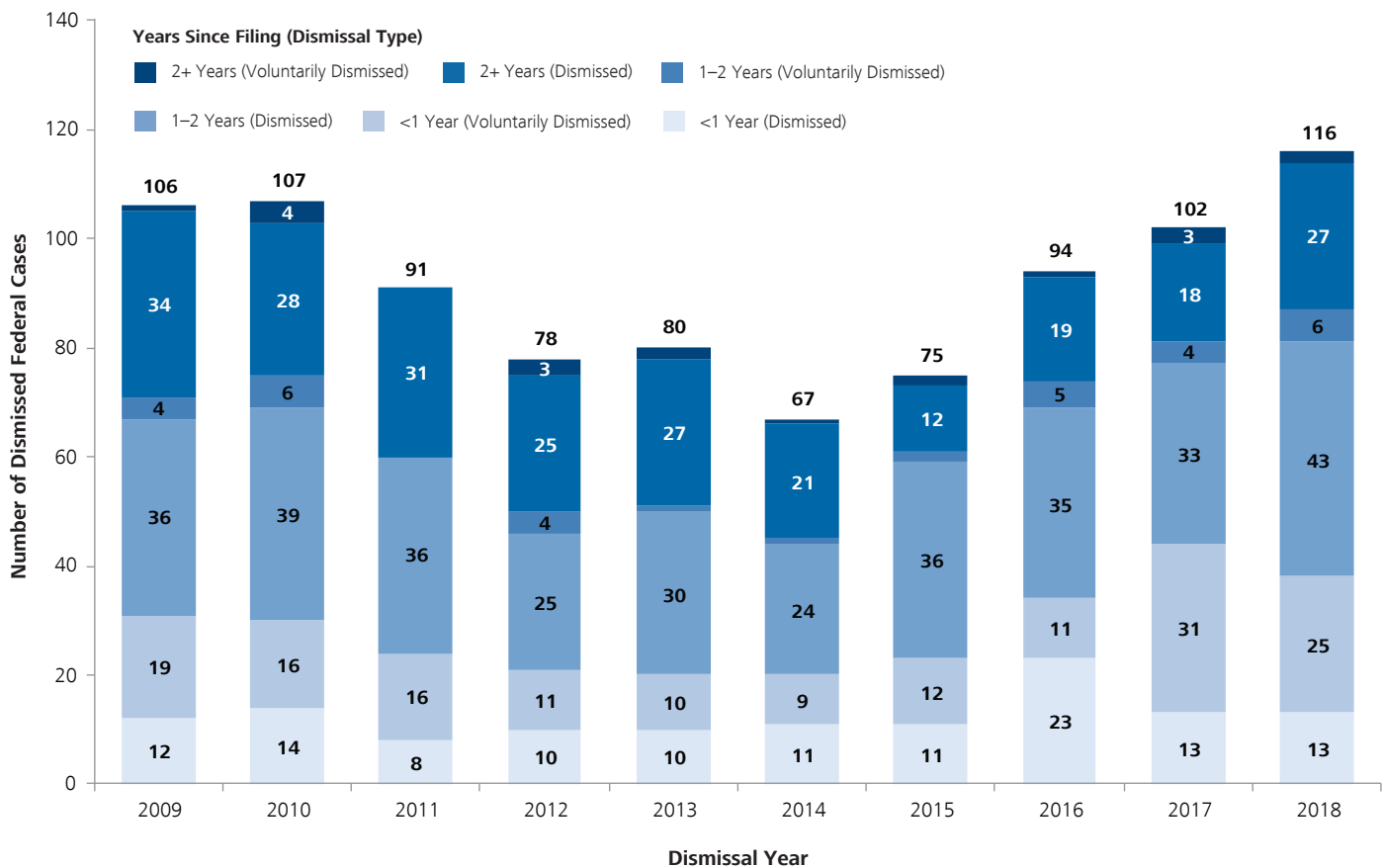


Trends in Dismissals

The elevated rate of case dismissal persisted in 2018 (excluding merger objections), with more than 100 dismissals for the second consecutive year (see Figure 30). This partially stems from more cases being filed over the past couple of years, as 75% of dismissals are of cases less than two years old. Additionally, there were 25 voluntary dismissals within a year of filing, an elevated rate for the second year in a row.

Figure 30. **Number of Dismissed Cases by Case Age**

Excludes Merger Objections
January 2009–December 2018



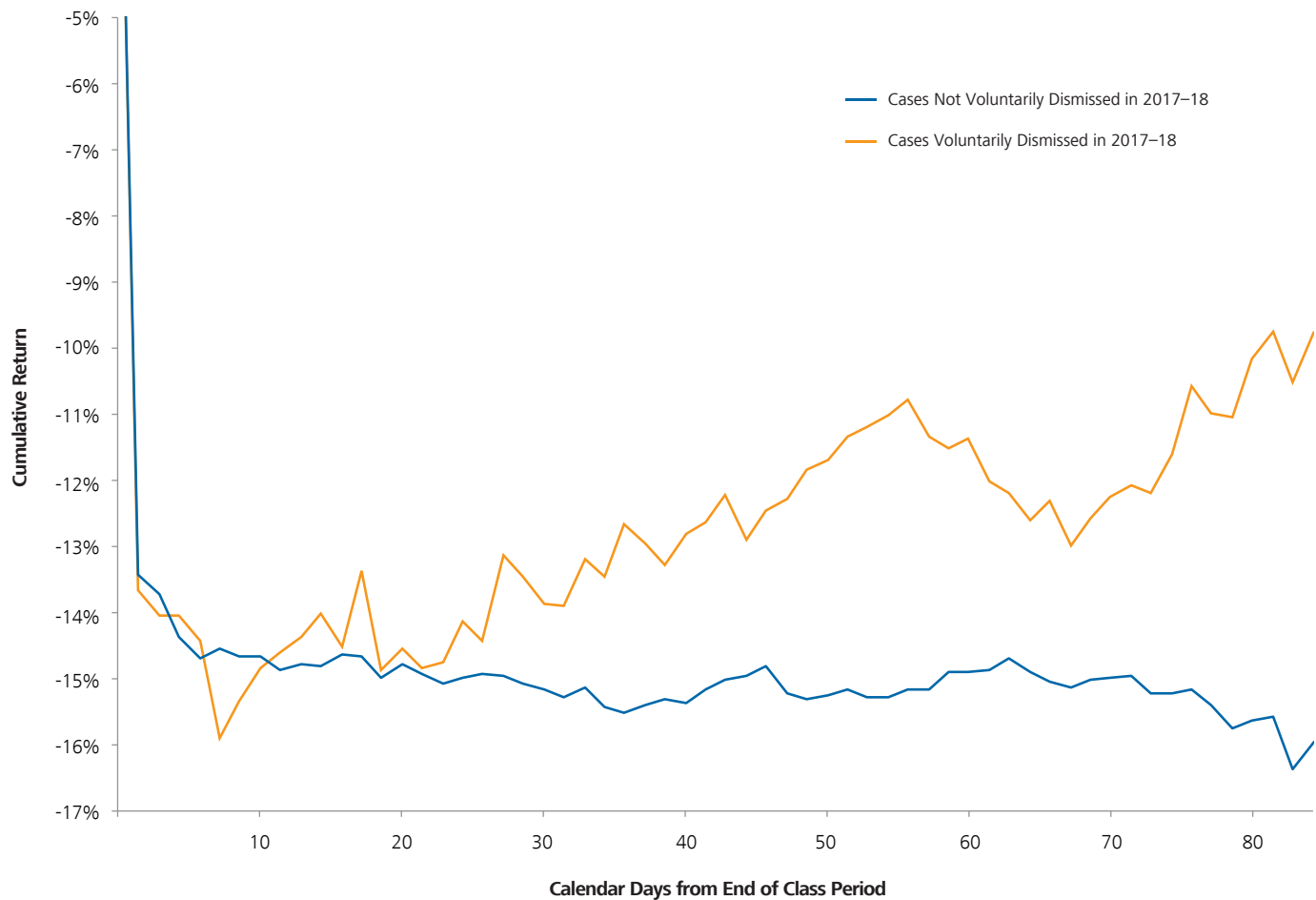
In 2018, about 12% of Standard cases were filed and resolved within the same calendar year, the second-highest rate in at least a decade (after 2017). By the end of the year, 8% of cases were voluntarily dismissed (down from 11% in 2017, but double the 2012–2016 average). Plaintiffs' voluntary dismissal of a case may be a result of perceived case weakness or changes in financial incentives. Recent research also documented forum selection by plaintiffs as a driver of voluntary dismissal without prejudice.²⁹

The incentive for plaintiffs (and/or their counsel) to proceed with litigation may change with estimated damages to the class and expected recoveries since filing. For instance, the PSLRA 90-day bounce-back provision caps the award of damages to plaintiffs by the difference between the purchase price of a security and the mean trading price of the security during the 90-day period beginning on the date of the alleged corrective disclosure.

Since most securities class actions are filed well before the end of the bounce-back period (see Figure 14 for time-to-file metrics), plaintiffs may be more likely to voluntarily dismiss litigation if the price of the security at issue subsequently increases. As shown in Figure 31, in 2017 and 2018, the 90-day return of securities underlying cases voluntarily dismissed was about seven percentage points greater, on average, than securities underlying cases not voluntarily dismissed.³⁰

The rate of voluntary dismissals was not particularly concentrated in terms of jurisdiction or the specific allegations we track.

Figure 31. **Average PSLRA Bounce-Back Period Returns of Voluntary Dismissals**
 Shareholder Class Actions with Alleged Violations of Rule 10b-5, Section 11, or Section 12
 January 2017–December 2018



Note: To control for the impact of outliers on the average of each group, for each day the most extreme 5% of cumulative returns are dropped. Observations on the three final trading days of the bounce-back period for each category are dropped due to incomplete return data.

Trends in Attorneys' Fees

Plaintiffs' Attorneys' Fees and Expenses

Usually, plaintiffs' attorneys' remuneration is determined as a fraction of any settlement amount in the form of fees, plus expenses. Figure 32 depicts plaintiffs' attorneys' fees and expenses as a proportion of settlement values over ranges of settlement amounts. The data shown in this figure excludes settlements for merger-objection cases and cases with no cash payment to the class.

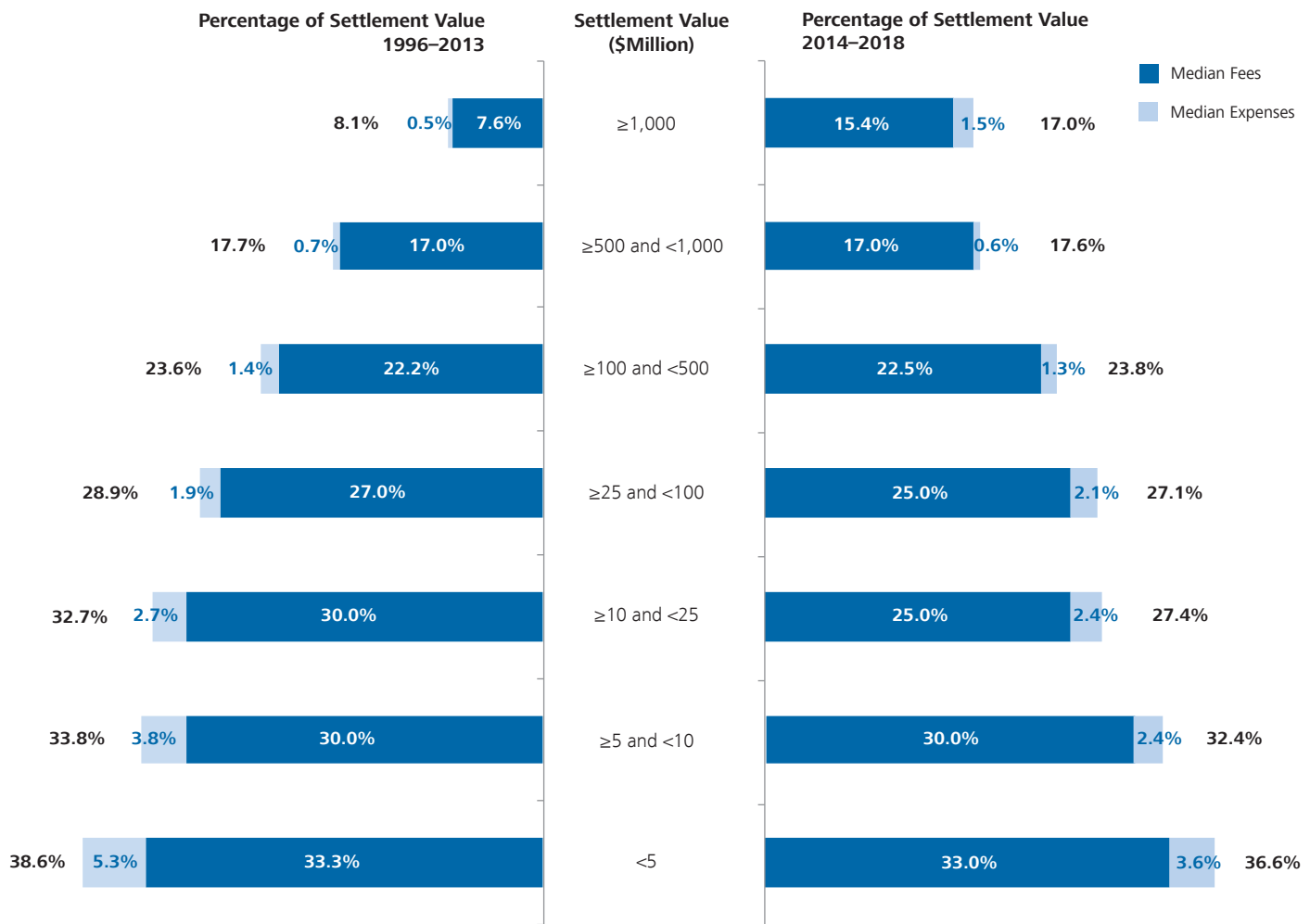
A strong pattern is evident in Figure 32; typically, fees grow with settlement size, but less than proportionally (i.e., the fee percentage shrinks as the settlement size grows).

To illustrate that the fee percentage typically shrinks as settlement size grows, we grouped settlements by settlement value and reported the median fee percentage for each group. While fees are stable at around 30% of settlement values for settlements below \$10 million, this percentage declines as settlement size increases.

We also observe that fee percentages have been decreasing over time, except for fees awarded on very large settlements. For settlements above \$1 billion, fee rates have increased.

Figure 32. **Median of Plaintiffs' Attorneys' Fees and Expenses by Size of Settlement**

Excludes Merger Objections and Settlements for \$0 to the Class



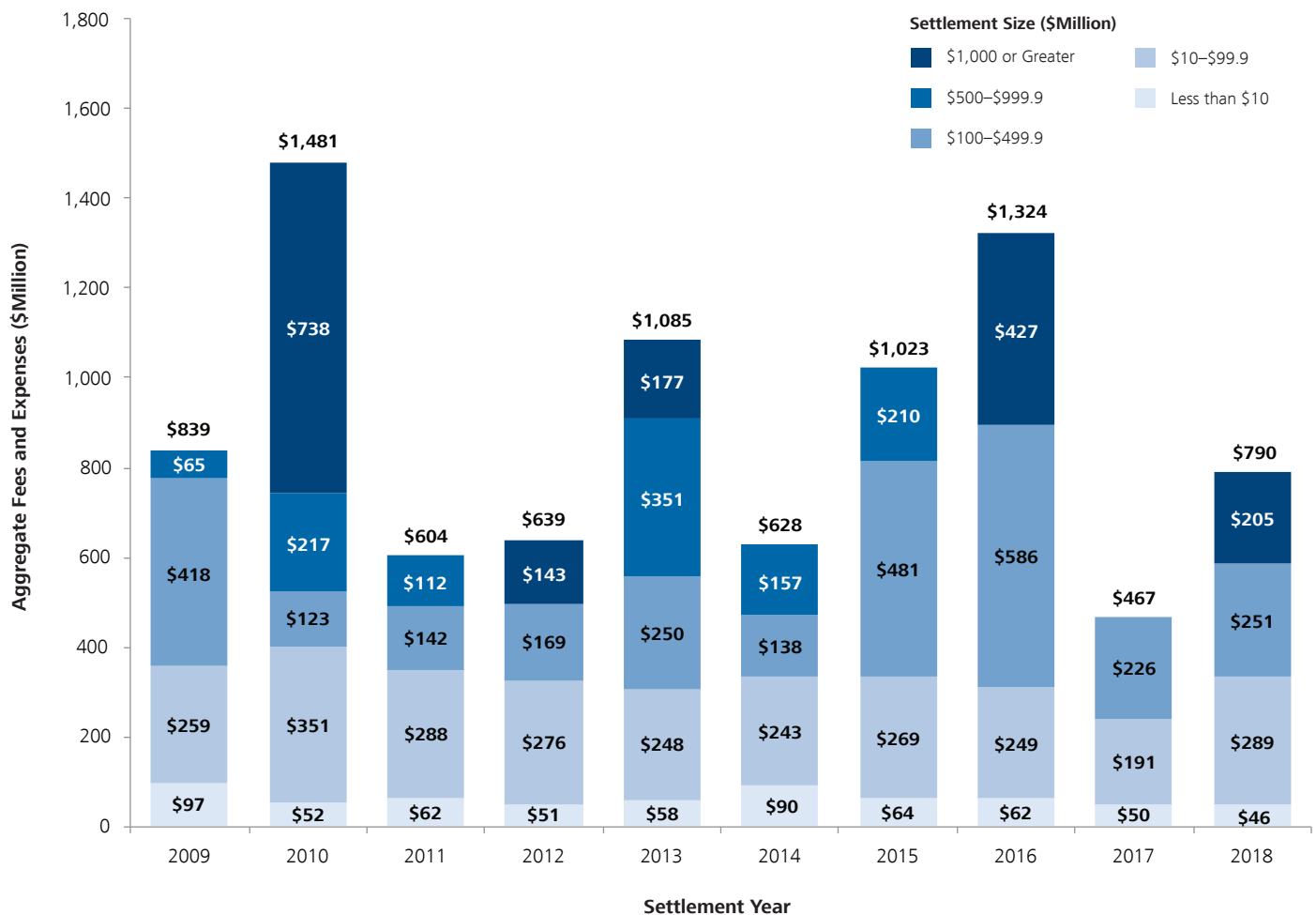
Aggregate Plaintiffs' Attorneys' Fees and Expenses

Aggregate plaintiffs' attorneys' fees and expenses are the sum of all fees and expenses received by plaintiffs' attorneys for all securities class actions that receive judicial approval in a given year.

In 2018, aggregate plaintiffs' attorneys' fees and expenses were \$790 million, about 70% higher than in 2017 (see Figure 33). The increase in fees partially reflects the rebound in settlements, but fees grew substantially less than the near-tripling of aggregate settlements. This is partially due to the outsized impact of the \$3 billion Petrobras settlement, one of several mega-settlements that historically generates lower fees as a percentage of settlement value.

Note that Figure 33 differs from the other figures in this section because the aggregate includes fees and expenses that plaintiffs' attorneys receive for settlements in which no cash payment was made to the class.

Figure 33. **Aggregate Plaintiffs' Attorneys' Fees and Expenses by Settlement Size**
January 2009–December 2018



Notes

- ¹ This edition of NERA's report on recent trends in securities class action litigation expands on previous work by our colleagues Lucy Allen, Dr. Vinita Juneja, Dr. Denise Neumann Martin, Dr. Jordan Milev, Robert Patton, Dr. Stephanie Planchich, and others. The authors also thank Dr. Milev for helpful comments on this edition. These individuals receive credit for improving this paper; all errors and omissions are ours.
- ² Data for this report are collected from multiple sources, including Institutional Shareholder Services Inc., complaints, case dockets, Dow Jones Factiva, Bloomberg Finance L.P., FactSet Research Systems, Inc., Nasdaq, Inc., Intercontinental Exchange, Inc., US Securities and Exchange Commission (SEC) filings, and public press reports.
- ³ *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- ⁴ Craig Doidge, G. Andrew Karolyi, and René M. Stulz, "The U.S. Listing Gap," National Bureau of Economic Research Working Paper No. 21181, May 2015.
- ⁵ *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- ⁶ For M&A statistics, see "Mergers & Acquisitions Review: First Nine Months 2018," Thomson Reuters, October 2018, available at http://dmi.thomsonreuters.com/Content/Files/3Q2018_MA_Legal_Advisor_Review.pdf.
- ⁷ *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- ⁸ Matthew D. Cain and Steven D. Solomon, "Takeover Litigation in 2015," Berkeley Center for Law, Business and the Economy, 14 January 2016.
- ⁹ Warren S. de Wied, "Delaware Forum Selection Bylaws After Trulia," Harvard Law School Forum on Corporate Governance and Financial Regulation, 25 February 2016.
- ¹⁰ *In re: Walgreen Co. Stockholder Litigation*, No. 15-3799 (7th Cir. Aug. 10, 2016).
- ¹¹ Federal securities class actions that allege violations of Rule 10b-5, Section 11, and/or Section 12 have historically dominated federal securities class action dockets and often been referred to as "Standard" cases.
- ¹² *Cyan, Inc. v. Beaver County Employees Retirement Fund*, Supreme Court No. 15-1439.
- ¹³ See Restoration Robotics Inc. SEC Form 8-K, filed 17 October 2017, and Snap, Inc. SEC Form S-1, filed 2 February 2017.
- ¹⁴ Regulatory cases with parallel accounting, performance, or missed earnings claims are excluded.
- ¹⁵ Industries with fewer than 25 firms listed on US exchanges are dropped.
- ¹⁶ For M&A statistics, see "Mergers & Acquisitions Review, Full Year 2017," Thomson Reuters, December 2017.
- ¹⁷ For M&A statistics, see "Mergers & Acquisitions Review, First Nine Months 2018," Thomson Reuters, October 2018.
- ¹⁸ "SAC to pay \$1.8 billion to settle insider trading charges," Chicago Tribune, 4 November 2013, available at <https://www.chicagotribune.com/business/ct-xpm-2013-11-04-chi-sac-to-pay-18-billion-to-settle-insider-trading-charges-20131104-story.html>.
- ¹⁹ Filings indicate that most firms in the SP 500 have adopted 10b5-1 plans as of 2014. See "Balancing Act: Trends in 10b5-1 Adoption and Oversight Article," Morgan Stanley, 2019.
- ²⁰ This case was filed after the SEC filed a complaint, more than four years after the end of the proposed class period, which plaintiffs in the class action state first revealed the alleged fraud.
- ²¹ Outcomes of the motions for summary judgment are available from NERA but are not shown in this report.
- ²² *In re Trulia, Inc. Stockholder Litigation*, C.A. No. 10020-CB (Del. Ch. Jan. 22, 2016).
- ²³ Active cases equals the sum of pending cases at the beginning of 2018 plus those filed during the year.
- ²⁴ Nearly 90% of cases filed before 2012 have been resolved, providing evidence of longer-term trends about dismissal and settlement rates. Data since then is inconclusive given pending litigation.
- ²⁵ We only consider pending litigation filed after the PSLRA.
- ²⁶ These metrics exclude merger objections.
- ²⁷ Each of the metrics in the *Time to Resolution* sub-section exclude IPO laddering cases and merger-objection cases because the former usually take much longer to resolve and the latter are usually much shorter to resolve.
- ²⁸ The axes are in logarithmic scale, and the two largest settlements are excluded from this figure.
- ²⁹ Commentary regarding a 2017 ruling in the Southern District of New York indicated that "[p]laintiffs in [*Cheung v. Bristol-Myers Squibb*] had originally filed their lawsuits in a federal district court, but after the federal district court issued a ruling that was unfavorable for the plaintiffs, the plaintiffs voluntarily dismissed their lawsuits without prejudice and then refiled them in Delaware state court." See Colin E. Wrabley and Joshua T. Newborn, "Getting Your Company's Case Removed to Federal Court When Sued in Your 'Home' State," *The Legal Intelligencer*, 19 December 2017. The case referred to is *Cheung v. Bristol-Myers Squibb*, Case No. 17cv6223(DLC), (S.D.N.Y. Oct. 12, 2017).
- ³⁰ To control for the impact of outliers on the average of each group, for each day the most extreme 5% of daily cumulative returns are dropped. Observations on the three final days of the bounce-back period for each category are dropped due to incomplete return data.

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

Contacts

For further information, please contact:

Dr. David Tabak

Managing Director
New York City: +1 212 345 2176
david.tabak@nera.com

Stefan Boettrich

Senior Consultant
New York City: +1 212 345 1968
stefan.boettrich@nera.com


Svetlana Starykh

Senior Consultant
White Plains, NY: +1 914 448 4123
svetlana.starykh@nera.com

The opinions expressed herein do not necessarily represent the views of NERA Economic Consulting or any other NERA consultant.



To receive publications, news, and insights from NERA, please visit www.nera.com/subscribe.

A horizontal decorative bar consisting of three rectangular blocks of different shades of blue. The leftmost block is a medium blue, the middle block is a darker blue, and the rightmost block is a lighter blue.

Visit www.nera.com to learn more about our practice areas and global offices.

© Copyright 2019
National Economic Research
Associates, Inc.

All rights reserved.
Printed in the USA.

Exhibit 11

**LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP**

Katherine L. Benson (State Bar No. 259826)
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

Liaison Counsel

LABATON SUCHAROW LLP

Jonathan Gardner (*pro hac vice*)
Carol C. Villegas (*pro hac vice*)
Alec T. Coquin (*pro hac vice*)
140 Broadway
New York, NY 10005
Telephone: (212) 907-0700
Facsimile: (212) 818-0477

Co-Lead Counsel for the Class

MOTLEY RICE LLC

James M. Hughes (*pro hac vice*)
William S. Norton (*pro hac vice*)
Max N. Gruetzmacher (*pro hac vice*)
Michael J. Pendell (*pro hac vice*)
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
Telephone: (843) 216-9000
Facsimile: (843) 216-9450

Co-Lead Counsel for the Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

BABAK HATAMIAN and LUSSA DENNJ
SALVATORE, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

ADVANCED MICRO DEVICES, INC.,
RORY P. READ, THOMAS J. SEIFERT,
RICHARD A. BERGMAN, AND LISA T.
SU,

Defendants.

Case No. 4:14-cv-00226-YGR

CLASS ACTION

**[PROPOSED] ORDER AWARDING
ATTORNEYS' FEES, PAYMENT OF
LITIGATION EXPENSES, AND
PAYMENT OF CLASS
REPRESENTATIVES' EXPENSES**

On February 27, 2018, a hearing having been held before this Court to determine, among other things, whether and in what amount to award (1) plaintiffs' counsel in the above-captioned consolidated securities class action (the "Action") fees and litigation expenses directly relating to their representation of the Class; and (2) Class Representatives their costs and expenses (including lost wages), pursuant to the Private Securities Litigation Reform Act of 1995 (the "PSLRA"). The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court (the "Settlement Notice") was mailed to all reasonably identified Class Members; and that a summary notice of the hearing (the "Summary Notice"), substantially in the form approved by the Court, was published in *Investor's Business Daily* and transmitted over *PR Newswire*; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and expenses requested;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The Court has jurisdiction over the subject matter of this Action and over all parties to the Action, including all Class Members who have not timely and validly requested exclusion, Class Counsel, and the Claims Administrator.

2. All capitalized terms used herein have the meanings set forth and defined in the Stipulation and Agreement of Settlement, dated as of October 9, 2017 (the "Stipulation").

3. Notice of Class Counsel's application for attorneys' fees and payment of litigation expenses was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the application for attorneys' fees and expenses met the requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the PSLRA, due process, and other applicable law, constituted the best notice practicable under the

1 circumstances, and constituted due and sufficient notice to all persons and entities entitled
2 thereto.

3 4. Class Counsel are hereby awarded, on behalf of all plaintiffs' counsel, attorneys'
4 fees in the amount of \$7,375,000 plus interest at the same rate earned by the Settlement Fund (or
5 25% of the Settlement Fund, which includes interest earned thereon), and payment of litigation
6 expenses in the amount of \$2,812,817.52, which sums the Court finds to be fair and reasonable.

7 5. The award of attorneys' fees and litigation expenses may be paid to Class Counsel
8 from the Settlement Fund immediately upon entry of this Order, subject to the terms, conditions,
9 and obligations of the Stipulation, which terms, conditions, and obligations are incorporated
10 herein.

11 6. In making this award of attorneys' fees and payment of litigation expenses to be
12 paid from the Settlement Fund, the Court has analyzed the factors considered within the Ninth
13 Circuit and found that:

14 (a) The Settlement has created a common fund of \$29.5 million in cash and
15 that numerous Class Members who submit acceptable Claim Forms will benefit from the
16 Settlement created by the efforts of plaintiffs' counsel;

17 (b) The requested attorneys' fees and payment of litigation expenses have
18 been reviewed and approved as fair and reasonable by Class Representatives, sophisticated
19 institutional investors that were directly involved in the prosecution and resolution of the Action
20 and who have a substantial interest in ensuring that any fees paid to plaintiffs' counsel are duly
21 earned and not excessive;

22 (c) Plaintiffs' counsel undertook the Action on a contingent basis, and have
23 received no compensation during the Action, and any fee and expense award has been contingent
24 on the result achieved;

25 (d) The Action involves complex factual and legal issues and, in the absence
26 of settlement, would involve lengthy proceedings whose resolution would be uncertain;

1 (e) Plaintiffs' counsel conducted the Action and achieved the Settlement
2 with skillful and diligent advocacy;

3 (f) Plaintiffs' counsel have devoted approximately 62,765 hours, with a
4 lodestar value of \$31,122,958.75 to achieve the Settlement;

5 (g) The amount of attorneys' fees awarded are fair and reasonable and
6 consistent with fee awards approved in cases within the Ninth Circuit with similar recoveries;

7 (h) Notice was disseminated to putative Class Members stating that Class
8 Counsel would be submitting an application for attorneys' fees in an amount not to exceed 30%
9 of the Settlement Fund, which includes interest, and payment of litigation expenses incurred in
10 connection with the prosecution of this Action in an amount not to exceed \$3,000,000, plus
11 interest, and that such application also might include a request that Class Representatives be
12 reimbursed their reasonable costs and expenses (including lost wages) directly related to their
13 representation of the Class; and

14 (i) There were no objections to the application for attorneys' fees or
15 expenses.

16 7. In accordance with the PSLRA, the Court hereby awards Class Representative
17 Arkansas Teacher Retirement System \$8,348.25 for its costs and expenses directly related to its
18 representation of the Class, and KBC Asset Management NV \$14,875.00 for its costs and
19 expenses directly related to its representation of the Class.

20 8. Any appeal or challenge affecting this Court's approval of any attorneys' fee,
21 expense application, or award of costs and expenses to Class Representatives in the Action shall
22 in no way disturb or affect the finality of the Judgment entered with respect to the Settlement.

23 9. Exclusive jurisdiction is retained over the subject matter of this Action and over
24 all parties to the Action, including the administration and distribution of the Net Settlement Fund
25 to Class Members.

1 10. In the event that the Settlement is terminated or does not become Final or the
2 Effective Date does not occur in accordance with the terms of the Stipulation, this order shall be
3 rendered null and void to the extent provided by the Stipulation and shall be vacated in
4 accordance with the Stipulation.

5
6 Dated: March 2, 2018


HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

Exhibit 12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re THE PMI GROUP, INC. SECURITIES LITIGATION)	Master File No. 3:08-cv-01405-SI
)	
)	<u>CLASS ACTION</u>
This Document Relates To:)	
)	
ALL ACTIONS.)	[PROPOSED] ORDER AWARDING LEAD COUNSEL'S ATTORNEYS' FEES AND EXPENSES AND LEAD PLAINTIFF'S EXPENSES
)	
		DATE: December 16, 2010
		TIME: 9:00 a.m.
		COURTROOM: The Honorable Susan Illston

1 This matter having come before the Court on December 16, 2010, on the application of Lead
2 Counsel and Lead Plaintiff for an award of attorneys' fees and expenses incurred in the above-
3 captioned action, the Court, having considered all papers filed and proceedings conducted herein,
4 having found the settlement of this action to be fair, reasonable, and adequate and otherwise being
5 fully informed in the premises and good cause appearing therefore;

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

7 1. All of the capitalized terms used herein shall have the same meanings as set forth in
8 the Stipulation of Settlement dated as of August 30, 2010 (the "Stipulation"), and filed with the
9 Court.

10 2. This Court has jurisdiction over the subject matter of this application and all matters
11 relating thereto, including all Members of the Class who have not timely and validly requested
12 exclusion.

13 3. The Court hereby awards Lead Counsel attorneys' fees of 24.5% of the Settlement
14 Fund, plus expenses in the amount of \$247,924.15 together with the interest earned thereon for the
15 same time period and at the same rate as that earned on the Settlement Fund until paid. The Court
16 finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and
17 reasonable under the "percentage-of-recovery" method given the substantial risks of non-recovery,
18 the time and effort involved, and the result obtained for the Class. *See Vizcaino v. Microsoft Corp.*,
19 290 F.3d 1043 (9th Cir. 2002).

20 4. The fees shall be allocated among counsel for the plaintiffs by Lead Counsel in a
21 manner that reflects each such counsel's contribution to the institution, prosecution and resolution of
22 the above-captioned action.

23 5. The awarded attorneys' fees and expenses and interest earned thereon shall
24 immediately be paid to Lead Counsel subject to the terms, conditions and obligations of the
25 Stipulation, and in particular ¶6.3 thereof which terms, conditions and obligations are incorporated
26 herein.

6. Pursuant to 15 U.S.C. §78u-4(a)(4), the Court awards Lead Plaintiff Locals 302 and 612 of the International Union of Operating Engineers-Employers Construction Industry Retirement Trust the sum of \$1,416.00 for its time and expenses in representing the Class.

IT IS SO ORDERED.

DATED: 12/16/10



THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

Submitted by:

ROBBINS GELLER RUDMAN
& DOWD LLP
KEITH F. PARK
DANIEL S. DROSMAN

s/ Keith F. Park
KEITH F. PARK

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

ROBBINS GELLER RUDMAN
& DOWD LLP
DANIEL J. PFEFFERBAUM
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)

Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2010, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I further certify that I caused this document to be forwarded to the following Designated Internet Site at: <http://securities.stanford.edu>.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 11, 2010.

s/ Keith F. Park
KEITH F. PARK

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-3301
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: KeithP@rgrdlaw.com

Mailing Information for a Case 3:08-cv-01405-SI

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Daniel S. Drosman**
DanD@rgrdlaw.com,tholindrake@rgrdlaw.com,e_file_sd@rgrdlaw.com,e_file_sf@rgrdlaw.com
- **Lawrence Timothy Fisher**
lrfisher@bramsonplutzik.com,dschroeder@bramsonplutzik.com
- **Catherine J. Kowalewski**
katek@rgrdlaw.com
- **Meredith N. Landy**
mlandy@omm.com,vtran@omm.com,sfolchi@omm.com,mpaul@omm.com,jcoakley@omm.com
- **Jeffrey W. Lawrence**
jeffreyl@rgrdlaw.com,khuang@rgrdlaw.com,e_file_sd@rgrdlaw.com,jdecena@rgrdlaw.com,e_file_sf@rgrdlaw.com
- **Keith F. Park**
keithp@rgrdlaw.com,karnold@rgrdlaw.com,jstark@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Daniel Jacob Pfefferbaum**
DPfefferbaum@rgrdlaw.com,khuang@rgrdlaw.com,gfreemon@rgrdlaw.com,e_file_sd@rgrdlaw.com,e_file_sf@rgrdlaw.com
- **Alan Roth Plutzik**
aplutzik@bramsonplutzik.com
- **Port Authority of Allegheny County Retirement and Disability Allowance Plan for Employees Represented by Local 85 of the Amalgamated Transit Union**
sward@barrack.com
- **George A. Riley**
griley@omm.com,lperez@omm.com,cchiu@omm.com
- **Darren Jay Robbins**
e_file_sd@rgrdlaw.com
- **David Conrad Walton**
davew@rgrdlaw.com
- **Samuel M. Ward**
sward@barrack.com,lxlamb@barrack.com
- **Shawn A. Williams**
shawnw@rgrdlaw.com,khuang@rgrdlaw.com,e_file_sd@rgrdlaw.com,jdecena@rgrdlaw.com,e_file_sf@rgrdlaw.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Alan R. Plutzik
Barroway Topaz Kessler Meltzer & Check LLP
2125 Oak Grove Road
Suite 120
Walnut Creek, CA 94598

Dhaivat H. Shah
O'Melveny & Myers LLP
2765 Sand Hill Road
Menlo Park, CA 94025

ROBBINS GELLER RUDMAN
& DOWD LLP
KEITH F. PARK (54275)
DANIEL S. DROSMAN (200643)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
keithp@rgrdlaw.com
ddrosman@rgrdlaw.com
– and –
DANIEL J. PFEFFERBAUM (248631)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
dpfefferbaum@rgrdlaw.com

Lead Counsel for Lead Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re THE PMI GROUP, INC. SECURITIES
LITIGATION

) Master File No. 3:08-cv-01405-SI

) CLASS ACTION

) This Document Relates To:

) ALL ACTIONS.

) LEAD PLAINTIFF'S NOTICE OF MOTION
) AND MOTION FOR AN AWARD OF
) ATTORNEYS' FEES AND EXPENSES AND
) LEAD PLAINTIFF'S EXPENSES AND
) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT THEREOF

DATE: December 16, 2010

TIME: 9:00 a.m.

COURTROOM: The Honorable Susan Illston

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that on December 16, 2010, at 9:00 a.m., or as soon thereafter as
 3 counsel may be heard before the Honorable Susan Illston, United States District Judge, at the Phillip
 4 Burton United States Courthouse, Courtroom 10, 450 Golden Gate Avenue, San Francisco,
 5 California, Lead Plaintiff will and hereby does move for an award of attorneys' fees and expenses
 6 and Lead Plaintiff's expenses. This motion is based upon the Memorandum of Points and
 7 Authorities in Support of Lead Plaintiff's Motion for an Award of Attorneys' Fees and Expenses and
 8 Lead Plaintiff's Expenses set forth below, the Declaration of Daniel S. Drosman in Support of Lead
 9 Plaintiff's Motion for (1) Final Approval of Settlement; (2) Approval of the Plan of Allocation of
 10 Settlement Proceeds; and (3) Lead Counsel's Application for Attorneys' Fees and Expenses and
 11 Lead Plaintiff's Expenses ("Drosman Decl."), the Declaration of Keith F. Park Filed on Behalf of
 12 Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees and
 13 Expenses, and the Declaration of Malcolm J. Auble as Representative of Locals 302 and 612 of the
 14 International Union of Operating Engineers-Employers Construction Industry Retirement Trust in
 15 Support of Plaintiff's Motion for (1) Final Approval of Settlement; (2) Approval of the Plan of
 16 Allocation of Settlement Proceeds; and (3) Award of Attorneys' Fees and Expenses and Plaintiff's
 17 Expenses ("Auble Decl."), the Stipulation of Settlement dated as of August 30, 2010 (Dkt. No. 89)
 18 (the "Stipulation"),¹ all other pleadings and matters of record, and such additional evidence or
 19 argument as may be presented at the hearing.

20 MEMORANDUM OF POINTS AND AUTHORITIES

21 I. INTRODUCTION

22 Lead Counsel have negotiated, and Lead Plaintiff supports, a settlement with the Defendants
 23 consisting of \$31,250,000 in cash. For their efforts in achieving this result, Lead Counsel seek a fee²
 24

25
 26 ¹ Capitalized terms not otherwise defined in this memorandum have the same meanings set forth in the Stipulation.

27 ² The amount awarded will compensate Lead Counsel and may also be used to compensate
 28 counsel who have advised or worked with the Lead Plaintiff for the benefit of the Class or

1 of 24.5% of the gross Settlement Fund, slightly below the Ninth Circuit “benchmark” of 25%, plus
2 expenses of \$247,924.15.

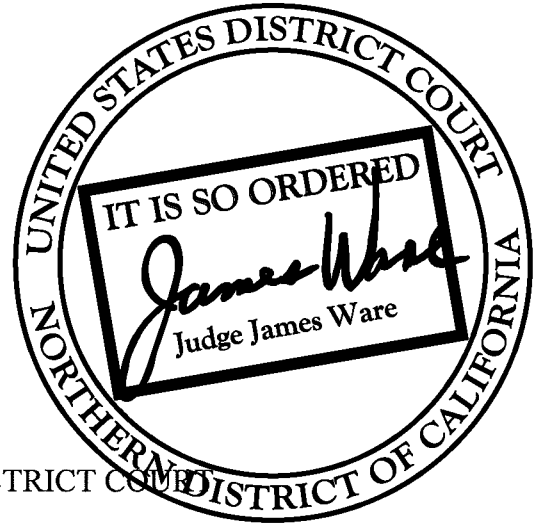
3 The Drosman Declaration details the work performed over the past 2-1/2 years for the benefit
4 of the Class, including an extensive pre-filing investigation, locating and interviewing potential
5 witnesses, successfully opposing, ultimately and in the main, Defendants’ multiple motions to
6 dismiss, and conducting discovery, including the review and analysis of some 40,000 pages of
7 documents produced by The PMI Group, Inc. (“PMI” or the “Company”). Lead Counsel spent
8 considerable time and resources to develop a case that would survive the pleading requirements of
9 the Private Securities Litigation Reform Act of 1995 (“PSLRA”) and convince the Defendants that
10 the Lead Plaintiff was prepared to pursue this matter to trial if necessary. A more detailed
11 description of the claims asserted by the Lead Plaintiff, as well as the efforts expended by Lead
12 Counsel, are set forth in the Drosman Declaration.

13 The 24.5% fee requested is fair and reasonable when considered under the applicable
14 standards and, as discussed below, is well within the normal range of awards made in contingent fee
15 securities class actions, particularly in view of the result achieved and the considerable risk attendant
16 in bringing and pursuing this Litigation. This case involved complex issues, including compliance
17 with technical accounting and financial reporting issues, proof of scienter, loss causation, and
18 damages. The legal issues presented a significant risk that, absent this settlement, Lead Plaintiff
19 would spend several more years litigating with the Defendants at sizable cost and would not obtain a
20 better recovery (or any recovery at all) for the Class. As important, the application is supported by
21 the Lead Plaintiff.

22 For the reasons set forth herein, and in the Drosman Declaration, it is respectfully submitted
23 that the requested attorneys’ fees and expenses are fair and reasonable and should be awarded by this
24 Court.

25
26
27 contributed to the institution, prosecution, or resolution of the Litigation. The amount requested
28 includes all such payments.

Exhibit 13



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re UTSTARCOM, INC. SECURITIES
LITIGATION

) Master File No. C-04-4908-JW(PVT)

) CLASS ACTION

) This Document Relates To:

) ALL ACTIONS.

) ~~PROPOSED~~ ORDER AWARDING LEAD
) COUNSEL'S ATTORNEYS' FEES AND
) EXPENSES

DATE: August 30, 2010

TIME: 9:00 a.m.

COURTROOM: The Honorable James Ware

1 This matter having come before the Court on August 30, 2010, on the application of counsel
2 for the Plaintiffs for an award of attorneys' fees and expenses incurred in the captioned action, the
3 Court, having considered all papers filed and proceedings conducted herein, having found the
4 settlement of this action to be fair, reasonable, and adequate and otherwise being fully informed in
5 the premises and good cause appearing therefore;

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

7 1. All of the capitalized terms used herein shall have the same meanings as set forth in
8 the Stipulation of Settlement dated as of January 13, 2010 (the "Stipulation"), and filed with the
9 Court.

10 2. This Court has jurisdiction over the subject matter of this application and all matters
11 relating thereto, including all Members of the Class who have not timely and validly requested
12 exclusion.

13 3. The Court hereby awards Lead Counsel attorneys' fees of 24.5% of the Settlement
14 Fund, plus expenses in the amount of \$700,000.00 together with the interest earned thereon for the
15 same time period and at the same rate as that earned on the Settlement Fund until paid. The Court
16 finds that the amount of fees awarded is appropriate and that the amount of fees awarded is fair and
17 reasonable under the "percentage-of-recovery" method given the substantial risks of non-recovery,
18 the time and effort involved, and the result obtained for the Class. *See Vizcaino v. Microsoft Corp.*,
19 290 F.3d 1043 (9th Cir. 2002).

20 4. The fees shall be allocated among counsel for the Plaintiffs by Lead Counsel in a
21 manner that reflects each such counsel's contribution to the institution, prosecution and resolution of
22 the captioned action.

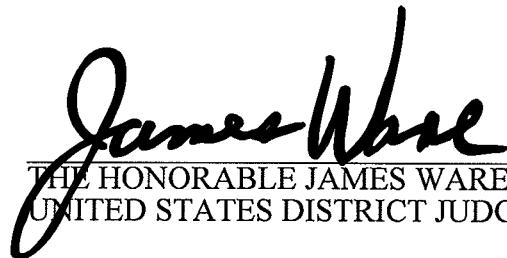
23 5. The awarded attorneys' fees and expenses and interest earned thereon shall
24 immediately be paid to Lead Counsel subject to the terms, conditions and obligations of the
25 Stipulation, and in particular ¶6.4 thereof which terms, conditions and obligations are incorporated
26 herein.

27 6. Pursuant to 15 U.S.C. §78u-4(a)(4), the Court awards the following amounts to the
28 Plaintiffs for their time and expenses in representing the Class: Locals 302 and 612 of the

1 International Union of Operating Engineers-Employers Construction Industry Retirement Trust
2 (\$9,677.00); Erwin L. DeBruycker (\$26,475.99); and Robert Lee Weese (\$5,087.50).

3 IT IS SO ORDERED.

4
5 DATED: August 31, 2010


THE HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (213113)
SHIRLEY H. HUANG (206854)
DANIEL J. PFEFFERBAUM (248631)
PHILLIP G. FREEMON (242062)
100 Pine Street, Suite 2600
San Francisco, CA 94111
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
shuang@rgrdlaw.com
dpfefferbaum@rgrdlaw.com
gfreemon@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
PATRICK J. COUGHLIN
KEITH F. PARK
655 West Broadway, Suite 1900
San Diego, CA 92101-3301
Telephone: 619/231-1058
619/231-7423 (fax)
patc@rgrdlaw.com
keithp@rgrdlaw.com

Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re UTSTARCOM, INC. SECURITIES
LITIGATION

) Master File No. C-04-4908-JW(PVT)

) CLASS ACTION

This Document Relates To:

ALL ACTIONS.

) PLAINTIFFS' NOTICE OF MOTION AND
) MOTION FOR AN AWARD OF
) ATTORNEYS' FEES AND EXPENSES AND
) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT THEREOF

DATE: August 30, 2010

TIME: 9:00 a.m.

COURTROOM: The Honorable James Ware

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that on August 30, 2010, at 9:00 a.m., or as soon thereafter as
 3 counsel may be heard before the Honorable James Ware, United States District Judge, at the United
 4 States Courthouse, Courtroom 8, 280 South First Street, San Jose, California, Plaintiffs will and
 5 hereby move for an award of attorneys' fees and expenses and Plaintiffs' expenses. This motion is
 6 based upon the attached Memorandum of Points and Authorities in Support of Plaintiffs' Motion for
 7 an Award of Attorneys' Fees and Expenses, the Declaration of Shirley H. Huang in Support of
 8 Plaintiffs' Motion for (1) Final Approval of Class Action Settlement; (2) Approval of the Plan of
 9 Allocation of Settlement Proceeds; and (3) Lead Counsel's Application for Attorneys' Fees and
 10 Expenses and Plaintiffs' Expenses ("Huang Decl."), the Declaration of Keith F. Park Filed on Behalf
 11 of Robbins Geller Rudman & Dowd LLP in Support of Application for Award of Attorneys' Fees
 12 and Expenses, and the Declarations of Malcolm J. Auble, Erwin L. DeBruycker, and Robert Lee
 13 Weese, submitted herewith, the Stipulation of Settlement dated as of January 13, 2010 (Dkt. No.
 14 358) (the "Stipulation"),¹ and all other pleadings and matters of record and such additional evidence
 15 or argument as may be presented at the hearing.

16 MEMORANDUM OF POINTS AND AUTHORITIES

17 I. INTRODUCTION

18 Lead Counsel have negotiated, and Plaintiffs support, a settlement with the UTStarcom
 19 Defendants consisting of \$30,000,000 in cash. For their efforts in achieving this result, Lead
 20 Counsel seek a fee² of 24.5% of the gross Settlement Fund, slightly below the Ninth Circuit
 21 "benchmark" of 25%, plus expenses of \$700,000.00.

24 ¹ Capitalized terms not otherwise defined in this memorandum have the same meanings set
 25 forth in the Stipulation.

26 ² The amount awarded will compensate Lead Counsel and may also be used to compensate
 27 counsel who have advised or worked with the Plaintiffs for the benefit of the Class or contributed to
 28 the institution, prosecution or resolution of the litigation. The amount requested includes all such
 payments.