UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et. al.,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Defendant.

Case No. 3:10-cv-845-J-32MCR

JOINT DECLARATION OF ROBERT D. KLAUSNER, WILLIAM C. FREDERICKS & KENNETH R. HARRISON, SR. IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION AND PLAINTIFFS' COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

We, ROBERT D. KLAUSNER, WILLIAM C. FREDERICKS and KENNETH R. HARRISON, SR., under the penalty of perjury, declare as follows:

1. We are members of the law firms of Klausner, Kaufman, Jensen & Levinson ("KKJ&L"), Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"), and Sugarman & Susskind, P.A. ("S&S"), respectively. KKJ&L, BLB&G, and S&S are counsel for Plaintiffs, the respective Boards of Trustees of the City of Lake Worth Employees' Retirement System, the City of Lake Worth Police Officers' Retirement System, and the City of Lake Worth Firefighters' Pension Trust Fund (collectively, the "Plaintiff Plans"), in the above-captioned class action (the "Action"). We have personal knowledge of the matters set forth herein based on our participation in the prosecution and settlement of the Action.[1]

[1] Unless otherwise noted, capitalized terms used herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement (the "Stipulation" or "Stip.") entered into by and among

2. We respectfully submit this Joint Declaration in support of Plaintiffs' motion for final approval of the proposed $8.5 million Settlement and approval of the proposed Plan of Allocation of the Settlement proceeds (the "Final Approval Motion"). The Settlement, if finally approved by the Court, will resolve all claims asserted in this Action on behalf of a class consisting of the Plaintiff Plans and any and all other Florida public employee retirement benefit plans for which Merrill Lynch and Merrill Lynch Financial Advisor Michael Callaway or any other member of the Callaway Team provided Consulting Services during the period from July 1, 2000, through and including June 30, 2008 (the "Class Period"), or any portion thereof (the "Class").[2] The Court preliminarily approved the Settlement, and certified the Class for purposes of settlement only, by its Order Preliminarily Approving Proposed Settlement and Providing for Notice dated April 24, 2012 (ECF No. 103) (the "Preliminary Approval Order").

3. We also respectfully submit this Joint Declaration in support of Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses (the "Fee and Expense Application").

I. TERMS OF THE SETTLEMENT AND NOTICE

4. Plaintiffs have succeeded in obtaining a very substantial recovery for the Class of $8,500,000 in cash (the "Settlement Amount"), which has been deposited into an interest-bearing escrow account (the "Settlement Fund") for the benefit of the Class.[3] As set forth in the

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Plaintiffs and Defendant Merrill Lynch Pierce Fenner & Smith Inc. ("Defendant" or "Merrill Lynch"). The Stipulation was filed with the Court on March 23, 2012 (ECF No. 96-1).

[2] Excluded from the Class are all such Plans that had brought separate arbitration or litigation proceedings against Merrill Lynch or any member of the Callaway Team on or before December 14, 2011, as listed on Schedule 1 to the Stipulation. Also excluded from the Class are any Plans that exclude themselves by filing a request for exclusion in accordance with the requirements set forth in the Notice.

[3] In addition to the $8,500,000 Settlement Amount, Merrill Lynch has deposited $1,000 into the escrow account to be applied to the costs of providing notice of the Settlement to the Class.

Stipulation, in exchange for payment of the Settlement Amount, the proposed Settlement will dismiss with prejudice all claims asserted by Plaintiffs in the Action.

5. The proposed Settlement, which represents a recovery of nearly 60% of the estimated maximum damages in this case,[4] is the result of hard fought litigation and was reached only after intensive, arm's-length negotiations that included a full-day mediation session before Judge Herbert Stettin (ret.), a highly experienced and well-respected mediator. As discussed in detail below (¶¶ 26-32), Plaintiffs obtained this substantial recovery for the Class despite the significant risks they faced in establishing the liability of Defendant and damages to the Class, including challenges in overcoming Defendant's argument that Plaintiffs' claims for breach of fiduciary duty are barred by the "economic loss rule" under Florida law and other defenses that Defendant would likely have asserted to establish that it was protected from liability to the Class.

6. Moreover, the Settlement was reached only after Plaintiffs and Plaintiffs' Counsel had developed a clear understanding of the strengths and weaknesses of their case through their significant litigation efforts. For example, by the time the Settlement was reached, Plaintiffs' Counsel had: (i) conducted an extensive factual investigation and thoroughly researched the applicable law with respect to the claims asserted against Defendant and the potential defenses thereto; (ii) filed a detailed class action complaint based on Plaintiffs' Counsel's investigation and research; (iii) successfully opposed Defendant's motion to dismiss Plaintiffs' complaint; (iv) filed comprehensive motion papers in support of class certification; and (v) conducted extensive fact discovery, which included, among other things, the review of over two million pages of

[4] According to information that Plaintiffs obtained from Merrill Lynch during the course of discovery, the maximum amount of fees subject to disgorgement under Plaintiffs' theory of liability – which includes all investment advisory fees and Citation directed brokerage trading commissions paid by the Plans to Merrill Lynch, all finders' fees paid to Merrill Lynch by mutual fund companies or other money managers in connection with the investment of Plan assets, and all 12b-1 fees paid by certain mutual funds to Merrill Lynch in connection with the investment of Plan assets in those mutual funds (less the amount of such 12b-1 fees subsequently refunded to the Plans) – is approximately $14.59 million.

documents and the taking or defending of a half-dozen depositions. The Parties' respective presentations concerning liability and damages at the full-day mediation session held before Judge Stettin also provided Plaintiffs with a further basis upon which to assess the relative strengths and weaknesses of the parties' respective positions in the Action. Accordingly, the Settlement reflects the careful analysis and assessment of experienced counsel (and a negotiation process supervised by an equally experienced mediator) who had the benefit of an extensive factual record, including document discovery and depositions, in this case.

7. The terms of the Settlement are set forth in the Stipulation, and are summarized in the Court-approved Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Notice"), attached as Exhibit A to the Affidavit of Jason Zuena Regarding (A) Mailing of the Notice Packet; (B) Transmittal of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date ("Zuena Aff."), which is attached hereto as Exhibit 1.

8. The Notice was mailed by The Garden City Group, Inc. ("GCG"), the Court-approved Claims Administrator in the Action, to each of the Class Member Plans on May 15, 2012, pursuant to the Court's Preliminary Approval Order. *See* Zuena Aff. at ¶¶ 2-4. In addition, on May 24, 2012, the Summary Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Summary Notice") was transmitted over the internet via the *PR Newswire*. *Id*. at ¶ 5. GCG also posted information regarding the Settlement on the website established for the Action, *www.mlfloridapensionplansettlement.com*, where any

interested person could also download copies of the Notice and the Claim Form and Release ("Claim Form"), as well as the complete text of the Stipulation. *Id*. at ¶ 7.[5]

9. The Notice advised the Class Member Plans of, among other things: (i) their right to exclude themselves from the Class; (ii) their right to object to any aspect of the Settlement, the Plan of Allocation, or the Fee and Expense Application; and (iii) the manner for submitting a Claim Form in order to be eligible for a payment from the proceeds of the Settlement.

10. The Court-ordered deadline for filing objections to the Settlement, the Plan of Allocation or the Fee and Expense Application, or for requesting exclusion from the Class, is July 6, 2011. To date, Plaintiffs' Counsel have not received any objections and not a single request for exclusion has been submitted. Plaintiffs will address any objections and/or requests for exclusion in reply papers to be filed on July 20, 2012, as provided for in the Preliminary Approval Order.

11. Upon the Effective Date of the Settlement, the claims asserted on behalf of the Class in the Action will be dismissed with prejudice as against Defendant, subject to the terms of the Stipulation.

12. For the reasons set forth below, Plaintiffs respectfully submit that the terms of the Settlement are fair, reasonable and adequate in all respects, and indeed represent an excellent result for the Class. Accordingly, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Plaintiffs respectfully submit that the Settlement should be approved by the Court.

13. For their work in creating this substantial benefit for the Class, Plaintiffs' Counsel seek a fee of 25% of the Settlement Fund, plus reimbursement of litigation expenses in the amount of $52,365.98. Plaintiffs' Counsel's fee request has been unanimously approved by each

[5] This Declaration and Plaintiffs' other papers in support of their motion for final approval of the Settlement and Plaintiffs' Counsel's papers in support of their motion for an award of attorneys' fees and reimbursement of expenses will also be posted on that website.

of the respective Boards of Trustees of the Plaintiff Plans. The 25% fee requested is equal to the presumptively reasonable 25% benchmark for percentage awards endorsed by the Eleventh Circuit in common fund cases. The requested fee is also reasonable when viewed in light of the time expended by Plaintiffs' Counsel in prosecuting the Action, as it represents only a 1.06 multiplier on Plaintiffs' Counsel's lodestar of $1,998,685, or barely more than the time billed by Plaintiffs' Counsel to this matter. Thus, the requested fee is well within the "range of reasonableness" that Courts have found to be fair and appropriate when they have considered lodestar in awarding a percentage-based fee.

II. BACKGROUND OF THE LITIGATION

14. During the Class Period, Merrill Lynch served as the investment consultant to roughly 100 retirement plans maintained for the benefit of municipal firefighters, police officers and other public workers in the state of Florida. Merrill Lynch provided Consulting Services to the Plans through its "Callaway Team," a group headed by Merrill Lynch Financial Advisors Michael and Mellissa Callaway, and whose employees all operated out of the same Merrill Lynch office in Duval County, Florida (the "Florida Office"). In its capacity as investment consultant for the Plans, Merrill Lynch provided a package of services intended to assist the Plans in, among other things, (i) developing the Plans' investment policies and asset allocation strategies, (ii) selecting the Plans' investment managers, and (iii) monitoring and analyzing of the performance of the Plans' investments.

15. On July 15, 2010, Plaintiffs filed a detailed putative class action complaint (the "Complaint") against Merrill Lynch in the Circuit Court of the Fourth Circuit in and for Duval County, Florida (the "Florida State Court Action"). Plaintiffs alleged in the Complaint that Merrill Lynch breached its fiduciary duties to the Plans by, among other things, (a) entering into

fee arrangements with the Plans – and with certain third parties (such as mutual fund companies) who provided services to the Plans – that placed Merrill Lynch's financial interests ahead of the Plans' interests and that compromised Merrill Lynch's role as an "independent" advisor to the Plans, and (b) failing to utilize the full panoply of Merrill Lynch's manager selection and retention resources (including the manager research and analysis services available through Merrill Lynch's offices in New Jersey) for the benefit of the Plans. More specifically, Plaintiffs alleged that Merrill Lynch breached its fiduciary duties to the Plans during the Class Period by, among other things:

> (i) receiving compensation, including direct and indirect compensation from third parties, in violation of FSA Sections 175.071 & 185.05 (which arguably permit only flat fee billing arrangements between Florida pension plans and their retained investment consultants);
>
> (ii) failing to identify situations in which the Plans would save money if they declined to use Merrill Lynch's directed brokerage services;
>
> (iii) receiving direct or indirect benefits, either through monetary compensation or other means of receiving value, from sources other than the Plans (*e.g.*, through the receipt of 12b-1 fees and referral commissions from mutual fund companies);
>
> (iv) failing to develop customized investment policies and asset allocation guidelines for each of the Plans based upon the needs and characteristics of each; and
>
> (v) failing to conduct customized money manager searches for each of the Plans using the resources available to Merrill Lynch through its central offices in New Jersey, and instead selecting money managers from a "short list" of money managers that Merrill Lynch's Callaway Team created and maintained in its Florida office.

Plaintiffs further alleged in the Complaint that the Plans suffered damages as a result of Merrill Lynch's breaches of its fiduciary duties, and demanded that Merrill Lynch disgorge all benefits, compensation, or other value it received, from any source, in connection with the provision of Consulting Services to the Plans or the investment of the Plans' assets during the Class Period.

16. Prior to filing the Complaint, Plaintiffs' Counsel conducted an extensive pre-filing investigation into the allegations set forth in the Complaint. Plaintiffs' Counsel's pre-filing

investigation included, among other things, (i) the review of news reports concerning Merrill Lynch's practices in the Florida Office; (ii) the review of news reports concerning an investigation by the Securities and Exchange Commission into the conduct of the Florida Office; (iii) the review of client files reflecting Merrill Lynch's pattern of conduct with respect to various Plans; and (iv) research of the law pertinent to the claims asserted against Merrill Lynch and the potential defenses thereto.

17. On September 15, 2010, Merrill Lynch filed a Notice of Removal of Civil Action, removing the Florida State Court Action to this Court, which is now pending under the caption *Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith Incorporated*, Case No. 3:10-cv-845-J-32MCR (M.D. Fla.).[6] One week after removing this Action to this Court, Merrill Lynch filed its Motion to Dismiss the Complaint and to Transfer Venue to the Southern District of Florida.

18. On October 25, 2010, (a) Plaintiffs filed their Opposition to the Motion to Dismiss, and (b) Merrill Lynch (pursuant to a stipulation between the parties) formally withdrew its Motion to Transfer Venue. On November 9, 2010, Merrill Lynch filed its Reply in support of its Motion to Dismiss. The Court heard oral argument on the motion on April 21, 2011.

19. On May 31, 2011, the Court entered its Order and Opinion denying Merrill Lynch's Motion to Dismiss.

20. Following the denial of the Motion to Dismiss, the parties commenced discovery. On June 17, 2011, Plaintiffs filed their First Set of Requests for Production of Documents on Merrill Lynch. Thereafter, Merrill Lynch produced over ***two million*** pages of documents to

[6] In addition to Plaintiffs, the Board of Trustees of the City of Pompano Beach General Employees Retirement System ("Pompano") was also included as a named plaintiff in the Complaint when this Action was removed. On March 25, 2011, the Court granted Pompano's unopposed motion to voluntarily dismiss its claims, without prejudice to any of its rights to participate in any future recovery against Defendant as an absent class member.

Plaintiffs' Counsel. The documents produced by Merrill Lynch and reviewed by Plaintiffs' Counsel included documents concerning:

(i) the compensation, revenue, production credits, and other consideration that Merrill Lynch received in connection with providing the Consulting Services to the Plans;

(ii) the communications, including emails, between Merrill Lynch's New Jersey Office and the Callaway Team concerning fees, revenue, practices and policies;

(iii) the communications, including emails, involving members of the Callaway Team concerning fees, revenue, practices, policies and client communications;

(iv) the communications, including emails, involving the Callaway Team and the Plans' investment managers; and

(v) the internal investigation by Merrill Lynch's New Jersey Office, and copies of deposition transcripts and exhibits from a related SEC investigation into the Callaway Team.

21. On June 22, 2011, the Court entered a Case Management and Scheduling Order setting forth a schedule for class certification, discovery and trial, and also referring the case to mediation before Judge Stettin.[7]

22. On June 24, 2011, Merrill Lynch filed its Answer to the Complaint, wherein Merrill Lynch denied that it breached any fiduciary duties or caused losses to Plaintiffs, the Plaintiff Plans, or any of the other Plans that are members of the Class. In its Answer, Merrill Lynch also set forth numerous affirmative defenses asserting, among other things: (i) that Plaintiffs' claims were barred by the "economic loss rule" under Florida law; (ii) that Plaintiffs' claims were barred in whole or in part by the applicable statute of limitations; and (iii) that Plaintiffs' claims were barred because the facts underlying Plaintiffs' allegations of wrongdoing were adequately disclosed to the Plans in periodic account statements and investment reports

[7] The parties ultimately agreed that it would be more productive to delay the start of formal mediation proceedings before Judge Stettin for approximately six months to allow the parties to conduct their own substantial discovery.

sent to the Plans by Merrill Lynch and the Plans' investment managers, and that the Plans' past actions and inactions in response to these disclosures waived their right to pursue the claims asserted in the Complaint.

23. In October 2011, both sides commenced deposition discovery. During October and November 2011, Plaintiffs took the depositions of three Merrill Lynch representatives (Matthew Pisanelli, Susan Brown-Vlacich and Terri Lockwood) in New York, and Merrill Lynch took the depositions of one trustee representative from each of the three Plaintiff Plans (Robert Lepa on behalf of Lake Worth General Employees, Kenneth White on behalf of Lake Worth Police, and Richard Seaman on behalf of Lake Worth Firefighters) in Florida.

24. On November 28, 2011, Plaintiffs served their Motion for Class Certification on Merrill Lynch, together with their memorandum of law and accompanying declarations and exhibits in support thereof (collectively, the "Class Certification Motion Papers"). After meeting and conferring with Defendant's Counsel over whether certain confidential materials included in the Class Certification Motion Papers needed to be filed under seal (a procedure required under the Stipulated Confidentiality Agreement dated June 27, 2011) these papers were filed with the Court on December 7, 2011. ECF No. 69.

25. Although the Parties continued to vigorously litigate the Action, the Parties agreed that after each side had had a reasonable opportunity to conduct substantial document discovery and targeted depositions, they would participate in mediation before Judge Stettin in accordance with the Court's June 22, 2011 Order. Accordingly, at the same time that the Parties were engaging in discovery, in the Fall of 2011 the Parties entered into a mediation briefing schedule with Judge Stettin. Pursuant to that schedule, each side agreed to submit written confidential mediation statements in advance of a face-to-face mediation session, which was to

be held in December 2011 promptly after Plaintiffs had served their Class Certification Motion Papers. The details of the mediation before Judge Stettin and the negotiation of the Settlement are discussed in paragraphs 33-39 below.

III. SUMMARY OF THE MAJOR RISKS FACED BY PLAINTIFFS IN THIS LITIGATION

26. Plaintiffs believe that their claims are meritorious, but they also recognize the real risk that, if this litigation were to have continued, Merrill Lynch might have been able to establish various defenses to the claims asserted, and that Class members might recover significantly less than the Settlement Amount, or nothing at all, had the case proceeded to trial. The more significant litigation risks included the following:

27. *Risks Relating to the "Economic Loss Rule"*. Perhaps the most significant risk facing Plaintiffs in this Action was the possibility that the Court might have determined that Plaintiffs' claims for breach of fiduciary duty were barred by the "economic loss rule" under Florida law. The economic loss rule is a doctrine that prevents parties to a contract from seeking to recover damages in tort for matters arising out of the contract. According to Merrill Lynch, the economic loss rule bars Plaintiffs' claims here because Merrill Lynch's fiduciary duties were (according to Merrill Lynch) inextricably intertwined with the obligations outlined in the parties' written investment consultant agreements that were in force during the Class Period. Accordingly, even if Plaintiffs had been able to establish that Merrill Lynch abused its fiduciary relationships with the Class Members, they faced the risk that the Court would have ultimately dismissed Plaintiffs' claims based on the economic loss rule.

28. Indeed, the uncertainty relating to the application of the economic loss rule here was heightened by *Tiara Condo. Ass'n v. Marsh & McLennan Cos.*, 607 F.3d 742 (11th Cir. 2010). In circumstances similar to those here, the plaintiff in *Tiara Condo* had a contractual

relationship with a defendant insurance broker, and asserted claims against the broker alleging breach of fiduciary duty for failure to procure appropriate insurance coverage for plaintiff. On appeal of the district court's order granting summary judgment in favor of defendant broker, the Eleventh Circuit stated that "Florida law is not sufficiently clear on whether [plaintiff's claims for breach of fiduciary duty] are barred as extra-contractual under the economic loss rule." 607 F.3d at 747-48. Accordingly, the Eleventh Circuit certified to the Florida Supreme Court the question of whether the breach of fiduciary duty claims asserted against the defendant broker were barred by Florida's economic loss rule. *Id*. at 749. Despite the fact that oral argument was held in March 2011, *Tiara Condo* is still pending before the Florida Supreme Court. Thus, if the instant action in this Court had not settled, Plaintiffs faced the significant risk that the Florida Supreme Court could have issued a ruling on the application of the economic loss rule in *Tiara Condo* that would have negatively impacted Plaintiffs' claims and/or their ability to bring them as a class action. Indeed, in its May 2011 order denying Merrill Lynch's motion to dismiss, the Court reserved jurisdiction to revisit the economic loss rule at a later time. *See* Court's May 31, 2011 Order (ECF No. 52), at 8 ("To the extent that discovery or further case development shows that the duties allegedly breach by Merrill Lynch are in fact based on or inextricably intertwined with the parties' written agreements, the Court will revisit the issue.").

29. *Risks Relating to the Claims Asserted Under the Florida "Flat Fee" Statute, FSA Sections 175.071 & 185.05*. Plaintiffs also faced a significant risk in establishing the liability of Defendant based on violations of the Florida "flat fee" statute, FSA §§ 175.071 & 185.05. Plaintiffs alleged that although Merrill Lynch's fee arrangements nominally provided for a "flat" fee amount, Merrill Lynch structured its contracts with the Plan so that the amounts due were paid off based on "soft dollar" credits that the client Plans "earned" from steering the Plans'

securities trading to Merrill Lynch's Citation brokerage system. Plaintiffs further alleged that as a result of these "directed brokerage" arrangements, Merrill Lynch's *de facto* compensation for providing consulting services varied depending on the amount of "directed brokerage" business that was channeled to Merrill Lynch's Citation brokerage system – and that such arrangements further violated Florida's "flat fee" statute. However, this Action was a case of first impression under the "flat fee" statute, so Plaintiffs' ability to establish that Merrill Lynch was liable to the Class under this statute was uncertain at best.

30. *Risks Relating to the Admissibility of Certain Matters Relating to SEC's Investigation into the Conduct of the Florida Office*. On July 30, 2009, following a multi-year investigation into the conduct of the Callaway Team, the SEC issued an order instituting administrative proceedings against certain members of the Callaway Team for violations of the Investment Advisers Act of 1940. The SEC order imposed remedial sanctions, and required Merrill Lynch to pay a civil penalty of $1,000,000. However, Merrill Lynch was expected to argue that the SEC order reflected an administrative settlement that would not be admissible against it at trial, and that in any event the matters covered by the SEC order related primarily to Merrill Lynch's alleged lack of disclosure with respect to "transition management" and real estate investments – issues that affected only a small number of Class Members and that would have been very difficult (due to numerosity considerations) to certify under Rule 23, and that in any event would have involved only a small amount of potential damages.

31. *Risks that Plaintiffs' Damages Would Have Been Reduced Based on the Doctrine of "Quantum Meruit."* Even if Plaintiffs had established liability, they would have also faced significant challenges in recovering the full of amount of their alleged damages. Plaintiffs' primary theory of damages in the Action was based on a theory of "disgorgement," *i.e.*, that

Merrill Lynch (as a result of its alleged breaches of fiduciary duty described above) should be required to refund (or "disgorge") all fees that Merrill Lynch received from any source in connection with the provision of Consulting Services to the Plans or the investment of Plan assets. However, Defendant would have argued that, under the doctrine of quantum meruit, any recovery by Class Members should be substantially reduced to account for the value of the services actually provided by Merrill Lynch to the Class Members. For example, although Plaintiffs argued that Merrill Lynch was required to disgorge millions of dollars of Merrill Lynch brokerage fees that Plaintiffs claim were not properly disclosed, Merrill Lynch would have argued that Class Members would have been required to pay all or most of these brokerage fees regardless of what brokerage firm the Plans (or their investment advisors) would have used. Given the possibility that Defendant would have been successful in achieving a very substantial reduction in the amount of damages sought even if Plaintiffs proved liability, a settlement recovery which represents disgorgement of nearly 60% of the maximum fees potentially recoverable in this case is an excellent result for the Class.

32. For many of the same reasons as discussed above, had the Court found that, for example, the Florida economic loss rule applied, or found that the "flat fee" statute did not apply, it would have become much more difficult for Plaintiffs to certify this matter as a class action under Rule 23. Absent class certification, it is doubtful whether more than a handful of Plans who are members of the Class would have found it economically worthwhile to pursue individual claims against Merrill Lynch on the matters alleged in this Action. Accordingly, class certification risks were also a potentially significant obstacle to any successful outcome in this Action.

IV. THE NEGOTIATION OF THE SETTLEMENT

33. As noted above, the Settlement is the result of intensive, arm's-length, and substantive negotiations that included a full-day mediation session before Judge Herbert Stettin (ret.), a highly experienced and well-respected mediator. As also set forth above, based on their pre-filing investigation and extensive fact discovery, which included the review of over two million pages of documents and the taking or defending of a half-dozen depositions, Plaintiffs and Plaintiffs' Counsel had a solid understanding of the strengths and weaknesses of their case and the risks of further litigation at the time that settlement negotiations occurred. Moreover, the Parties' respective presentations concerning liability and damages at the mediation session in Florida also provided Plaintiffs with a further basis upon which to assess the relative strengths and weaknesses of both their positions and Defendant's positions in the Action.

34. The mediation before Judge Stettin was conducted on December 8, 2011. In advance of the mediation, both Plaintiffs and Defendant submitted to Judge Stettin their respective detailed mediation statements addressing issues of both liability and damages. At the mediation, in addition to being represented by their respective outside counsel, Merrill Lynch was represented in person by two of its officers with authority to negotiate on Merrill Lynch's behalf, and each Plaintiff Plan was represented in person by one of its trustees.

35. After a full day of protracted negotiations at the mediation, the Parties reached an agreement in principle to settle the Action for $8,500,000 in cash, plus an additional $1,000 payment by Merrill Lynch to cover the costs of providing notice of the Settlement to the Class. However, a number of issues required further negotiation, with the result that the Parties' counsel continued negotiations over the following week in an effort to conclude a binding "short-form" agreement.

36. With the assistance of Judge Stettin, and as a result of further arm's-length negotiations, the Parties entered into a binding Memorandum of Understanding ("MOU") on December 14, 2011, subject to formal approval by the Boards of Trustees of each Plaintiff Plan. On January 11, 2012, the respective Boards of Trustees of the Plaintiff Plans, meeting in public session in Lake Worth, Florida, each unanimously approved the Settlement. (Each board also unanimously approved Plaintiffs' Counsel's requested amount of attorneys' fees). Among the trustees who attended and approved the settlement on January 11, 2012 were the three trustees who had been deposed, and who had personally attended the earlier full-day mediation with Judge Stettin.

37. After reaching the agreement in principle, the Parties continued to negotiate the final terms of the customary "long form" settlement papers contemplated by Rule 23 through the drafting of the Stipulation and related settlement papers. This process, which included additional work to determine an appropriate plan of allocation of the Settlement proceeds, culminated with the signing and submission to the Court of the Stipulation on March 23, 2012.

38. On April 24, 2012, the Court entered the Preliminary Approval Order, which, among other things, preliminarily approved the Settlement, certified the Class for settlement purposes, authorized sending the Notice to the Class Member Plans, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

39. Plaintiffs' Counsel respectfully submit that the Settlement, which represents nearly 60% of the alleged total disgorgement damages in his case, is an excellent result for the Class, particularly when viewed in light of the significant litigation risks discussed above.

V. PLAINTIFFS' COUNSEL HAVE COMPLIED WITH THE COURT'S ORDER REQUIRING ISSUANCE OF NOTICE OF THE SETTLEMENT TO CLASS MEMBERS

40. The Preliminary Approval Order (a) required that individual and publication notice be disseminated to the Class Members; (b) set July 6, 2012 as the deadline for Class members to submit objections to the Final Approval Motion and the Fee and Expense Application, or to request exclusion from the Class; and (c) set a final approval hearing date of July 27, 2012.

41. Pursuant to the Preliminary Approval Order, Plaintiffs' Counsel instructed GCG, the Court-approved Claims Administrator for the Settlement, to mail the individualized Notice and Claim Form to the Class Member Plans, and to transmit the Summary Notice over the internet in accordance with the Preliminary Approval Order. The Notice contains a thorough description of the Settlement, the Plan of Allocation and Class Members' rights to: (i) participate in the Settlement; (ii) object to the Settlement, the Plan of Allocation or the Fee and Expense Application; or (iii) exclude themselves from the Class. The Notice also informs Class Members of Plaintiffs' Counsel's intention to apply for an award of attorneys' fees in the amount of 25% of the Settlement Fund and for reimbursement of litigation expenses in an amount not to exceed $100,000. In addition, as more fully described in paragraphs 48-49 below, the Notice also contains, as Exhibit 1 thereto, a "Claim Amount Table" setting forth each Plan's pre-calculated "Adjusted Claim Amount" under the Plan of Allocation that will be used to determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund. (Note: To preserve each Plan's confidentiality, each Plan is identified in the Claim Amount Table only by a unique identification number, although each Plan was separately provided with a cover letter setting forth its identification number to allow it to review its own pre-calculated "Adjusted Claim Amount.").

42. On May 15, 2012, in accordance with the Preliminary Approval Order, GCG disseminated copies of the Notice and the Claim Form by certified U.S. Mail to each of the 78 Class Member Plans c/o the Plan's administrator, with a copy to the Plan c/o the Chairperson of the Plan's Board of Trustees. Zuena Aff. at ¶¶ 2-4. As required by the Preliminary Approval Order, and as noted above, the Notice and Claim Form sent to each Plan was accompanied by a separate cover letter to that Plan (the "Cover Letter") that contained the unique identification number set forth on the Claim Amount Table for that specific Plan. *Id*. The Notice, Claim Form and Cover Letter are collectively referred to herein as the "Notice Packet".

43. On May 24, 2012, in accordance with the Preliminary Approval Order, GCG caused the Summary Notice to be transmitted over the internet via *PR Newswire*. *See id.* at ¶ 5.

44. GCG also established a dedicated settlement website for this case, *www.mlfloridapensionplansettlement.com*, to provide Class Members with information concerning the Settlement, as well as access to a full copy of the Stipulation and additional downloadable copies of the Notice and Claim Form. *See id.* at ¶ 7.

45. The Court-ordered deadline for Class Members to file any objections to the Settlement, Plan of Allocation or the Fee and Expense Application is July 6, 2012. To date, not a single Class Member has objected to the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's Fee and Expense Application. Moreover, not a single Class Member has requested exclusion from the Class.

VI. THE PLAN OF ALLOCATION IS FAIR AND REASONABLE

46. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, each Class Member wishing to participate in the distribution of the Settlement Fund must submit a completed and executed Claim Form to the Claims Administrator postmarked no later than September 11, 2012. As provided in the Notice, after deducting all appropriate taxes,

administrative costs, and any attorneys' fees and litigation expenses awarded by the court, the balance of the Settlement Fund (the "Net Settlement Fund") will be distributed according to the plan of allocation approved by the Court. This is not a "claims made" settlement, and, if approved, the entirety of the Net Settlement Fund will be distributed to Class Members in accordance with the Plan of Allocation.

47. The plan of allocation proposed by Plaintiffs and Plaintiffs' Counsel (the "Plan of Allocation") is set forth on pages 9 to 11 of the Notice. If approved, the Plan of Allocation will govern how the Net Settlement Fund will be distributed among Authorized Claimants.[8]

48. As explained above, Plaintiffs' primary theory of damages in the Action has been based on a theory of "disgorgement," *i.e.*, that Merrill Lynch should be required to disgorge all fees that it received from any source in connection with the provision of Consulting Services to the Plans or the investment of Plan assets during the Class Period. Accordingly, Plaintiffs' Counsel designed the Plan of Allocation so that the Net Settlement Fund is allocated among the Class Member Plans using a methodology that (1) approximates the total amount of fees that Merrill Lynch (including its Citation brokerage unit) received from all sources (including, but not limited to, the Plans and various mutual fund companies) and that Merrill Lynch retained in connection with the provision of Consulting Services to the Plans or the investment of Plan assets during the Class Period (the "Total Approximate Merrill Lynch Fee Amount"); (2) approximates, for each Plan separately, how much of the Total Approximate Merrill Lynch Fee Amount was paid to Merrill Lynch in connection with the provision of Consulting Services to that particular Plan (or the investment of that Plan's assets) (the "Unadjusted Plan Claim Amounts"); and (3)

[8] An "Authorized Claimant" is a Plan that is a member of the Class and that submits (through an authorized representative of such Plan) a properly executed Claim Form to the Claims Administrator in accordance with the requirements set forth in this Notice, and which is approved for payment from the Net Settlement Fund.

adjusts each Plan's Unadjusted Plan Claim Amount to reflect certain refunds of 12b-1 mutual fund fees which Merrill Lynch had originally been paid by mutual fund companies, but which Merrill Lynch later reimbursed in part to certain affected Plans in 2007 (the "Adjusted Claim Amounts"). Under the Plan of Allocation, each Authorized Claimant will receive a payment from the Net Settlement Fund based on its *pro rata* share of the Fund ("*Pro Rata* Share"), which will be determined for each Plan by dividing the Plan's Adjusted Claim Amount by the total Adjusted Claim Amounts of all Authorized Claimants.[9]

49. To facilitate the claims administration process and to make it as easy as possible for Class Members, Plaintiffs' Counsel, based on records and other information obtained from Merrill Lynch, have already calculated each Plan's Adjusted Claim Amount under the Plan of Allocation that will be used to determine each Plan's payment from the Net Settlement Fund. Each Plan's pre-calculated Adjusted Claim Amount, along with its pre-calculated Unadjusted Claim Amount, 12b-1 Fee Refund Amount (if any), and *Pro Rata* Share, is set forth on the "Claim Amount Table" attached as Exhibit 1 to the Notice.[10] Accordingly, unlike many other

[9] In the event that both (1) a Plan brings related claims against a third party, and (2) such a hypothetical third party actually seeks indemnification or contribution against Merrill Lynch based on such related claims, Merrill Lynch may seek to recover the amounts paid to such a Plan under this Settlement. *See* Stipulation ¶ 15. Merrill Lynch requested this provision to help ensure that it would obtain "global peace" as to all claims that might be brought against it arising out of the settled claims, regardless of whether they were brought directly against it by the Plans or indirectly via hypothetical future claims for indemnification arising out of hypothetical future claims asserted against third parties. Plaintiffs' Counsel are unaware of any contemplated (let along actual) third party litigation that might be initiated by any Plan and that might hypothetically trigger this provision, especially since the statute of limitations would appear to be an obstacle for any Plan to bring any "related claims" against any third parties.

[10] As explained above, to preserve each Plan's confidentiality, each Plan is identified in the Claim Amount Table only by a unique identification number. However, as also explained above, each Plan's identification number is indicated in the separate Cover Letter directed to the Plan that was included in the Notice Packet, so that each Plan can review the calculations applicable to it in the Claim Amount Table. Certain figures in the Claim Amount Table attached to the Notice were corrected after the original draft of that table was submitted to the Court, but before the final form of the Notice and accompanying table were printed and mailed (the corrections were made primarily to reallocate claim amounts that, upon further review, had not been properly allocated between "related" funds, *e.g.*, where claim amounts for

class action settlements, the Class Members are neither expected nor required to collect any payment records, account statements or similar evidentiary materials to submit with its Claim Form (unless it believes that its "Adjusted Claim Amount" was calculated incorrectly, in which case it may submit a "Claim Amount Challenge" in accordance with the instructions and requirements set forth in the Claim Form). In sum, to submit a valid claim, each Plan wishing to share in the Net Settlement Fund need only fill in the basic information requested in the Claim Form and have an authorized representative of the Plan execute the form and submit it to the Claims Administrator.[11]

50. The proposed Plan of Allocation was designed to fairly and rationally allocate the Net Settlement Fund among Class Members based on each Plan's share of the total monetary compensation that Merrill Lynch received in connection with the provision of Consulting Services to the Plans or the investment of the Plans' assets during the Class Period. Accordingly, Plaintiffs' Counsel respectfully submit that the proposed Plan of Allocation is fair and reasonable and should be approved.

VII. PLAINTIFFS' COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES

51. Plaintiffs' Counsel seek a fee award of 25% of the Settlement Fund (the "Fee Application"). The requested fee is well within the range of fees awarded in common fund cases in the Eleventh Circuit. Plaintiffs' Counsel also request reimbursement of expenses they incurred in connection with the prosecution of the Action from the Settlement Fund in the amount of $52,365.98, which is below the estimated amount of costs contained in the Notice.

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legally separate police and firefighter pension funds in the same city needed to be revised based on further review by Merrill Lynch).

[11] So that the Claims Administrator can verify that the individuals executing the Claim Forms have the authority to do so, each Authorized Plan Representative executing a Claim Form is required to submit documentation with the Claim Form evidencing his or her current authority to execute the form on behalf of the Plan.

The legal authorities supporting the requested fees and expenses are set forth in Plaintiffs' Counsel's separate memorandum of law. The primary factual bases for the requested fees and expenses are summarized below.

A. The Time and Labor of Plaintiffs' Counsel

52. The investigation, prosecution and settlement of the claims asserted against Defendant in this Action required extensive efforts on the part of Plaintiffs' Counsel, given the complexity of the legal and factual issues raised by Plaintiffs' claims and the vigorous defense mounted by Merrill Lynch and its nationally known counsel, Greenberg Traurig. The many tasks undertaken by Plaintiffs' Counsel in this case are detailed above (¶¶ 15-25, 33-37). These tasks included, among other things:

(i) conducting a thorough pre-filing factual investigation of the matters alleged, as well as researching the applicable law;

(ii) preparing and filing the detailed Complaint;

(iii) researching and preparing Plaintiffs' successful opposition to Defendant's motion to dismiss the Complaint;

(iv) conducting substantial document discovery, which included preparing document requests and reviewing and analyzing over two million pages of documents received in response to those requests from Merrill Lynch;

(v) responding to multiple requests for production of documents and sets of interrogatories served on the various Plaintiffs by Merrill Lynch;

(vi) taking the depositions of three representatives of Merrill Lynch and defending the depositions of representatives of each of the three Plaintiff Plans;

(vii) researching and briefing Plaintiffs' motion for class certification, which included the preparation of multiple supporting declarations and exhibits;

(viii) preparing for and participating in the full-day mediation session before Judge Herbert Stettin, which including the preparation and submission of detailed mediation briefs and related materials in advance of the mediation session;

(ix) conducting subsequent negotiations with respect to the final terms of the Settlement, and drafting and finalizing the written terms of both the Parties' initial "short form" Memorandum of Understanding and subsequent "long form" Stipulation of

Settlement and all related exhibits and attachments thereto; and

(x) preparing the Plan of Allocation, including the preparation and review of the Claim Amount Table and the individualized forms of Notice (including individualized forms of Cover Letter), which were designed to make the claims administration process as easy and straightforward as possible, consistent with the requirements of Rule 23, for all Class Members.

53. The substantial amount of time expended by Plaintiffs' Counsel in connection with researching, bringing, prosecuting and ultimately settling the claims asserted in this action is reflected in the supporting declarations submitted by the three Plaintiffs' Counsel's firms, which are attached hereto as Exhibits 2 to 4. Included with Plaintiffs' Counsel's declarations are schedules that summarize the lodestar of each firm, as well as the expenses incurred by category (the "Fee and Expense Schedules"). The attached declarations and their accompanying Fee and Expense Schedules set forth the amount of time spent by each attorney and paraprofessional employed by Plaintiffs' Counsel, and the lodestar calculations based on their current billing rates. As attested in each declaration, the declarations were prepared from contemporaneous daily time records regularly prepared and maintained by the respective firms, and which are available at the request of the Court. The hourly rates for attorneys and paraprofessionals included in these schedules are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted in other class action litigation. For personnel who are no longer employed by Plaintiffs' Counsel, the lodestar calculations are based upon the billing rates for such person in his or her final year of employment.

54. In the aggregate, Plaintiffs' Counsel have expended 4,080.75 hours in the prosecution and investigation of this Action. The resulting lodestar is $1,998,685.00. The requested fee of 25% of the Settlement Fund (which is equal to approximately $2.125 million) would therefore result in a lodestar multiplier of only 1.06, or barely more than the Plaintiffs' Counsel's actual lodestar.

B. The Skill and Experience of Plaintiffs' Counsel

55. As demonstrated by their firm resumes, (1) Bernstein Litowitz Berger & Grossmann LLP is one of the nation's leading class action litigation firms, and (2) Klausner, Kaufman, Jensen & Levinson and Sugarman & Susskind, P.A. are two of the nation's leading firms specializing in the representation of employee retirement benefit plans. Together, Plaintiffs' Counsel utilized their combined skills to diligently and efficiently prosecute this Action to a successful conclusion.

C. Standing and Caliber of Defendants' Counsel

56. The quality of the work performed by Plaintiffs' Counsel in obtaining the Settlement should also be evaluated in light of the quality of opposing counsel. Merrill Lynch has been represented in this Action by one of the country's most prestigious law firms: Greenberg Traurig, P.A. In the face of this formidable and well-financed opposition, Plaintiffs' Counsel were nonetheless able to develop a case that was sufficiently strong to persuade Merrill Lynch to settle the case on terms that were quite favorable to the Class.

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

57. The prosecution of this Action was undertaken by Plaintiffs' Counsel entirely on a contingent-fee basis. Some of the more significant risks assumed by Plaintiffs' Counsel in bringing this case have been summarized above. Those risks are also relevant to an award of attorneys' fees. Here, the risks assumed by Plaintiffs' Counsel, and the time and expenses incurred without any payment, were extensive.

58. From the outset, Plaintiffs' Counsel understood that they were embarking on a complex, expensive and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and money that the case would require. In undertaking that

responsibility, Plaintiffs' Counsel were obligated to ensure that sufficient resources were dedicated to the prosecution of this Action, and that funds were available to compensate staff and to cover the considerable out-of-pocket costs that a case such as this requires. With an average lag time of several years for typical class action cases to conclude, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Plaintiffs' Counsel have received no compensation during the course of this Action, and have incurred $52,365.98 in out-of-pocket-expenses in prosecuting this Action for the benefit of the Class.

59. Plaintiffs' Counsel also bore the material risk that no recovery would be achieved. As discussed above, from the outset this case presented a number of risks and uncertainties that could have prevented any recovery whatsoever. Despite the most vigorous and best of efforts, success in contingent-fee litigation, such as this, is never assured.

60. Plaintiffs' Counsel know from experience that the commencement of a class action does not guarantee a settlement. To the contrary, it takes hard work and diligence by skilled counsel to develop the facts and theories that are needed to sustain a complaint or win at trial, or to induce sophisticated defendants to engage in serious settlement negotiations at meaningful levels.

61. Plaintiffs' Counsel's extensive and persistent efforts in the face of substantial risks and uncertainties have resulted in a significant recovery for the benefit of the Class. In circumstances such as these, and in consideration of Plaintiffs' Counsel's hard work and the excellent result achieved, the requested fee of 25% of the Settlement Fund is reasonable and should be approved.

E. The Reaction of the Plaintiff Plans and the Class to Plaintiffs' Counsel's Fee Application

62. As previously noted (at ¶ 36), the respective Boards of Trustees of each of the Plaintiff Plans have each unanimously approved Plaintiffs' Counsel's requested amount of attorneys' fees. That experienced public retirements plans such as the Plaintiff Plans support Plaintiffs' Counsel's requested fee also weighs in favor of approving the requested 25% fee.

63. The reaction of the other members of the Class (which consists of other sophisticated public retirement plans) further confirms the reasonableness of the requested 25% fee. Consistent with the Notice, Notice Packets were mailed to each of the Class Member Plans advising them of the amount of attorneys' fees that Plaintiffs' Counsel would request. *See* Exhibit A to Zuena Aff. at ¶¶ 3, 56. Additionally, on May 24, 2012 the Summary Notice was transmitted over the *PR Newswire*, *see* Zuena Aff. at ¶ 5, and the Settlement documents have also been available on the website maintained by GCG. *Id.* at ¶ 7. While the deadline set by the Court for Class Members to object to the requested fees and expenses has not yet passed, to date we are not aware of a single objection by any Class Member.

F. Awards in Similar Cases

64. As set forth in Plaintiffs' Counsel's accompanying memorandum of law in support of their Fee Application, the requested 25% fee award is also well within the range of attorney's fees awarded in other complex class actions by courts in this District and this Circuit.

G. Summary

65. Plaintiffs' Counsel's extensive and persistent efforts in the face of substantial risks and uncertainties have resulted in a significant recovery for the benefit of the Class. In circumstances such as these, and in consideration of Plaintiffs' Counsel's hard work and the strong result achieved, the lack of any objections and all of the other reasons set forth above, it is

respectfully submitted that the requested fee of 25% of the Settlement Fund is fair, reasonable and appropriate, and should be approved.

VIII. REIMBURSEMENT OF THE REQUESTED LITIGATION EXPENSES IS FAIR AND REASONABLE

66. Plaintiffs' Counsel seek reimbursement of $52,365.98 in litigation expenses reasonably and actually incurred by Plaintiffs' Counsel in connection with commencing and prosecuting the litigation against the Defendants.

67. From the beginning of the case, Plaintiffs' Counsel were aware that they might not recover any of their expenses. Plaintiffs' Counsel also understood that, even assuming that the case was ultimately successful, reimbursement for expenses would not compensate them for the lost use of the funds advanced by them to prosecute this Action. Thus, Plaintiffs' Counsel were motivated to, and did, take significant steps to minimize expenses when practicable without jeopardizing the vigorous prosecution of the case.

68. The litigation expenses incurred by Plaintiffs' Counsel are reflected on the books and records maintained by counsel, which are prepared from expense vouchers, check records and other source materials, and are an accurate record of the expenses incurred. Plaintiffs' Counsel's expenses are set forth in detail in each firm's declaration, each of which identifies the specific category of expense. These expense items are billed separately by Plaintiffs' Counsel, and such charges are not duplicated in the respective firms' billing rates.

69. As reflected on the expense schedules attached to Plaintiffs' Counsel's declarations, Plaintiffs' Counsel's expenses include charges for (i) document management/litigation support expenses incurred in connection with the document discovery performed in the Action; (ii) mediation fees assessed by Judge Stettin; (iii) court reporting expenses associated with the depositions conducted in the Action; and (iv) expenses incurred in

connection with the legal and factual research conducted in connection with the prosecution of the case. Other expenses for which Plaintiffs' Counsel seek reimbursement are also for types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, court fees, costs of out-of-town travel, long distance telephone charges, postage and delivery expenses, photocopying charges, and overtime expenses.

70. All of the litigation expenses incurred, which total $52,365.98, were reasonably necessary to the successful prosecution and resolution of the claims against Merrill Lynch. In addition, the Notice apprised potential Class Members that Plaintiffs' Counsel would be seeking reimbursement of expenses in an amount not to exceed $100,000, and, to date, no objection has been raised as to Plaintiffs' Counsel's request for reimbursement of litigation expenses.

71. Given the complex nature of this Action, the expenses incurred were reasonable and necessary to pursue the interests of the Class. Accordingly, Plaintiffs' Counsel respectfully submit that their expenses should be reimbursed in full.

IX. CONCLUSION

72. For all of the reasons set forth above and in the accompanying legal memoranda, Plaintiffs' Counsel respectfully submit that: (a) the Settlement and Plan of Allocation should be approved as fair, reasonable and adequate; and (b) Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses should be granted in full.

We declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on June 22, 2012.

Robert D. Klausner

William C. Fredericks

Kenneth R. Harrison, Sr.

#649399

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June, 2012, I electronically filed the foregoing JOINT DECLARATION OF ROBERT D. KLAUSNER, WILLIAM C. FREDERICKS & KENNETH R. HARRISON, SR. IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION AND PLAINTIFFS' COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES with the Clerk of the Court by using the CM/ECF system. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List, either via transmission of Notices of Electronic Filing Generated by the CM/ECF system or in some other authorized manner for those counsel who are authorized to receive electronically Notices of Electronic Filing.

By: */s/ William C. Fredericks*
William C. Fredericks

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EXHIBIT 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et. al.,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Defendant.

Case No. 3:10-cv-845-J-32MCR

AFFIDAVIT OF JASON ZUENA REGARDING (A) MAILING OF THE NOTICE PACKET, (B) TRANSMITTAL OF THE SUMMARY NOTICE, AND (C) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

JASON ZUENA, being duly sworn, deposes and says:

1. I am a Senior Director of Operations for The Garden City Group, Inc. ("GCG") located at 1985 Marcus Avenue, Suite 200, Lake Success, New York 11042. Pursuant to the Court's Order Preliminarily Approving Proposed Settlement and Providing for Notice, entered April 24, 2012 ("Preliminary Approval Order"), GCG was authorized to act as the Claims Administrator in connection with the Settlement of the above-captioned action.[1] I have personal knowledge of the facts stated herein.

[1] All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated March 23, 2012 (the "Stipulation").

MAILING OF THE NOTICE PACKET

2. Pursuant to the Preliminary Approval Order, GCG was responsible for mailing to each Class Member, c/o the Plan's Administrator, with a copy to the Plan c/o the Chairperson of the Plan's Board of Trustees, the following documents: (a) the Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Notice"), (b) the Claim Form and Release (the "Claim Form"), and (c) a cover letter setting forth the unique identification number assigned to the Plan for this Settlement (the "Cover Letter").[2] The Notice, Claim Form and Cover Letter are collectively referred to herein as the "Notice Packet."

3. In connection with the mailing of the Notice Packet, GCG received from Plaintiffs' Counsel an Excel file containing for each Class Member the following information: (a) the names and mailing addresses of the Plan's Administrator and Chairperson; (b) the Unadjusted Claim Amount, 12B-1 Fee Refund Amount (if any), Adjusted Claim Amount, and *Pro Rata* Share relating to the Plan that appear on the Claim Amount Table attached to the Notice; and (c) the unique identification number assigned to the Plan for this Settlement. Using the information contained in the Excel file provided by Plaintiffs' Counsel, GCG created an individualized Notice Packet for each Class Member, including the Notice, an individualized Claim Form with certain fields already filled in, and the individualized Cover Letter discussed above.

4. On May 15, 2012, GCG mailed each of the 78 Class Members its individualized Notice Packet, c/o the Plan's Administrator, with a copy to the Plan c/o the Chairperson of the

[2] Attached as Exhibit 1 to the Notice is a "Claim Amount Table" setting forth each Plan's pre-calculated "Adjusted Claim Amount" under the Plan of Allocation that will be used to determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund. To preserve each Plan's confidentiality, each Plan is identified in the Claim Amount Table only by a unique identification number, which has been provided to each Plan in the Cover Letter.

Plan's Board of Trustees, by certified U.S. mail. A copy of the form of the Notice Packet mailed to each of the Class Members is attached hereto as Exhibit A.

TRANSMITTAL OF THE SUMMARY NOTICE

5. Pursuant to the Preliminary Approval Order, GCG Communications, the media division of GCG, caused the Summary Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an award of Attorneys' Fees and Reimbursement of Expenses (the "Summary Notice") to be transmitted over the *PR Newswire.* Attached hereto as Exhibit B is a confirmation report for the *PR Newswire*, attesting to the issuance of the Summary Notice over that wire service on May 24, 2012.

TELEPHONE HELPLINE

6. GCG has provided a toll-free help-line (1-800-231-1815) to accommodate Class Members who have questions about the Settlement. The telephone help-line routes callers to a customer service representative during business hours.

WEBSITE

7. GCG established and continues to maintain a website (www.mlfloridapensionplansettlement.com) dedicated to the Settlement to assist Class Members. The website lists the exclusion, objection, and claim filing deadlines, as well as the date and time of the Court's Settlement Hearing. Copies of the Notice and the Claim Form, as well as the complete text of the Stipulation, are available for downloading on the settlement website. The website became operational on or about May 15, 2012, and is accessible 24 hours a day, 7 days a week.

REQUESTS FOR EXCLUSION

8. The Notice informed Class Members that requests for exclusion are to be mailed or otherwise delivered, addressed to Merrill Lynch Florida Public Pension Plan Consulting Services Litigation, EXCLUSIONS, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249, such that they are received by GCG no later than July 6, 2012. The Notice also sets forth the information that must be included in each request for exclusion. GCG has been monitoring all mail delivered to that Post Office Box. As of June 21, 2012, GCG has not received any requests for exclusion. GCG will submit a supplemental affidavit after the July 6, 2012 deadline for requesting exclusion that addresses any requests received.

Jason Zuena

Sworn to before me this
21st day of June, 2012

Notary Public

VANESSA M. VIGILANTE
Notary Public, State of New York
No. 01VI6143817
Qualified in Queens County
My Commission Expires 4-17-2014

EXHIBIT A

PLEASE READ THIS LETTER AND THE ACCOMPANYING COURT-AUTHORIZED NOTICE CAREFULLY. THIS IS NOT A SOLICITATION.

May 15, 2012

Re: *Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated*, Case No. 3:10-cv-845-J-32MCR

Dear Sir/Madam:

Based on records maintained by Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch"), it has been determined that _____ ("Your Plan") was a Merrill Lynch client at some point between July 1, 2000 and June 30, 2008 and therefore is a member of the Class in the above-referenced class action (the "Action"). As a member of the Class, Your Plan is eligible to receive a distribution from the settlement achieved in the Action, if it is approved by the Court. If you are ***not*** currently an authorized representative of this plan, or believe that you have otherwise received this letter in error, please contact one of the undersigned attorneys immediately.

The Court has preliminarily approved the proposed settlement which will resolve all claims asserted in the Action in exchange for Merrill Lynch's payment of $8.5 million in cash (the "Settlement"). Enclosed with this letter are the Court-ordered Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Notice") and Claim Form (together, the "Notice Packet") that describe the Action, the terms of the Settlement, and ***important rights that Your Plan has with respect to the proposed Settlement. Please read the documents carefully.***

Receipt of a Distribution: In order for Your Plan to receive a payment from the proceeds of the Settlement if it is approved, a completed and executed Claim Form must be submitted to the Claims Administrator at the address indicated in the Claim Form, ***postmarked no later than September 11, 2012***. PLEASE NOTE that, while this letter and the Notice Packet are being sent to multiple representatives of Your Plan, that is being done to assure timely receipt and review of the material; ***only one Claim Form should be submitted for Your Plan.***

As explained in the Notice and in the Claim Form, Your Plan's "Adjusted Claim Amount" has already been calculated based on information obtained from Defendant's records. ***Accordingly, Your Plan is neither expected nor required to collect or submit any payment records, account statements or similar evidentiary materials with its Claim Form.*** A full explanation of the proposed Plan of Allocation of the proceeds of the Settlement is set forth at paragraphs 31-50 of the Notice.

Attached as Exhibit 1 to the Notice is a "Claim Amount Table" setting forth the relevant calculated amounts for each Class Member Plan. To preserve each Plan's confidentiality, it is identified in the Claim Amount Table only by a unique assigned "Plan ID Number". **The Plan ID Number assigned to Your Plan is _____.**

Claim Amount Challenge: If Your Plan believes that the relevant calculated amounts set forth on the Claim Amount Table are in error, it may submit a Claim Amount Challenge. If Your Plan wishes to submit such a challenge, it must do so in accordance with the terms set forth in paragraph 47 of the Notice and the instructions and requirements set forth in the Claim Form. ***Any challenge must be postmarked no later than September 11, 2012***.

If, after reviewing the accompanying Notice Packet, you have any questions regarding the Settlement or the calculation of any amounts relating to Your Plan, please contact one of the undersigned Plaintiffs' Counsel.

Sincerely,

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Plaintiffs' Counsel

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et al.,

Plaintiffs,

vs.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Defendant.

Case No. 3:10-cv-845-J-32MCR

NOTICE OF (I) PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION, (II) SETTLEMENT FAIRNESS HEARING, AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

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

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that, based on records maintained by defendant Merrill Lynch Pierce Fenner & Smith, Incorporated ("Defendant" or "Merrill Lynch"), it has been determined that the _____ ("Your Plan") is a member of the Class (as defined below) in the above-captioned consolidated class action (the "Action") pending in the United States District Court for the Middle District of Florida (the "Court").[1]

NOTICE OF SETTLEMENT: Please also be advised that plaintiffs in the Action, the respective Boards of Trustees of the City of Lake Worth Employees' Retirement System ("Lake Worth General Employees"), the City of Lake Worth Police Officers' Retirement System ("Lake Worth Police"), and the City of Lake Worth Firefighters' Pension Trust Fund ("Lake Worth Firefighters") (collectively, the "Plaintiffs Plans"), on behalf of the Plaintiffs Plans and the Class, have reached a proposed settlement of the Action for a total of $8,500,000 in cash that, if approved, will resolve all claims in the Action.

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights that Your Plan has with respect to the proposed Settlement, including what the Plan has to do to receive a cash payment from the Settlement. Your Plan's legal rights, as well as the legal rights of its named fiduciaries in their capacities as such, will be affected whether or not you act.

[1] All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation and Agreement of Settlement dated March 23, 2012 (the "Stipulation"), which is available on the website established for the Settlement at www.mlfloridapensionplansettlement.com.

1. **Description of the Action and Class:** This Notice relates to a proposed Settlement of claims in a pending class action lawsuit alleging that Merrill Lynch breached its fiduciary duties to certain Florida public employee retirement benefit plans for which Merrill Lynch served as an investment consultant during period from July 1, 2000, through and including June 30, 2008 (the "Class Period"). The proposed Settlement, if approved by the Court, will settle claims of all Florida public employee retirement benefit plans for which Merrill Lynch and Merrill Lynch Financial Advisor Michael Callaway or any other member of the Callaway Team (as defined below) provided Consulting Services (as defined below) during the Class Period, or any portion thereof (the "Class"),[2] except for certain Plans that are excluded from the Class by definition (*see* paragraph 26 below) or that validly elect to exclude themselves from the Class (*see* paragraphs 62-64 below). As noted above, based on records maintained by Defendant Merrill Lynch, it has been determined that Your Plan is a member of the Class (unless it validly elects to exclude itself from the Class).

2. **The Settlement Consideration:** Subject to Court approval, and as described more fully below, Plaintiffs, on behalf of the Plaintiff Plans and the other members of the Class, have agreed to settle all claims asserted against Merrill Lynch in the Action in exchange for a settlement payment by Merrill Lynch of $8,500,000 in cash (the "Settlement Amount") to be deposited into an escrow account.[3] The Settlement Amount together with any interest earned thereon while on deposit in the escrow account is referred to as the "Settlement Fund". The "Net Settlement Fund" (the Settlement Fund less Taxes, Notice and Administration Costs, and any attorneys' fees and Litigation Expenses awarded by the Court) will be distributed in accordance with a plan of allocation that must be approved by the Court, and which will determine how the Net Settlement Fund shall be allocated among members of the Class. The proposed plan of allocation (the "Plan of Allocation") is set forth on pages 9-11 below, and seeks to allocate the Net Settlement Fund on a *pro rata* basis to Class Members in proportion to the amount of fees or other payments that Merrill Lynch received and retained from Class Members and/or other entities in violation of Merrill Lynch's alleged fiduciary duties to the members of the Class.

3. **Application for Attorneys' Fees and Expenses:** Plaintiffs' Counsel (identified in paragraph 4 below), who have been prosecuting the Action on a wholly contingent basis since its inception, have not received any payment of attorneys' fees for their representation of the Class, and have advanced all of the funds to pay expenses necessarily incurred to prosecute the Action to date. Plaintiffs' Counsel will apply to the Court for (a) an award of attorneys' fees from the Settlement Fund in the amount of 25% of the Settlement Fund; and (b) reimbursement of Litigation Expenses paid or incurred in connection with prosecuting and settling the Action, in an amount not to exceed $100,000, to be paid from the Settlement Fund.

4. **Identification of Attorneys' Representatives:** Plaintiffs and the Class are represented by the law firms of Bernstein Litowitz Berger & Grossmann LLP; Klausner, Kaufman, Jensen & Levinson; and Sugarman & Susskind, P.A. ("Plaintiffs' Counsel"). Any questions regarding the Settlement should be directed to:

Robert D. Klausner, Esq. or Adam P. Levinson, Esq., Klausner, Kaufman, Jensen & Levinson, 10059 N.W. 1st Court, Plantation, FL 33324, (954) 916-1202, merrillsuit@gmail.com; or

William C. Fredericks, Esq., Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, New York, NY 10019, (800) 380-8496, blbg@blbglaw.com; or

Ivelisse Berio LeBeau, Esq., Sugarman & Susskind, P.A., 100 Miracle Mile, Suite 300, Coral Gables, FL 33134, (800) 329-2122, info@sugarmansusskind.com.

Please do not contact any representative of Merrill Lynch or the Court with questions about the Settlement.

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[2] The term "Plans" as used herein refers to the Plaintiff Plans and all other Florida public employee retirement benefit plans that fall within the definition of the Class.

[3] In addition to the $8,500,000 settlement payment, Defendant has agreed to deposit $1,000 into escrow to be applied to the costs of providing notice of the Settlement to the Class.

5. **Reasons for the Settlement:** Plaintiffs' principal reason for entering into the Settlement is the substantial cash benefit payable to the Class now, without further risk or the delays inherent in further litigation. The significant cash benefit under the Settlement must be considered against the significant risk that a smaller recovery - or, indeed, no recovery at all - might be achieved after contested motions, trial and likely appeals, a process that could last several years into the future. For Defendant Merrill Lynch, which denies all allegations of wrongdoing or liability whatsoever, the principal reason for entering into the Settlement is to eliminate the expense, risks, and uncertainty of further litigation.

YOUR PLAN'S LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
REMAIN A MEMBER OF THE CLASS	This is the only way for Your Plan to get a payment from the Settlement. If Your Plan wishes to obtain a payment from the Settlement, it will need to file a Claim Form (which is included with this Notice) postmarked no later than September 11, 2012.[4]
EXCLUDE YOUR PLAN FROM THE CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS *RECEIVED* NO LATER THAN JULY 6, 2012.	Get no payment. This is the only option that allows Your Plan to ever be part of any other lawsuit against Merrill Lynch or the other Released Defendant Parties concerning the claims that were, or could have been, asserted in this case. If Your Plan excludes itself from the Class, the Plan will *not* be eligible to get any payment from the Settlement Fund.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS *RECEIVED* NO LATER THAN JULY 6, 2012.	Write to the Court and explain why Your Plan does not like the Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of expenses. Your Plan cannot object to the Settlement if it excludes itself from the Class.
GO TO THE HEARING ON JULY 27, 2012 AT 10:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS *RECEIVED* NO LATER THAN JULY 6, 2012.	Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and reimbursement of expenses.
DO NOTHING.	Get no payment. Remain a Class Member and be bound by any judgments or orders entered by the Court in the Action.

[4] **PLEASE NOTE:** Unlike many other class action settlements, the amount of each Plan's "Adjusted Claim Amount" has already been determined based on information obtained from Defendant's records. *See* "Proposed Plan of Allocation," below. ***Accordingly, a Plan is neither expected nor required to collect or submit any payment records, account statements or similar evidentiary materials with its Claim Form to establish the amount of its claim under this Settlement.*** In the event that a Plan wishes to obtain a payment from the Settlement, but believes that it has evidence that would establish that its *pro rata* share of the Settlement should be higher than that set forth in Exhibit 1 to this Notice, it must file both a Claim Form and the additional materials described in paragraph 47 below no later than September 11, 2012.

WHAT THIS NOTICE CONTAINS

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WHY DID OUR PLAN GET THIS NOTICE?

6. This Notice is being sent to Your Plan, c/o Your Plan's Plan Administrator, pursuant to an Order of the Court because it has been determined that Your Plan is a member of the Class in this Action. The Court has directed us to send Your Plan this Notice because the named fiduciaries of Your Plan have a right to know about Your Plan's options before the Court rules on the proposed Settlement of this case. Additionally, Your Plan's named fiduciaries have the right to understand how a class action lawsuit generally affects Your Plan's legal rights. If the Court approves the Settlement, the claims administrator selected by Plaintiffs and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

7. In a class action lawsuit, one or more plaintiffs, commonly called "named" or "lead" plaintiffs, sue on behalf of all persons or entities that have similar claims, commonly known as "the class" or "the class members." In this Action, the respective Boards of Trustees of the City of Lake Worth Employees' Retirement System, the City of Lake Worth Police Officers' Retirement System, and the City of Lake Worth Firefighters' Pension Trust Fund are the named Plaintiffs, and they are represented in the Action by Plaintiffs' Counsel. A class action is a type of lawsuit in which the claims of a number of persons or entities are resolved together in one proceeding, thus providing the class members with both consistency and efficiency. Once the class is certified, the Court must resolve all issues on behalf of the class members, except for any persons or entities that choose to exclude themselves from the class. (For more information on excluding Your Plan from the Class, please read "What If Our Plan Does Not Want To Participate In The Settlement? How Does the Plan Exclude Itself?," on page 13 below.)

8. The Court in charge of this case is the United States District Court for the Middle District of Florida, and the case is known as Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Case No. 3:10-cv-845-J-32MCR. The Judge presiding over this case is The Honorable Timothy J. Corrigan, United States District Judge. The persons and entities who are suing are called Plaintiffs, and the company they are suing, Merrill Lynch, is called the Defendant. If the Settlement is approved, it will resolve all claims in the Action by Class Members against Defendant and will bring the Action to an end.

9. This Notice explains the lawsuit, the Settlement, Your Plan's legal rights, what benefits are available to Your Plan, and how to get them. The purpose of this Notice is to inform the named fiduciaries of Your Plan of the existence of this case and that it is a class action, and to explain how Your Plan is affected and how it may exclude itself from the Class if it wishes to do so. The Notice also is being sent to inform Your Plan's named fiduciaries of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement, the proposed Plan of Allocation, and the motion by Plaintiffs' Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses (the "Settlement Hearing").

10. The Settlement Hearing will be held on July 27, 2012 at 10:00 a.m., before The Honorable Timothy J. Corrigan, in Courtroom 10D of the Bryan Simpson United States Courthouse, 300 North Hogan Street, Jacksonville, FL 32202, to determine:

(a) whether the proposed Settlement is fair, reasonable, and adequate and should be approved by the Court;
(b) whether the Released Plaintiff Claims against Defendant and the other Released Defendant Parties should be dismissed with prejudice as set forth in the Stipulation;
(c) whether the proposed Plan of Allocation is fair and reasonable and should be approved by the Court; and
(d) whether Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of Litigation Expenses should be approved by the Court.

11. This Notice does not express any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement and the Plan of Allocation. If the Court approves the Settlement and the Plan of Allocation, payments to Authorized Claimants will be made after any appeals are resolved, and after the completion of all claims processing. Please be patient.

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

12. On or about July 15, 2010, Plaintiffs filed a putative class action against Merrill Lynch, captioned Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, No. 16-2010-CA-008965, in the Circuit Court of the Fourth Circuit in and for Duval County, Florida (the "Florida State Court Action").

13. The class action complaint (the "Complaint") filed by Plaintiffs alleged that Merrill Lynch breached its fiduciary duties to the Florida public employee retirement plans that Plaintiffs represent as trustees (the "Plaintiff Plans"), and to all other Florida public employee retirement benefit plans for which Merrill Lynch and Merrill Lynch Financial Advisor Michael Callaway or any other member of the Callaway Team[5] provided Consulting Services[6] during the Class Period (collectively, with the Plaintiff Plans, the "Plans"). More specifically, the Complaint alleges that Merrill Lynch breached its fiduciary duties to the Plans by, among other things, (a) entering into fee arrangements with the Plans - and with certain third parties (such as mutual fund companies) who provided services to the Plans - that placed Merrill Lynch's financial interests ahead of the Plans' interests and that compromised Merrill Lynch's role as an "independent" advisor to the Plans, and (b) failing to utilize the full panoply of Merrill Lynch's manager selection and retention resources (including the full panoply of manager research and analysis services available through Merrill Lynch's offices in New Jersey) for the benefit of the Plans. Plaintiffs alleged that the Plans suffered losses as a result of Merrill Lynch's breaches of its fiduciary duties, and demanded that Merrill Lynch disgorge all benefits, compensation, or other value it received in connection with the provision of Consulting Services to the Plans or the investment of the Plans' assets during the Class Period.

[5] "Callaway Team" refers to Michael Callaway, Melissa Callaway and all other Merrill Lynch employees who, before or during the Class Period, worked under Michael or Melissa Callaway's direct or indirect supervision at the Merrill Lynch branch office in Florida where Michael and Melissa Callaway were based.

[6] "Consulting Services" means all consulting and investment advisory services provided by Merrill Lynch, Michael Callaway and/or any other member of the Callaway Team to any Class Member, which services are the subject of and described in the disclosure statements entitled "Merrill Lynch Consulting Services Disclosure Statement" that Merrill Lynch filed with the U.S. Securities and Exchange Commission during the Class Period.

14. On September 15, 2010, Defendant Merrill Lynch filed a Notice of Removal of Civil Action, removing the Florida State Court Action to this Court. Accordingly, the action is now pending in federal court under the caption Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Case No. 3:10-cv-845-J-32MCR (M.D. Fla.) (the "Action").

15. On September 22, 2010, Defendant filed its Motion to Dismiss the Complaint and to Transfer Venue to the Southern District of Florida. On October 25, 2010 (a) Plaintiffs filed their Opposition to the Motion to Dismiss, and (b) Defendant Merrill Lynch (pursuant to a stipulation between the parties) formally withdrew its Motion to Transfer Venue. On November 9, 2010, Defendant filed its Reply in support of its Motion to Dismiss. Thereafter, the Court heard oral argument on the Motion to Dismiss. On May 31, 2011, the Court entered its Order and Opinion denying Defendant's Motion to Dismiss.

16. Following the denial of the Motion to Dismiss, the parties commenced discovery. On June 17, 2011, Plaintiffs filed their First Set of Requests for Production of Documents on Merrill Lynch. Thereafter, Merrill Lynch produced over two million pages of documents to Plaintiffs' Counsel.

17. On June 22, 2011, the Court entered a Case Management and Scheduling Order setting forth a schedule for class certification, discovery, and trial, and also referring the case to mediation before Judge Herbert Stettin (ret.).

18. On June 24, 2011, Defendant filed its Answer to the Complaint, wherein Defendant denied that it breached any fiduciary duties or caused losses to Plaintiffs, the Plaintiff Plans, or any of the other Plans, and asserted defenses based upon, among other things, the statute of limitations, the economic loss rule, and the Plans' consent to the practices the Plaintiffs now contend violated Merrill Lynch's fiduciary duties.

19. In October 2011, both sides commenced formal deposition discovery. For example, during October and November 2011, Plaintiffs took depositions pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure of three Merrill Lynch representatives in New York, and Defendant Merrill Lynch took the depositions of a trustee representative of each of the three Plaintiff Plans in Florida.

20. On November 28, 2011, Plaintiffs served their Motion for Class Certification on Merrill Lynch, together with their memorandum of law and multiple declarations and exhibits in support thereof (collectively, the "Class Certification Motion Papers").

21. Although the Parties continued to vigorously litigate the Action, pursuant to the Court's June 22, 2011 directive, the Parties agreed that after each side had had a reasonable opportunity to conduct substantial document discovery and to begin targeted deposition discovery, they would participate in mediation before Judge Stettin (ret.) (hereafter, the "Mediator"). Accordingly, at the same time that the Parties were engaging in discovery, the Parties also entered into a mediation schedule with the Mediator. Pursuant to that schedule, each side agreed to submit written confidential mediation statements in advance of a face-to-face mediation session, which was to be held promptly after Plaintiffs had served their Class Certification Motion Papers.

22. On December 6, 2011, the Parties each submitted their respective Mediation Statements to the Mediator. On December 8, 2011, the Parties participated in a mediation conference under the auspices of the Mediator. At the mediation, in addition to being represented by their respective outside counsel, Merrill Lynch was represented by two of its employees with authority to negotiate on Merrill's behalf, and each Plaintiff Plan was represented by one of its trustees. After a full day of negotiations, the Parties reached an agreement in principle to settle the Action. However, a number of issues required further negotiation, with the result that the Parties' counsel continued negotiations over the following week in an effort to conclude a binding agreement.

23. With the assistance of the Mediator, and as a result of further arm's-length negotiations, the Parties entered into a binding Memorandum of Understanding (the "MOU") on December 14, 2011, subject to formal approval by the Boards of Trustees of each Plaintiff Plan. On January 11, 2012, the respective Boards of Trustees of the Plaintiff Plans, meeting in public session in Lake Worth, Florida, each unanimously approved the Settlement.

24. Following further discussions and negotiations with respect to the final terms of the Settlement, on March 23, 2012, the Parties executed a "long form" written Stipulation of Settlement (the "Stipulation"). On April 24, 2012, the Court entered an Order Preliminarily Approving Proposed Settlement and Providing for Notice, which preliminarily approved the Settlement, authorized this Notice be sent to the Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

25. As set forth above, Plaintiffs' Counsel have conducted an investigation and pursued significant discovery into the claims and the underlying events and transactions alleged in the Complaint. Plaintiffs' Counsel have analyzed the evidence adduced during their investigation and through discovery, which included, among other things, the review of over two million pages of documents and the taking or defending of a half-dozen depositions, and have also thoroughly researched the applicable law with respect to the claims asserted against the Defendant and the potential defenses thereto. Plaintiffs' Counsel have also vigorously litigated this Action through their successful opposition to Defendant's Motion to Dismiss, and filed their comprehensive motion papers in support of class certification before negotiating the Settlement.

WHICH PLANS ARE INCLUDED IN THE CLASS?

26. The Class consists of:

> Any and all Florida public employee retirement benefit plans for which Merrill Lynch and Merrill Lynch Financial Advisor Michael Callaway or any other member of the Callaway Team provided Consulting Services during the period from July 1, 2000, through and including June 30, 2008, or any portion thereof. Excluded from the Class are all such Plans that had brought separate arbitration or litigation proceedings against Merrill Lynch or any member of the Callaway Team on or before December 14, 2011, as listed on Schedule 1 to the Stipulation. The Class also does not include those Plans which timely request exclusion from the Class pursuant to this Notice (*see* "What If Our Plan Does Not Want To Participate In The Settlement? How Does the Plan Exclude Itself?" on page 13 below)

BASED ON INFORMATION PROVIDED BY DEFENDANT MERRILL LYNCH, IT HAS BEEN DETERMINED BY THE PARTIES THAT YOUR PLAN IS A MEMBER OF THE CLASS. THEREFORE, YOUR PLAN WILL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE STIPULATION OF SETTLEMENT UNLESS A TIMELY REQUEST FOR EXCLUSION IS SUBMITTED BY THE PLAN. HOWEVER, IF YOUR PLAN WISHES TO REMAIN IN THE CLASS AND TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENT, PLEASE NOTE THAT YOUR PLAN MUST SUBMIT THE CLAIM FORM ACCOMPANYING THIS NOTICE POSTMARKED BY NO LATER THAN SPETEMBER 11, 2012.

WHAT ARE PLAINTIFFS' REASONS FOR THE SETTLEMENT?

27. Plaintiffs and Plaintiffs' Counsel believe that the claims asserted against Defendant in this Action have substantial merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendant through trial and appeals, as well as the difficulties in establishing liability and damages at trial that this Action presented. Plaintiffs and Plaintiffs' Counsel have taken into account the possibility that the claims asserted in the Complaint might have been dismissed following the completion of discovery in response to Merrill Lynch's anticipated motion for summary judgment, and have also considered the nature of the various issues that would have been presented in the event of a trial of the Action. Plaintiffs and Plaintiffs' Counsel have considered the arguments advanced by Merrill Lynch, including its argument that Plaintiffs' claims for breach of fiduciary duty are barred by the "economic loss rule" under Florida law, a doctrine which prevents parties to a contract from seeking to recover damages in tort for matters arising out of the contract. According to Merrill Lynch, the economic loss rule bars the claims asserted by Plaintiffs in this Action because the duties allegedly breached by Merrill Lynch arose from, and are inextricably intertwined with, the obligations outlined in the parties written agreements in force during the Class Period. In addition, Merrill Lynch would have likely argued that its fee arrangements were sufficiently disclosed to protect it from liability, and that Plaintiffs' arguments that Merrill Lynch was not entitled to collect certain types of fees were not supported by Plaintiffs' interpretations of relevant provisions of Florida law. Although Plaintiffs and

Plaintiffs' Counsel believe that they have meritorious arguments to counter Merrill Lynch's arguments, they also recognize the real risk that, if this litigation were to have continued, Merrill Lynch might have been able to establish various defenses to the claims asserted in the Complaint, and that there might be little or no recovery at all for the Class had the case proceeded to trial.

28. In agreeing to the Settlement, Plaintiffs and Plaintiffs' Counsel have also considered the fact that any recoveries obtained from a favorable verdict after a trial would still be in jeopardy on appeal, and that, even if a favorable verdict were ultimately sustained on appeal, it would likely take years before the case was finally resolved, absent a settlement. In light of the amount of the Settlement, namely $8,500,000 in cash (less the various deductions described in this Notice), and the benefits of immediate and certain recovery to the Class as compared to the risks and uncertainties of ever obtaining a superior recovery at some indeterminate date in the future, Plaintiffs and Plaintiffs' Counsel believe that the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Class.

29. Merrill Lynch has denied the claims asserted against it in the Action and denies having engaged in any wrongdoing or violation of law of any kind whatsoever. Merrill Lynch has 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 Merrill Lynch's wrongdoing.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

30. If there were no Settlement and Plaintiffs failed to establish any essential legal or factual element of its claims, neither the Plaintiff Plans nor the other members of the Class would recover anything from Defendant. Also, if Defendant were successful in proving any of its defenses, the Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

HOW MUCH WILL OUR PLAN'S PAYMENT BE?

31. At this time, it is not possible to state with certainty how much Your Plan will receive from the Settlement. For more information, *see* "Plan of Allocation" at paragraphs 41-48 below.

32. Pursuant to the Settlement, Defendant has agreed to pay or cause to be paid Eight Million Five Hundred Thousand Dollars ($8,500,000) in cash (the "Settlement Amount"). 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 local taxes on any income earned by the Settlement Fund and the reasonable costs incurred in connection with determining the amount of any such taxes (including the 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 as set forth in the proposed plan of allocation (the "Plan of Allocation") or such other plan as the Court may approve.

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

34. Neither Defendant nor any other person or entity that paid any portion of the Settlement Amount on its behalf are entitled to get back any portion of the Settlement Fund once the Court's Order or Judgment approving the Settlement becomes Final. Defendant shall not have any liability, obligation or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund or the Plan of Allocation.

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

36. Each Class Member wishing to receive its share of the Net Settlement Fund must timely submit a valid Claim Form postmarked on or before September 11, 2012 to the address set forth in the Claim Form that accompanies this Notice.

37. Unless the Court otherwise orders, any Class Member that fails to submit a Claim Form postmarked on or before September 11, 2012 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 Plaintiff Claims (as defined in paragraph 52 below) against the Released Defendant Parties (as defined in paragraph 53 below) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Plaintiff Claims against any of the Released Defendant Parties regardless of whether or not such Class Member submits a Claim Form.

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

39. Each Class Member shall be deemed to have submitted to the jurisdiction of the United States District Court for the Middle District of Florida with respect to its Claim.

40. Any Class Member that requests exclusion from the Class will not be eligible to receive a distribution from the Net Settlement Fund and should not submit a Claim Form.

PROPOSED PLAN OF ALLOCATION

41. As summarized above, Plaintiffs' primary theory of liability against Merrill Lynch is that Merrill Lynch breached its fiduciary duties to the Plans during the Class Period by (a) entering into fee arrangements with the Plans - and with certain third parties (such as mutual fund companies) which provided services to the Plans - that placed Merrill Lynch's financial interests ahead of the Plans' interests and compromised Merrill Lynch's role as an "independent" advisor to the Plans, and (b) failing to utilize the full panoply of Merrill Lynch's manager selection and retention resources (including the full panoply of manager research and analyses services available through Merrill Lynch's offices in New Jersey) for the benefit of the Plans. Accordingly, at all material times, Plaintiffs' primary theory of damages has been based on a theory of "disgorgement," *i.e.*, that Merrill Lynch (as a result of its above alleged breaches of fiduciary duty) should be required to refund (or "disgorge") all fees that Merrill Lynch received from any source in connection with the provision of Consulting Services to the Plans or the investment of Plan assets.

42. Plaintiffs' Counsel have therefore developed a Plan of Allocation that will allocate the Net Settlement Fund among all Class Member Plans using a methodology that has: (1) approximated the total amount of fees that Merrill Lynch (including its Citation brokerage unit) received from all sources (including the Plans, various mutual fund companies and certain investment managers) and that Merrill Lynch retained in connection with the provision of Consulting Services to the Plans or the investment of Plan assets during the Class Period (the "Total Approximate Merrill Lynch Fee Amount"); (2) approximated, for each Plan separately, how much of the Total Approximate Merrill Lynch Fee Amount was paid to Merrill Lynch in connection with the provision of Consulting Services to that particular Plan (or the investment of that Plan's assets) (the "Unadjusted Plan Claim Amounts"); and (3) adjusted each Plan's Unadjusted Plan Claim Amount to reflect certain refunds of 12b-1 mutual fund fees which Merrill Lynch had originally retained but ultimately reimbursed back to certain affected Plans in 2007 or 2008 (the "Adjusted Claim Amounts").

43. Under the Plan of Allocation, each Authorized Claimant[7] will receive a payment from the Net Settlement Fund based on its *pro rata* share of the Fund ("*Pro Rata* Share"), which will be determined for each Plan by dividing the Plan's Adjusted Claim Amount by the total Adjusted Claim Amounts of all Authorized Claimants. Based on the assumption that each Plan will submit a timely and properly executed Claim Form (and that there are no changes to any Adjusted Claim Amounts as a result of any successful "Claim Amount Challenge" as described in paragraph 47

[7] An "Authorized Claimant" is a Class Member that submits a properly executed Claim Form to the Claims Administrator which is (a) submitted in accordance with the requirements set forth in this Notice, and (b) is approved for payment from the Net Settlement Fund.

below), Plaintiffs' Counsel have estimated each Plan's *Pro Rata* Share of the Net Settlement Fund, which will be multiplied against the available balance of the Net Settlement Fund at the time of distribution to determine each Authorized Claimant's payment amount.

44. Based on information provided to Plaintiffs and their counsel by Merrill Lynch and Merrill Lynch's damages experts in the course of formal discovery and subsequent post-settlement due diligence discovery, the Total Adjusted Approximate Merrill Lynch Fee Amount (equal to the maximum amount of fees subject to disgorgement under Plaintiffs' theory of liability) is $14,590,780. This figure consists of the sum of the following fees received by Merrill Lynch during the Class Period: (a) all investment advisory fees and Citation directed brokerage trading commissions paid by the Plans to Merrill Lynch, (b) all finders' fees paid to Merrill Lynch by mutual fund companies or other money managers in connection with the investment of Plan assets, and (c) all 12b-1 fees paid by certain mutual funds to Merrill Lynch in connection with the investment of Plan assets in those mutual funds, less the amount of such 12b-1 fees subsequently refunded by Merrill Lynch to the Plans ("12b-1 Fee Refund Amounts").

45. Based on schedules and other documents provided to them by Merrill Lynch and its damages expert, Plaintiffs' Counsel have assembled a "Claim Amount Table" setting forth each Plan's pre-calculated (a) Unadjusted Claim Amount; (b) 12b-1 Fee Refund Amount (if any); (c) Adjusted Claim Amount; and (d) *Pro Rata* Share.[8] The Claim Amount Table is set forth on Exhibit 1 to this Notice. To preserve each Plan's confidentiality, each Plan is identified in the Claim Amount Table only by a unique identification number. However, each Plan's identification number is indicated in the separate letter directed to that Plan that accompanies the Notice, so that each Plan can review the calculations applicable to it in the Claim Amount Table.

46. The figures set forth in the Claim Amount Table were calculated based on information provided by Merrill Lynch and its damages experts. Plaintiffs have been advised by Merrill Lynch that the relevant amounts cannot be calculated with precision due to the absence of certain information for certain portions of the Class Period (and the lack of audited data for any portion of the Class Period), but that they reflect good faith calculations and estimates based on reasonably available information (see footnote 8 above), and that it has no reason to believe that any other methodology for calculating these amounts would be materially more accurate based on available data.

47. Notwithstanding the Parties' best efforts to insure the substantial correctness and reasonableness of the amounts set forth in the Claim Amount Table, in the event that a Plan believes that it can establish that its calculated Adjusted Claim Amount set forth on the Claim Amount Table is incorrect, it may challenge its Adjusted Clam Amount by submitting evidence (such as account statements provided to it by Merrill Lynch, brokerage statements from the Plan's investment advisors, mutual fund statements, mutual fund disclosure documents reflecting any periods during which the fund was subject to 12b-1 fees, or supporting affidavits) in support of its position that its Adjusted Claim Amount was incorrectly calculated. The submission of such a challenge is referred to as a "Claim Amount Challenge," and a Plan submitting such a challenge is referred to as a "Disputing Plan." Any Claim Amount Challenge must be submitted to the Claims Administrator by an authorized representative(s) of the Disputing Plan along with a properly executed Claim Form, in accordance with the instructions and requirements set forth in the Claim Form, and must be postmarked no later than September 11, 2012. The Claims Administrator and Plaintiffs' Counsel will review any Claim Amount Challenges. If the Claims Administrator, Plaintiffs' Counsel and the Disputing Plan are not able to resolve the Claim Amount Challenge, the Disputing Plan may, if it wishes to pursue the challenge, ask that the dispute be submitted to the Mediator (or a substitute arbitrator appointed by the Court) for binding resolution. A Disputing Plan that chooses to submit a Claim Amount Challenge to the Mediator for binding resolution must bear its own costs and legal fees in connection with its challenge, including one half of any fees charged by the Mediator.

[8] Because of limitations and gaps in the available Merrill Lynch data and records, in preparing the Claim Amount Table it was not possible to calculate each Plan's precise Unadjusted Claim Amount or precise Adjusted Claim Amount, primarily because Merrill Lynch lacked reliable data that would allow it break down which fees were attributable to which specific Plans for the periods (a) July 1, 2000 through December 31, 2001, and (b) January 1, 2007 through June 30, 2008 (the first 18 months and last 18 months, respectively, of the Class Period). Accordingly, when reasonably reliable information concerning the July 1, 2000 through December 31, 2001 period was not available, the amount of fees received by Merrill Lynch for the 18 month period from July 1, 2000 through December 31, 2001 in connection with a given Plan were estimated using a methodology that assumed that Merrill Lynch's fees for this period were incurred in connection with specific Plans in the same ratio as they were in 2002. A similar methodology was applied to estimate the amount of fees received by Merrill Lynch in connection with each Plan for the period January 1, 2007 through June 30, 2008, except that data from 2006 was used as the basis for extrapolating each Plan's "share" of fees received by Merrill Lynch (except that in all cases no adjustment was made with respect to calculating 12b-1 fees, as Merrill Lynch ceased its practice of retaining such fees as of December 31, 2006).

48. If, as a result of any successful Claim Amount Challenge(s), one or more Plans were to establish that the appropriate Adjusted Claim Amount for their Plan is higher than the amount set forth on the Claim Amount Table, and/or if one or more Plans do not submit a valid Claim Form, the *Pro Rata* Shares of the Net Settlement Fund for all Plans set forth in the Claim Amount Table will be adjusted accordingly, and the Net Settlement Fund will be distributed on the basis of the adjusted *Pro Rata* Shares.

ADDITIONAL PROVISIONS

49. Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, the Plaintiff Plans, Plaintiffs' Counsel, Defendant, Defendant's Counsel or any of the other Released Defendant Parties, or the Claims Administrator or other agent designated by Plaintiffs' 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. Plaintiffs, the Plaintiff Plans, Defendant, Defendant's Counsel and the other Released Defendant Parties shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the determination, administration, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of any taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

50. The Plan of Allocation set forth herein is the plan that is being proposed by Plaintiffs and Plaintiffs' Counsel to the Court for approval. 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 a modification of the Plan of Allocation will be posted to the settlement website, www.mlfloridapensionplansettlement.com.

WHAT RIGHTS WILL OUR PLAN GIVE UP BY REMAINING IN THE CLASS?

51. If Your Plan remains in the Class, it 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 Defendant and will provide that, upon the Effective Date of the Settlement, Plaintiffs and each of the members of Class (including Your Plan) and their respective named fiduciaries in their capacities as such, on behalf of themselves, their respective heirs, executors, administrators, predecessors, successors, and assigns, shall be deemed by operation of law to have released, waived, discharged, and dismissed each and every Released Plaintiff Claim (as defined in paragraph 52 below) against any of the Released Defendant Parties (as defined in paragraph 53 below) and shall forever be enjoined from prosecuting any or all of the Released Plaintiff Claims against any of the Released Defendant Parties.

52. "Released Plaintiff Claims" means any and all claims and causes of action of every nature and description, including Unknown Claims, whether arising under federal, state, common or foreign law, that Plaintiffs, the Plaintiff Plans or any other member of the Class (including their respective named fiduciaries in their capacities as such) (a) asserted or could have asserted in the Action that arise out of or relate to the Consulting Services relationship between any Class Member and Merrill Lynch through December 14, 2011, Merrill Lynch's Consulting Services business through December 14, 2011, or Consulting Services provided by the Callaway Team through December 14, 2011, or (b) could have asserted in any forum (whether in court or arbitration) that arise out of or relate to the Consulting Services relationship between any Class Member and Merrill Lynch through December 14, 2011, Merrill Lynch's Consulting Services business through December 14, 2011, or Consulting Services provided by the Callaway Team through December 14, 2011, except for claims relating to the enforcement of the Settlement.

53. "Released Defendant Parties" means Merrill Lynch, its past and present trustees, officers, directors, employees (including without limitation Michael Callaway, Melissa Callaway and Jeffrey Swanson and all other former employees of the Callaway Team), principals, attorneys, predecessors, successors, assigns, parents, subsidiaries, and divisions.

54. "Unknown Claims" means any and all Released Plaintiff Claims that Plaintiffs, the Plaintiff Plans, or any of the other Class Members or their respective named fiduciaries in their capacities as such do not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendant Claims that Defendant or any of the other Released Defendant Parties do 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. With respect to any and all Released Plaintiff Claims and Released Defendant Claims, the Parties stipulate and agree that upon the Effective Date, Plaintiffs and Defendant shall expressly waive, and each Plaintiff Plan and each other Class Member and its named fiduciaries in their capacities as such, and each other Released Defendant Party, shall be deemed to have waived, all provisions, rights and benefits conferred by any law of any state of the United States, or principle of common law or otherwise, which is similar, comparable or equivalent to California Civil Code §1542, which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties acknowledge, and each Plaintiff Plan and each other Class Member and its named fiduciaries in their capacities as such, and each other Released Defendant Party, by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Plaintiff Claims and Released Defendant Claims was separately bargained for and was a key element of the Settlement.

55. The Judgment also will provide that, upon the Effective Date of the Settlement, Defendant and each of the other Released Defendant Parties, on behalf of themselves, their respective heirs, executors, administrators, predecessors, successors, and assigns, shall be deemed by operation of law to have released, waived, discharged, and dismissed any and all claims and causes of action of every nature and description, including Unknown Claims, whether arising under federal, state, common or foreign law, that Merrill Lynch or any other Released Defendant Party could have asserted in the Action or any other forum (whether in court or in arbitration) that arise out of or relate to the Consulting Services relationship between any Class Member and Merrill Lynch through December 14, 2011, Merrill Lynch's Consulting Services business through December 14, 2011, or Consulting Services provided by the Callaway Team through December 14, 2011, as well as all claims relating to the institution, prosecution and/or settlement of the claims asserted against Merrill Lynch in the Action, except for claims relating to the enforcement of the Settlement, and shall forever be enjoined from prosecuting any or all such claims, against Plaintiffs, the Plaintiff Plans and the other members of the Class (who do not exclude themselves from the Class), their past or present trustees, named fiduciaries, directors, officers, employees, principals, attorneys, predecessors, successors, assigns, parents, subsidiaries, and divisions.

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

56. Plaintiffs' Counsel have not received any payment to date for their services in pursuing claims against the Defendant on behalf of the Class, nor have Plaintiffs' Counsel been reimbursed for any of their out-of-pocket expenses. Before final approval of the Settlement, Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees from the Settlement Fund in the amount of 25% of the Settlement Fund. At the same time, Plaintiffs' Counsel also intend to apply for the reimbursement of Litigation Expenses not to exceed $100,000, to be paid from the Settlement Fund. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses.

HOW CAN OUR PLAN PARTICIPATE IN THE SETTLEMENT? WHAT DOES OUR PLAN NEED TO DO?

57. ***To be eligible for a payment from the proceeds of the Settlement, an authorized representative of Your Plan must execute and complete the Claim Form*** and submit it to the Claims Administrator at the address indicated in the Claim Form, ***postmarked no later than September 11, 2012***. A Claim Form is included with this Notice, or you may obtain one from the website maintained by the Claims Administrator for the Settlement, www.mlfloridapensionplansettlement.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator at 1-800-231-1815. If Your Plan requests exclusion from the Class or does not submit a timely

and valid Claim Form, Your Plan will not be eligible to share in the Net Settlement Fund. **PLEASE NOTE:** Unlike many other class action settlements, the amount of each Plan's "Adjusted Claim Amount" has already been determined based on information obtained from Defendant's records. *See* "Proposed Plan of Allocation," above. ***Accordingly, a Plan is neither expected nor required to collect or submit any payment records, account statements or similar evidentiary materials with its Claim Form to establish the amount of its claim under this Settlement***, unless it wishes to file a Claim Amount Challenge (in which case a Plan must follow the additional procedures set forth in paragraph 47 above).

58. As a condition to being eligible to receive a share of the Net Settlement Fund, Your Plan must acknowledge in its signed Claim Form that, in the event that it (or its named fiduciaries on its behalf) sues any a person or entity other than a Released Defendant Party that provided investment-related or professional or other services to Your Plan during the Class Period (including but not limited to money managers) (a "Third Party") based upon any allegations in connection with the claims or allegations that were asserted in this Action (or that arise out of the Consulting Services relationship between Your Plan and Merrill Lynch during the Class Period), Your Plan must return any distribution it receives from the Net Settlement Fund to Merrill Lynch *if* the assertion of such claim(s) against a Third Party results in a claim being made against Merrill Lynch by such Third Party for contribution or indemnity with respect to such claim(s). This provision does not apply, however, to any counterclaims asserted by Your Plan (or its named fiduciaries in their capacities as such) in connection with any lawsuit initiated by any Third Party.

59. As a Class Member, Your Plan is represented by Plaintiffs and Plaintiffs' Counsel, unless Your Plan enters an appearance through counsel of its own choice at its own expense. Your Plan is not required to retain its own counsel, but if Your Plan chooses to do so, such counsel must file a notice of appearance on behalf of Your Plan and must serve copies of his or her notice of appearance on the attorneys listed in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

60. If Your Plan does not wish to remain a Class Member, an authorized representative of Your Plan may exclude the Plan from the Class by following the instructions in the section entitled, "What If Our Plan Does Not Want To Participate In The Settlement? How Does The Plan Exclude Itself?" below.

61. If Your Plan wishes to object to the Settlement, the proposed Plan of Allocation, or Plaintiffs' Counsel's application for attorneys' fees and reimbursement of Litigation Expenses, and if Your Plan does not exclude itself from the Class, Your Plan may present its objections by following the instructions in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

WHAT IF OUR PLAN DOES NOT WANT TO PARTICIPATE IN THE SETTLEMENT? HOW DOES THE PLAN EXCLUDE ITSELF?

62. Your Plan will be bound by all determinations and judgments in this lawsuit, including those concerning the Settlement, whether favorable or unfavorable, unless Your Plan mails or delivers a written Request for Exclusion from the Class, addressed to Merrill Lynch Florida Public Pension Plan Consulting Services Litigation, EXCLUSIONS, c/o GCG, P.O. Box 9349, Dublin, OH 43017-4249. The exclusion request must be received no later than July 6, 2012. Your Plan will not be able to exclude itself from the Class after that date. Each Request for Exclusion must (a) state the full legal name of Your Plan and the name(s), address(es) and telephone number(s) of the authorized representative(s) of Your Plan executing the exclusion request on behalf of the Plan; (b) state that Your Plan "requests exclusion from the Class in Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Case No. 3:10-cv-845-J-32MCR"; (c) state the title or position of each person executing the exclusion request on behalf of Your Plan, and include documentation demonstrating that each person executing the exclusion request is authorized to do so on behalf of the Plan and that the signatories executing the request are sufficient to act on behalf of and bind the Plan; and (d) be signed by each authorized representative requesting exclusion on behalf of the Plan. A Request for Exclusion shall not be 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.

63. If Your Plan asks to be excluded from the Class, it will not be eligible to receive any payment out of the Net Settlement Fund or any other benefit provided for in the Stipulation.

64. Defendant has the right to terminate the Settlement if valid requests for exclusion are received from putative Class Members in an amount that exceeds an amount agreed to by Plaintiffs and Defendant.

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? DOES A REPRESENTATIVE OF OUR PLAN HAVE TO COME TO THE HEARING? MAY A REPRESENTATIVE OF OUR PLAN SPEAK AT THE HEARING IF THE PLAN DOES NOT LIKE THE SETTLEMENT?

65. **A representative of Your Plan does *not* need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Plan representative does not attend the hearing. Your Plan can participate in the Settlement without a Plan representative attending the Settlement Hearing.**

66. The Settlement Hearing will be held on July 27, 2012 at 10:00 a.m. before The Honorable Timothy J. Corrigan, in Courtroom 10D of the Bryan Simpson United States Courthouse, 300 North Hogan Street, Jacksonville, FL 32202. The Court reserves the right to approve the Settlement and/or the Plan of Allocation at or after the Settlement Hearing without further notice to the members of the Class.

67. Your Plan may object to the proposed Settlement, to the proposed Plan of Allocation, or to Plaintiffs' Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. An authorized representative(s) with authority to bind Your Plan must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Middle District of Florida, at the address set forth below, on or before July 6, 2012. Your Plan's authorized representative must also serve the papers on Plaintiffs' Counsel and Defendant's Counsel at the addresses set forth below so that the papers are received by them on or before July 6, 2012.

Clerk's Office

United States District Court For The Middle District Of Florida
Clerk of the Court
Bryan Simpson United States Courthouse
300 North Hogan Street
Jacksonville, FL 32202

Plaintiffs' Counsel

William C. Fredericks, Esq.
Bernstein Litowitz Berger & Grossmann LLP
1285 Avenue of the Americas
New York, NY 10019

Defendant's Counsel

David A. Coulson, Esq.
Greenberg Traurig, P.A.
333 SE 2nd Ave
Suite 4400
Miami, FL 33131

68. Any objection to the Settlement must (a) state the full legal name of Your Plan and the name, address and telephone number of each authorized representative of Your Plan submitting the objection; (b) state the title or position of each authorized representative submitting the objection, and include documentation demonstrating that each such person is authorized to do so on behalf of the Plan and that the signatories submitting the objection are sufficient to act on behalf of and bind the Plan; (c) be signed by the authorized representative(s) of the Plan; and (d) contain a statement of the Plan's objection, as well as the specific reasons for the objection, including the legal and evidentiary support Your Plan wishes to bring to the Court's attention. Your Plan may not object to the Settlement, the Plan of Allocation or the motion for attorneys' fees and reimbursement of expenses if Your Plan submits a request for exclusion from the Class.

69. Your Plan may file a written objection without having to appear at the Settlement Hearing. Your Plan may not, however, appear at the Settlement Hearing to present its objection unless an authorized representative of Your Plan first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise.

70. If Your Plan wishes to be heard orally at the hearing regarding the approval of the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses, Your Plan must also file a notice of appearance with the Clerk's Office and serve it on Plaintiffs' Counsel and Defendant's

Counsel at the addresses set forth above so that it is received on or before July 6, 2012. Plans which intend to present evidence at the Settlement Hearing must include in their written notice of appearance the identity of any witnesses they may call to testify and include copies of any exhibits they intend to introduce into evidence at the hearing.

71. Your Plan is not required to hire an attorney to represent Your Plan in making written objections or in appearing at the Settlement Hearing. However, if Your Plan decides to hire an attorney, it must do so at its own expense, and that attorney must file a notice of appearance with the Court and serve it on Plaintiffs' Counsel and Defendant's Counsel so that the notice is received on or before July 6, 2012.

72. The Settlement Hearing may be adjourned by the Court without further written notice to the Class. If a representative of Your Plan intends to attend the Settlement Hearing, you should confirm the date and time with Plaintiffs' Counsel. Unless the Court orders otherwise, any Plan which 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 Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses. Your Plan does not need to appear at the hearing or take any other action to indicate its approval.

CAN A PLAN REPRESENTATIVE SEE THE COURT FILE? WHOM SHOULD WE CONTACT IF WE HAVE QUESTIONS?

73. 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 are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the Middle District of Florida, Bryan Simpson United States Courthouse, 300 North Hogan Street, Jacksonville, FL 32202. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, www.mlfloridapensionplansettlement.com. All inquiries concerning this Notice or the Claim Form should be directed to:

Merrill Lynch Florida Public Pension Plan Consulting Services Litigation
c/o GCG
P.O. Box 9349
Dublin, OH 43017-4249
1-800-231-1815

William C. Fredericks, Esq.
Bernstein Litowitz Berger & Grossmann LLP
1285 Avenue of the Americas
New York, NY 10019
1-800-380-8496
blbg@blbglaw.com

OR

Robert D. Klausner, Esq.
Adam P. Levinson, Esq.
Klausner, Kaufman, Jensen & Levinson
10059 N.W. 1st Court
Plantation, FL 33324
1-954-916-1202
merrillsuit@gmail.com

Ivelisse Berio LeBeau, Esq.
Sugarman & Susskind, PA
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
1-800-329-2122
info@sugarmansusskind.com

DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE CLERK OF COURT REGARDING THIS NOTICE.

Dated: May 15, 2012

By Order of the Clerk of Court
United States District Court for the Middle District of Florida

EXHIBIT 1

CLAIM AMOUNT TABLE

PLAN ID NUMBER	UNADJUSTED CLAIM AMOUNT	12B-1 FEE REFUND AMOUNT	ADJUSTED CLAIM AMOUNT	*PRO RATA* SHARE
1	$ 1,433,790	$ 0	$ 1,433,790	9.8267%
2	$ 1,157,461	$ 25,983	$ 1,131,478	7.7547%
3	$ 1,091,337	$ 31,446	$ 1,059,891	7.2641%
4	$ 635,666	$ 0	$ 635,666	4.3566%
5	$ 594,272	$ 58,270	$ 536,002	3.6736%
6	$ 488,679	$ 0	$ 488,679	3.3492%
7	$ 510,279	$ 64,344	$ 445,935	3.0563%
8	$ 551,458	$ 123,706	$ 427,752	2.9317%
9	$ 471,341	$ 53,789	$ 417,552	2.8618%
10	$ 495,488	$ 104,388	$ 391,100	2.6805%
11	$ 444,571	$ 90,862	$ 353,709	2.4242%
12	$ 361,886	$ 13,665	$ 348,221	2.3866%
13	$ 426,964	$ 94,683	$ 332,281	2.2773%
14	$ 324,762	$ 32,686	$ 292,076	2.0018%
15	$ 280,001	$ 14,549	$ 265,452	1.8193%
16	$ 259,737	$ 0	$ 259,737	1.7801%
17	$ 392,222	$ 134,567	$ 257,655	1.7659%
18	$ 344,362	$ 105,144	$ 239,218	1.6395%
19	$ 260,926	$ 22,839	$ 238,087	1.6318%
20	$ 295,727	$ 80,602	$ 215,125	1.4744%
21	$ 281,126	$ 70,576	$ 210,550	1.4430%
22	$ 241,673	$ 43,888	$ 197,785	1.3555%
23	$ 235,340	$ 43,498	$ 191,842	1.3148%
24	$ 310,477	$ 120,443	$ 190,034	1.3024%
25	$ 204,455	$ 27,481	$ 176,974	1.2129%
26	$ 205,923	$ 31,300	$ 174,623	1.1968%
27	$ 175,389	$ 13,853	$ 161,536	1.1071%
28	$ 146,919	$ 0	$ 146,919	1.0069%
29	$ 146,621	$ 0	$ 146,621	1.0049%
30	$ 135,262	$ 0	$ 135,262	0.9270%
31	$ 138,779	$ 3,637	$ 135,142	0.9262%
32	$ 123,436	$ 0	$ 123,436	0.8460%
33	$ 117,784	$ 0	$ 117,784	0.8072%
34	$ 111,891	$ 0	$ 111,891	0.7669%
35	$ 123,325	$ 14,670	$ 108,655	0.7447%
36	$ 105,073	$ 0	$ 105,073	0.7201%
37	$ 100,753	$ 0	$ 100,753	0.6905%
38	$ 93,392	$ 0	$ 93,392	0.6401%
39	$ 117,149	$ 24,996	$ 92,153	0.6316%
40	$ 101,354	$ 9,466	$ 91,888	0.6298%
41	$ 90,798	$ 0	$ 90,798	0.6223%
42	$ 87,021	$ 0	$ 87,021	0.5964%
43	$ 85,900	$ 0	$ 85,900	0.5887%
44	$ 84,613	$ 0	$ 84,613	0.5799%
45	$ 83,964	$ 0	$ 83,964	0.5755%
46	$ 80,428	$ 0	$ 80,428	0.5512%
47	$ 74,471	$ 0	$ 74,471	0.5104%
48	$ 90,633	$ 17,195	$ 73,438	0.5033%
49	$ 101,015	$ 33,279	$ 67,736	0.4642%
50	$ 65,164	$ 0	$ 65,164	0.4466%
51	$ 78,296	$ 13,248	$ 65,048	0.4458%
52	$ 64,301	$ 0	$ 64,301	0.4407%

PLAN ID NUMBER	**UNADJUSTED CLAIM AMOUNT**	**12B-1 FEE REFUND AMOUNT**	**ADJUSTED CLAIM AMOUNT**	***PRO RATA* SHARE**
53	$ 64,286	$ 0	$ 64,286	0.4406%
54	$ 62,039	$ 0	$ 62,039	0.4252%
55	$ 70,650	$ 8,902	$ 61,748	0.4232%
56	$ 61,122	$ 432	$ 60,690	0.4159%
57	$ 59,735	$ 0	$ 59,735	0.4094%
58	$ 59,460	$ 0	$ 59,460	0.4075%
59	$ 56,866	$ 0	$ 56,866	0.3897%
60	$ 54,712	$ 0	$ 54,712	0.3750%
61	$ 51,863	$ 0	$ 51,863	0.3555%
62	$ 48,323	$ 0	$ 48,323	0.3312%
63	$ 48,120	$ 0	$ 48,120	0.3298%
64	$ 47,613	$ 0	$ 47,613	0.3263%
65	$ 44,484	$ 0	$ 44,484	0.3049%
66	$ 43,113	$ 0	$ 43,113	0.2955%
67	$ 45,964	$ 6,096	$ 39,868	0.2733%
68	$ 37,726	$ 0	$ 37,726	0.2586%
69	$ 37,037	$ 0	$ 37,037	0.2538%
70	$ 34,489	$ 0	$ 34,489	0.2364%
71	$ 33,932	$ 0	$ 33,932	0.2326%
72	$ 31,754	$ 0	$ 31,754	0.2176%
73	$ 25,883	$ 0	$ 25,883	0.1774%
74	$ 24,273	$ 0	$ 24,273	0.1664%
75	$ 25,774	$ 3,420	$ 22,354	0.1532%
76	$ 16,997	$ 0	$ 16,997	0.1165%
77	$ 10,790	$ 0	$ 10,790	0.0740%
78	$ 8,024	$ 0	$ 8,024	0.0550%
TOTAL	**$ 16,128,683**	**$ 1,537,903**	**$ 14,590,780**	**100.0000%**

MUST BE POSTMARKED ON OR BEFORE SEPTEMBER 11, 2012

Merrill Lynch Florida Public Pension Plan Securities Litigation
Consulting Services Litigation
c/o GCG
Claims Administrator
P.O. Box 9349
Dublin, OH 43017-4249
1-800-231-1815
www.mlfloridapensionplansettlement.com

FPP

Control No:
Claim No:

CLAIM FORM AND RELEASE

THIS CLAIM FORM AND RELEASE MUST BE MAILED TO THE ADDRESS ABOVE AND POSTMARKED NO LATER THAN SEPTEMBER 11, 2012.

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PART I - PLAN CONTACT INFORMATION

Plan Name

Plan ID Number[1]

Plan Name as it should appear on settlement check (if different than Plan Name appearing above):

Authorized representative of Your Plan to whom all correspondence regarding this claim should be directed (all information must be provided unless otherwise indicated):

Last Name

First Name

Address Line 1

Address Line 2 (If Applicable)

City

State

Zip Code

Telephone Number

( ) -

Alternate Telephone Number (*Not required*)

( ) -

[1]To preserve each Plan's confidentiality, each Plan has been assigned a unique Plan ID Number for this Settlement.

PART I - PLAN CONTACT INFORMATION (CONTINUED)

Email Address (*Not required, but if you provide an email address, you authorize the Claims Administrator to use it in providing you with information relevant to this claim.)*

INSERT PLAN TAXPAYER IDENTIFICATION NUMBER here (*Required*):

PART II - GENERAL INSTRUCTIONS

A. This Claim Form and Release ("Claim Form") must be executed by an authorized representative(s) of Your Plan (*e.g.*, a Trustee(s) or Plan Administrator) that has (have) the authority to bind Your Plan to this Claim Form ("Authorized Plan Representative").

B. It is important that each Authorized Plan Representative that is executing this Claim Form reads and understands the Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for Attorneys' Fees and Reimbursement of Expenses ("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 such are Your Plan 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, each Authorized Plan Representative will be certifying that he or she has read and understands the Notice, including the terms of the releases described therein and provided for herein.

C. TO RECEIVE A DISTRIBUTION IN THE SETTLEMENT, A COMPLETED AND SIGNED CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTAGE PREPAID, **POSTMARKED BY SEPTEMBER 11, 2012,** ADDRESSED AS FOLLOWS:

Merrill Lynch Florida Public Pension Plan Consulting Services Litigation
c/o GCG
Claims Administrator
P.O. Box 9349
Dublin, OH 43017-4249

If Your Plan fails to file a timely, properly addressed, and completed Claim Form, Your Plan's claim may be rejected and it may be precluded from receiving any proceeds from the Settlement.

D. IF YOUR PLAN FILED A REQUEST FOR EXCLUSION FROM THE CLASS, IT SHOULD NOT SUBMIT A CLAIM FORM. YOUR PLAN MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF IT SUBMITS A VALID AND TIMELY REQUEST FOR EXCLUSION.

E. Your Plan will be bound by the terms of any judgments or orders entered in the Action WHETHER OR NOT A CLAIM FORM IS SUBMITTED, unless a valid request for exclusion from the Class is received by **July 6, 2012.** As described in the Notice, the Judgment will release and enjoin the filing or continued prosecution of the Released Plaintiff Claims against the Released Defendant Parties.

F. Each Authorized Plan Representative executing this Claim Form on behalf of Your Plan must (a) state on the signature page in Part V below the capacity in which he or she is acting on behalf of Your Plan; and (b) submit written documentation with this Claim Form evidencing his or her current authority to execute this document on behalf of Your Plan.

G. The Amount of Your Plan's "Adjusted Claim Amount" under the Plan of Allocation (which will be used to determine Your Plan's *pro rata* share of the Settlement proceeds) has already been determined based on information obtained from Defendant's records. If Your Plan does not dispute the calculated "Adjusted Claim Amount" figure set forth on the Claim Amount Table (attached as Exhibit 1 to the Notice), please check the box in Part III below. (Note: the "Plan ID Number" on the Claim Amount Table that corresponds to Your Plan has been pre-printed on the first page of this form). **IF YOUR PLAN ACCEPTS OR DOES NOT WISH TO DISPUTE ITS PRE-CALCULATED "ADJUSTED CLAIM AMOUNT," THEN YOUR PLAN IS *NOT* REQUIRED TO COLLECT OR SUBMIT *ANY* PAYMENT RECORDS, ACCOUNT STATEMENTS OR SIMILAR EVIDENTIARY MATERIALS WITH THIS CLAIM FORM TO ESTABLISH THE AMOUNT OF ITS CLAIM UNDER THE SETTLEMENT.** If, however, Your Plan wishes to challenge the calculation of the "Adjusted Claim Amount" figure for Your Plan as set forth on the Claim Amount Table, please check the box in Part IV below and follow the instructions in Part IV for submitting a Claim Amount Challenge. To submit a valid claim, you must check either the box in Part III or the box in Part IV. Regardless of which box is checked, if Your Plan submits a signed Claim Form, Your Plan is agreeing to stay in the Class.

PART III - ACCEPTED CLAIM AMOUNT

If Your Plan does not dispute the calculation of its "Adjusted Claim Amount" as set forth on the Claim Amount Table attached as Exhibit 1 to the Notice, please check this box: ☐

PART IV - CLAIM AMOUNT CHALLENGE

If Your Plan *does* wish to challenge the calculation of its "Adjusted Claim Amount" as set forth on the Claim Amount Table attached as Exhibit 1 to the Notice, you must follow the procedures set forth below AND also check this box: ☐

Procedures for Filing a Claim Amount Challenge (Applicable to Plans that wish to file a "Claim Amount Challenge"): If Your Plan wishes to challenge the calculation of its "Adjusted Claim Amount" it must submit a Claim Amount Challenge by following each of the steps below:

1. Insert in the boxes below, underneath the headings titled "Amount Calculated by Your Plan," what Your Plan believes the correct "Unadjusted Claim Amount," "12b-1 Fee Refund Amount," and "Adjusted Claim Amount" figures are for Your Plan (for your convenience, the amounts that have previously been calculated for Your Plan have been preprinted below under the headings titled "Amount on Claim Amount Table"):

Your Revised Unadjusted Claim Amount (if any)	**Your Revised 12b-1 Fee Refund Amount (if any)**	**Your Revised Adjusted Claim Amount**
Amount on Claim Amount Table:	Amount on Claim Amount Table:	Amount on Claim Amount Table:
Amount Calculated by Your Plan:	Amount Calculated by Your Plan:	Amount Calculated by Your Plan:

To calculate your proposed Revised Unadjusted Claim Amount, you will need to add up all amounts you claim were paid to Merrill Lynch for or in connection with the provision of Consulting Services rendered Your Plan during the Class Period (the period from July 1, 2000 through June 30, 2008, inclusive). Items that may be included in your calculation of Your Plan's Revised Unadjusted Claim Amount may include: cash Your Plan paid to Merrill Lynch for Consulting Services; amounts paid or credited by Your Plan (or on Your Plan's behalf) for the benefit of Merrill Lynch for the provision of "directed brokerage" services by Merrill Lynch to Your Plan, and any amounts that were paid to Merrill Lynch by Your Plan or any mutual fund (or its affiliates) or investment manager (or their affiliates) that Your Plan invested in or with, including 12b-1 fees paid by mutual fund affiliates directly to Merrill Lynch in connection with investments made by Your Plan in mutual funds that charged such fees. In addition, if you dispute the amount of the 12b-1 Fee Refund Amount that was previously refunded to Your Plan (refunds which were in most cases made in the first half of 2007), please be sure to include the amount of any 12b-1 fee refunds (if any) which you do agree were refunded to you by Merrill Lynch.

2. Submit a short statement briefly explaining the factual basis for Your Plan's calculations, together with copies of documents (such as account statements provided to Your Plan by Merrill Lynch, brokerage statements from Your Plan's investment advisors, mutual fund statements, mutual fund disclosure documents reflecting any periods during which your fund was subject to 12b-1 fees, or supporting affidavits) sufficient to demonstrate that Your Plan's proposed revised figures under Item 1 above reflect the correct or more accurate amount(s) for Your Plan's "Unadjusted Claim Amount," "12b-1 Fee Refund Amount," and/or "Adjusted Claim Amount." DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator. CLAIM AMOUNT CHALLENGES SUBMITTED WITHOUT SUPPORTING DOCUMENTATION MAY BE SUMMARILY REJECTED.

3. Submit the documentation referenced in paragraph F of Part II above to establish that you have authority to submit a Claim Amount Challenge on behalf of Your Plan.

The Claims Administrator and Plaintiffs' Counsel will review Your Plan's Claim Amount Challenge and the documentation submitted in support thereof, and will notify Your Plan whether (or to what extent) the Claim Amount Challenge has been accepted. If Your Plan's Claim Amount Challenge is rejected or is not accepted in full and the Claims Administrator, Plaintiffs' Counsel and Your Plan are not able to resolve the Claim Amount Challenge, Your Plan may, if it wishes to pursue the challenge, ask that the dispute be submitted to the Mediator (or a substitute arbitrator appointed by the Court) for binding resolution. If Your Plan chooses to submit its Claim Amount Challenge to the Mediator for binding resolution it must bear its own costs and legal fees in connection with its challenge, including one half of any fees charged by the Mediator. **Note:** By submitting a Claim Amount

challenge, each Authorized Plan Representative will be swearing to the genuineness of the documents submitted with this Claim Form in support of the Claim Amount Challenge, subject to penalties of perjury under any applicable state or federal laws. The submission of forged or fraudulent documentation will result in the rejection of Your Plan's claim and may subject you to civil liability or criminal prosecution.

PART V - ACKNOWLEDGEMENT OF REIMBURSEMENT OBLIGATION, RELEASE, CERTIFICATION AND SIGNATURE

Acknowledgement of Obligation to Return Settlement Proceeds Under Certain Circumstances: I (we) hereby acknowledge, on behalf of our Plan, that, pursuant to the terms set forth in the Stipulation, in the event - and *only* in the event - that (A) the Plan (or its named fiduciaries on its behalf) sues any a person or entity other than a Released Defendant Party that provided investment-related or professional or other services to the Plan during the Class Period (including but not limited to money managers) (a "Third Party") based upon any allegations in connection with the claims or allegations that were asserted in this Action (or that arise out of the Consulting Services relationship between the Plan and Merrill Lynch during the Class Period), *then* (B) the Plan must return any distribution it receives from the Net Settlement Fund to Merrill Lynch *if* (and only if) the Plan's assertion of such claim(s) against a Third Party results in a claim being made against Merrill Lynch by such Third Party for contribution or indemnity with respect to such claim(s). Nothing in the foregoing acknowledgement, however, shall apply to any counterclaims asserted by the Plan (or its named fiduciaries in their capacities as such) in connection with any lawsuit initiated by a Third Party.

Release of Claims: I (we) hereby acknowledge, on behalf of our Plan, that as of the Effective Date of the Settlement, pursuant to the terms set forth in the Stipulation, our Plan shall have and be deemed to have released, waived, discharged, and dismissed each and every Released Plaintiff Claim, and shall forever be enjoined from prosecuting any or all Released Plaintiff Claims, against any Released Defendant Party.

CERTIFICATION:

By signing and submitting this document, each Authorized Plan Representative certifies, as follows:

1. that I am authorized to execute this document on behalf of the Plan, and have submitted written documentation evidencing my authority to do so;
2. that I have read and understand the contents of the Notice and this Claim Form, including the releases provided for in the Settlement;
3. that the Plan has **not** submitted a request for exclusion from the Class;
4. that the Plan submits to the jurisdiction of the Court with respect to its claim and for purposes of enforcing the releases set forth herein;
5. that the Plan agrees to furnish such additional information with respect to this Claim Form as Plaintiffs' Counsel, the Claims Administrator or the Court may require;
6. that the Plan waives the right to trial by jury, to the extent it exists, and agrees to the Court's summary disposition of the determination of the validity of the claim made by this Claim Form;
7. that I acknowledge that the Plan will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and
8. that the Plan is NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the Plan is exempt from backup withholding or (b) the Plan has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the Plan that it is no longer subject to backup withholding. **If the IRS has notified the Plan that it is subject to backup withholding, please strike out the language in the preceding sentence indicating that the Plan is not subject to backup withholding in the certification above.**
9. [Applicable only if the Plan is submitting a Claim Amount Challenge] that, subject to penalties of perjury under applicable state and federal laws, the undersigned Authorized Plan Representative further swears or affirms that the documentation submitted in support of any Claim Amount Challenge consists of true and correct copies of legitimate documents in the possession of the Plan, and that any Claim Amount Challenge has not been submitted for any fraudulent purpose.

SIGNATURE:

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS 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 Authorized Plan Representative Date

_____

Print name here

_____

Capacity of Authorized Plan Representative, *e.g.,* Trustee or Plan Administrator

If more than one Authorized Plan Representative is executing this Claim Form:

_____ _____

Signature of Authorized Plan Representative Date

_____

Print name here

_____

Capacity of Authorized Plan Representative, *e.g.,* Trustee or Plan Administrator

_____ _____

Signature of Authorized Plan Representative Date

_____

Print name here

_____

Capacity of Authorized Plan Representative, *e.g.,* Trustee or Plan Administrator

THIS PROOF OF CLAIM MUST BE POSTMARKED NO LATER THAN SEPTEMBER 11, 2012, AND MUST BE MAILED TO:

Merrill Lynch Florida Public Pension Plan Consulting Services Litigation
c/o GCG
Claims Administrator
P.O. Box 9349
Dublin, OH 43017-4249

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by September 11, 2012 and if a postmark 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.

REMINDER CHECKLIST

1. Please be sure that the above release and certification has been signed by representative(s) who have the authority to bind Your Plan.

2. **Please remember that each Authorized Plan Representative signing this Claim Form MUST submit written documentation evidencing his or her authority to execute this document on behalf of Your Plan.**

3. Please do not highlight any portion of this Claim Form.

4. Keep copies of the completed Claim Form for your own records.

5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your Claim Form 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 1-800-231-1815.

6. If the address for the Plan contact person identified in Part 1 above changes in the future, please send the Claims Administrator written notification of the new address. If the contact person for the Plan changes in the future, please notify the Claims Administrator of the name, address and telephone number of the new contact person. If the Plan contact person changes his or her name, please inform the Claims Administrator.

7. **Remember that to submit a valid claim you DO NOT need to attach copies of ANY documentation in support of Your Plan's pre-calculated Adjusted Claim Amount as set forth on the Claim Amount Table next to Your Plan's ID Number, unless you wish to dispute the calculation of Your Plan's Adjusted Claim Amount.** However, in the event that you wish to dispute Your Plan's pre-calculated Adjusted Claim Amount, you must follow the procedures and submit copies of the additional documentation set forth in Part IV above. In such event, submit only **copies** of supporting documentation. Original documents cannot be returned to you by the Claims Administrator.

8. If you have any questions or concerns regarding the Claim Form, you may contact the Claims Administrator, GCG, at the above address or by toll-free phone at 1-800-231-1815.

EXHIBIT B

Shannon Baraff

From: sfhubs@prnewswire.com
Sent: Thursday, May 24, 2012 6:01 AM
To: GCGBuyers; Shannon Baraff
Subject: PR Newswire: Press Release Clear Time Confirmation for Klausner Kaufman Jenson & Levinson, Bernstein Litowitz Berger & Grossmann LLP, Sugarman & Susskind, PA. ID# 683044-1-1

PR NEWSWIRE EDITORIAL

Hello

Here's the clear time* confirmation for your news release:

Release headline: Plaintiffs' Counsel Announce Merrill Lynch Florida Public Pension Plan Consulting Services Litigation (City of Lake Worth Employees' Retirement System, et al. v. Merrill Lynch, Pierce, Fenner & Smith Inc., Case No. 3:10-cv-845-J-32MCR (M.D. Fla.))
Word Count: 995
Product Summary:
US1
ReleaseWatch
Complimentary Press Release Optimization
IRW
PR Newswire's Editorial Order Number: 683044-1-1

Release clear time: 24-May-2012 09:00:00 AM

* Clear time represents the time your news release was distributed to the newswire distribution you selected.

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Plaintiffs' Counsel Announce Settlement in Merrill Lynch Florida Public Pension Plan Consulting Services Litigation (City of Lake Worth Employees' Ret. Sys., et al. v. Merrill Lynch, Pierce, Fenner & Smith Inc., Case No.3:10-cv-845-J-32MCR, MD FLA)

PLANTATION, Fla., May 24, 2012 /PRNewswire/ -- The following statement is being issued by Klausner, Kaufman, Jensen & Levinson, Bernstein Litowitz Berger & Grossmann LLP, and Sugarman & Susskind, PA regarding the Merrill Lynch Florida Public Pension Plan Consulting Services Litigation (City of Lake Worth Employees' Retirement System, et al. v. Merrill Lynch, Pierce, Fenner & Smith Inc., Case No. 3:10-cv-845-J-32MCR (M.D. Fla.)).

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et al., Plaintiffs, vs. MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED, Defendant.

Case No. 3:10-cv-845-J-32MCR

SUMMARY NOTICE OF (I) PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION, (II) SETTLEMENT FAIRNESS HEARING, AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

TO: All named fiduciaries of the Florida public employee retirement benefit plans for which Merrill Lynch Pierce Fenner & Smith Inc. ("Merrill Lynch") and Merrill Lynch Financial Advisor Michael Callaway or any other member of the Callaway Team provided Consulting Services during the period from July 1, 2000, through and including June 30, 2008 (the "Class Period"), or any portion thereof, except for all such plans that had brought separate arbitration or litigation proceedings against Merrill Lynch or any member of the Callaway Team on or before December 14, 2011 (the "Class").

PLEASE READ THIS NOTICE CAREFULLY. YOUR PLAN'S LEGAL RIGHTS (AS WELL AS THE LEGAL RIGHTS OF EACH OF ITS NAMED FIDUCIARIES IN THEIR CAPACITIES AS SUCH) 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 Middle District of Florida, (i) that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Class described above; and (ii) that, pursuant to the terms of the Stipulation and Agreement of Settlement ("Stipulation"), Plaintiffs in the Action have reached a proposed settlement of the Action with defendant Merrill Lynch ("Defendant") for $8,500,000 in cash, plus interest thereon, that, if approved, will resolve all claims in the Action. **Based on the records maintained by Merrill Lynch, it has already been determined which Plans are members of the Class in this Action. For a list of the Class Member Plans, please visit the settlement website, www.mlfloridapensionplansettlement.com, or call the Claims Administrator toll-free at 1- 800-231-1815. Each Class Member Plan is entitled to payment from the Settlement proceeds.**

A hearing will be held on July 27, 2012 at 10:00 a.m., before The Honorable Timothy J. Corrigan, in Courtroom 10D of the Bryan Simpson United States Courthouse, 300 North Hogan Street, Jacksonville, FL 32202, to determine (i) whether the proposed Settlement should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against Defendant, and the releases specified and described in the Stipulation should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Plaintiffs' Counsel's application for attorneys' fees and reimbursement of expenses should be approved.

If you have not yet received the full printed Notice of (I) Pendency and Proposed Settlement of Class Action, (II) Settlement Fairness Hearing, and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Notice"), and the Claim Form and Release ("Claim Form"), you may obtain copies of these documents by contacting the Claims Administrator at Merrill Lynch Florida Public Pension Plan Consulting Services Litigation, c/o GCG, Claims Administrator, P.O. Box 9349, Dublin, OH 43017-4249, 1-800-231-1815. Copies of the Notice and Claim Form can also be downloaded from the settlement website, www.mlfloridapensionplansettlement.com.

In order to receive a payment under the proposed Settlement, an authorized representative(s) of the Class Member Plan must submit a Claim Form *postmarked* no later than September 11, 2012. If a Class Member Plan does not submit a proper Claim Form, it will not share in the distribution of the net proceeds of the Settlement but will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If a Class Member Plan wishes to exclude itself from the Class, an authorized Plan representative(s) must submit a request for

exclusion on behalf of the Plan such that it is *received* no later than July 6, 2012, in accordance with the instructions set forth in the Notice. If a Plan properly excludes itself from the Class, it will not be bound by any judgments or orders entered by the Court in the Action and it will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Plaintiffs' Counsel's application for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Plaintiffs' Counsel and counsel for Defendant such that they are *received* no later than July 6, 2012, in accordance with the instructions set forth in the Notice.

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE. Inquiries, other than requests for the Notice, may be made to Plaintiffs' Counsel:

Robert D. Klausner, Esq.
Adam P. Levinson, Esq.
Klausner, Kaufman, Jensen & Levinson
10059 N.W. 1st Court
Plantation, FL 33324
1-954-916-1202
merrillsuit@gmail.com

William C. Fredericks, Esq.
Bernstein Litowitz Berger & Grossmann LLP
1285 Avenue of the Americas
New York, NY 10019
1-800-380-8496
blbg@blbglaw.com

Ivelisse Berio LeBeau, Esq.
Sugarman & Susskind, PA
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
1-800-329-2122
info@sugarmansusskind.com

By Order of the Court

SOURCE Klausner Kaufman Jenson & Levinson, Bernstein Litowitz Berger & Grossmann LLP, Sugarman & Susskind, PA

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EXHIBIT 2

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et. al.,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Defendant.

Case No. 3:10-cv-845-J-32MCR

DECLARATION OF ROBERT D. KLAUSNER IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF KLAUSNER, KAUFMAN, JENSEN & LEVINSON

ROBERT D. KLAUSNER, declares as follows:

1. I am a member of the law firm of Klausner, Kaufman, Jensen & Levinson. I submit this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. My firm, which served as co-Lead Counsel for Plaintiffs in the Action, was involved in all aspects of the litigation and settlement of the Action, as set forth in the Joint Declaration submitted by Plaintiffs' Counsel in support of Plaintiffs' motion for final approval of the Settlement and Plaintiffs' Counsel's motion for an award of attorneys' fees and reimbursement of expenses.

3. The schedule attached hereto as Exhibit 1 is a summary of the amount of time spent by each attorney of my firm who was involved in litigating this Action, and the resulting lodestar calculation based on my firm's current billing rates. The schedule was prepared from

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

4. The hourly rates for the attorneys in my firm that are included in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted in other class action litigation.

5. The total number of hours expended on this Action by my firm from the preliminary investigation and evaluation of the case through the date of this declaration is $1,155.50.[1] The total lodestar for my firm is $516,975.00 for attorneys' time.

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

7. As detailed in the schedule attached hereto as Exhibit 2, my firm has incurred a total of $18,697.08 in unreimbursed expenses in connection with the prosecution of this Action from its inception through the date of this declaration.

8. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

[1] My firm also expended additional hours in connection with the development of facts and analysis of legal issues that led to the filing of this Action; those additional hours are not reported here.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on June 22, 2012.

ROBERT D. KLAUSNER

EXHIBIT 1

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

KLAUSNER, KAUFMAN, JENSEN & LEVINSON

TIME REPORT

Inception through June 22, 2012

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Robert D. Klausner	219.10	$ 650.00	$142,415.00
Stuart A. Kaufman	65.20	400.00	26,080.00
Adam P. Levinson	828.00	400.00	331,200.00
Associate			
Shaun H. Malvin	43.20	400.00	17,280.00
TOTALS	**1,155.50**		**$516,975.00**

EXHIBIT 2

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

KLAUSNER, KAUFMAN, JENSEN & LEVINSON

EXPENSE REPORT

Inception through June 22, 2012

CATEGORY	AMOUNT
Court Fees	$ 431.00
Document Management/Litigation Support	6,978.34
Telephones	776.76
Postage & Express Mail	1,100.34
Local Transportation	1,760.00
Internal Copying	1,030.91
Outside Copying	155.42
Out of Town Travel	5,094.11
Court Reporting & Transcripts	1,370.20
TOTAL EXPENSES:	**$18,697.08**

EXHIBIT 3

KLAUSNER, KAUFMAN, JENSEN & LEVINSON
10059 N.W. 1st Court
Plantation, Florida 33324
Telephone: (954) 916-1202
Facsimile: (954) 916-1232
Website: www.robertdklausner.com

Firm Overview

The law firm of **Klausner, Kaufman, Jensen & Levinson** specializes exclusively in the representation of retirement and benefit systems and related labor and employment relations matters. The firm is composed of five lawyers in South Florida, William Ackerman, Of Counsel (California) and Robert E. Tarzca, Of Counsel (New Orleans). In addition we have four clerical/paraprofessional employees, an administrator, and a deputy administrator/conference director.

As a result of our substantial involvement on a national level in public employee retirement matters, we have developed a unique level of knowledge and experience. By concentrating our practice in the area of public employee retirement and related employment issues, we are able to keep a focus on changing trends in the law that more general practitioners would consider a luxury.

The law firm of Klausner, Kaufman, Jensen & Levinson, among the most highly regarded in the country in the area of pension issues, is frequently called upon as an educational and fiduciary consultant by state and local governments throughout the United States on some of the newest and most sophisticated issues involving public retirement systems. The examples of those areas are:

Plan Design

The firm provides services to dozens of public employee pension plans throughout the United States in the area of plan review, design, and legislative drafting. On both the state and local levels, statutes and ordinances are reviewed for the purposes of maintaining compliance with current and pending Internal Revenue Code Regulations affecting public plans, as well as compliance with provisions of the Americans With Disabilities Act, the Older Workers Protections Act and the Pension Protection Act. When benefit changes occur we prepare all necessary legislative drafts and appear before the appropriate legislative body to answer questions concerning those drafts. We also offer creative solutions to plan design issues brought about by unexpected economic pressures and balancing those solutions against constitutional or statutory benefit guarantees.

Fiduciary Education

The primary duty of a pension fund lawyer is to ensure that the trustees do the right thing. It is our practice to design and present a variety of educational materials and programs which explain the general principles of fiduciary responsibility, as well as more specific principles regarding voting conflicts, compliance with open meeting laws, conflict of interest laws, etc. We regularly apprise the boards of trustees and administrators through newsletters, memoranda and updates on our website of changes in the law, both legislatively and judicially, which impact upon their duties. We also conduct training workshops to improve the trustees' skills in conducting disability and other benefit hearings. As a result of our regular participation and educational programs on a monthly basis, all of the materials prepared as speaker materials for those programs are distributed without additional charge to our clients. Our firm provides its clients, as part of the fees charged for legal and consulting services, an annual pension conference in South Florida. This national event draws internationally-known legal and financial experts and has been attended by more than 2500 trustees and administrators from throughout the United States. Only clients of the firm are permitted to attend.

Plan Policies, Rules, and Procedures

It has been our experience that boards of trustees find themselves in costly and unnecessary litigation because of inconsistency in the administration of the fund. Accordingly, we have worked with our trustee clients in developing policies, rules, and procedures for the administration of the trust fund. The development of these rules ensures uniformity of plan practices and guarantees the due process rights of persons appearing before the board. They also serve to help organize and highlight those situations in which the legislation creating the fund may be in need of revision. By utilizing rule making powers, the board of trustees can help give definition and more practical application to sometimes vague legislative language.

Legal Counseling

In the course of its duties, the board of trustees and administrators will be called upon from time to time to interpret various provisions of the ordinance or statute which governs its conduct. The plan will also be presented with various factual situations which do not lend themselves to easy interpretation. As a result, counsel to the plan is responsible for issuing legal opinions to assist the trustees and staff in performing their function in managing the trust. It is our practice to maintain an orderly system of the issuance of legal opinions so that they can form part of the overall body of law that guides the retirement plan. As changes in the law occur, it is our practice to update those legal opinions to ensure that the subjects which they cover are in conformance with the current state of the law.

Summary Plan Descriptions

Many state laws require that pension plans provide their members with a plain language explanation of their benefits and rights under the plan. Given the complexity of most pension laws, it is also good

benefits administration practice. Part of the responsibilities of a fiduciary is to ensure that plan members understand their rights and the benefits which they have earned. We frequently draft plain language summary plan descriptions using a format which is easily updatable as plan provisions change. We are also advising plans on liability issues associated with electronic communication between funds and members as part of our continuing effort at efficient risk management.

Litigation

Despite the best efforts and intentions of the trustees and staff, there will be times when the plan finds itself as either a plaintiff or defendant in a legal action. We have successfully defended retirement plans in claims for benefits, actions regarding under-funding, constitutional questions, discrimination in plan design, and failure of plan fiduciaries to fulfill their responsibilities to the trust. The firm has substantial state and federal court trial experience, including the successful defense of a state retirement system in the Supreme Court of the United States. The firm also has a substantial role in monitoring securities litigation and regularly argues complex appellate matters on both the state and federal levels. We pride ourselves on the vigorous representation of our clients while maintaining close watch on the substantial costs that are often associated with litigation. We are often called upon to provide support in a variety of cases brought by others as expert witnesses or through appearance as an *amicus curiae* (Friend of the Court).

ROBERT D. KLAUSNER

Mr. Klausner is the principal in the law firm of Klausner, Kaufman, Jensen & Levinson. For 35 years, he has been engaged in the practice of law, specializing in the representation of public employee pension funds. The firm represents state and local retirement systems in more than 20 states. Mr. Klausner has assisted in the drafting of many state and local laws on public employee retirement throughout the United States. Mr. Klausner is a frequent speaker on pension education programs and has also published numerous articles on fiduciary obligations of public employee pension trustees. He is co-author of the book State and Local Government Employment Liability, published by Thomson-West Publishers and is the author of the first comprehensive book on the law of public employee retirement systems, State and Local Government Retirement Law: A Guide for Lawyers, Trustees, and Plan Administrators, published in April 2009 and an expanded version published in July 2011. Mr. Klausner graduated *Phi Beta Kappa* from the University of Florida with a Bachelor of Arts and from the University Florida College of Law with the degree of Juris Doctor. For more than 10 years, Mr. Klausner has been listed in the publication *The Best Lawyers in America* and holds an "AV pre-eminent" rating, the highest rating for competence and ethics, from Martindale Hubbell national lawyer rating service. In 2008, Mr. Klausner successfully represented the Commonwealth of Kentucky and the Kentucky Retirement Systems in the United States Supreme Court in ***Kentucky Retirement Systems v. Equal Employment Opportunity Commission, 128 S. Ct. 2361 (2008).***

STUART A. KAUFMAN

Stuart Kaufman is a partner in the law firm of Klausner, Kaufman, Jensen & Levinson. After graduation from the University of Miami School of Law in 1989, Mr. Kaufman returned to New York where he practiced in a small firm in New York City for three years as a general litigator. He returned to Florida in 1993 and joined the law firm as an associate specializing in different facets of labor and employment law, including the representation of public employee pension funds. In 1997, Mr. Kaufman was retained as General Counsel for the Professional Law Enforcement Association of Dade County, an employee organization dedicated to protecting the rights of law enforcement officers, where he served until January, 2001. Mr. Kaufman was also a sole practitioner at the time operating a general civil practice with an emphasis on employment related matters. Additionally, he volunteered and served as General Counsel for Cops for Kids, Inc., a charitable organization operated by police officers which benefits underprivileged children in South Florida. He has represented several hundred police officers throughout Dade and Broward Counties in all matters related to their employment, including disciplinary appeals, grievances, and at shooting scenes. Since rejoining the Law Firm of Klausner, Kaufman, Jensen & Levinson, in February, 2001, he has been solely dedicated to representing public employee pension funds. He is admitted to the New York Bar, the Florida Bar, and is also admitted to practice before the United States District Court, Southern District of Florida, and the United States Court of Appeals, Eleventh Circuit. Mr. Kaufman graduated from the State University of New York at Binghamton, receiving a Bachelor of Arts degree in political science. Mr. Kaufman received his Juris Doctorate from the University of Miami School of Law.

BONNI S. JENSEN

Bonni S. Jensen is a partner with Klausner, Kaufman, Jensen & Levinson. Since 1990, Ms. Jensen has specialized in, and served as general counsel to, municipal pension funds. Bonni Jensen has had extensive experience in pension and employee benefits law and related local, state and federal law. She has been a speaker on topics which include DROP plans, fiduciary responsibility, 457 plans, the role of collective bargaining in pension issues, pension plan administration, meeting preparation, Sunshine Law and ethics and financial disclosure laws at the annual State of Florida Police and Firefighter Pension Conferences and Trustee Schools. She has also lectured at many seminars related to pension fund topics, such as controlling disability costs in the public sector; tax issues; pension obligation bonds; securities law; and Guns and Hoses conferences. She regularly participates in the State Division of Retirement conferences and schools for municipal police and firefighter pension funds. Ms. Jensen is admitted to the Florida Bar, and is also admitted to practice before the United States District Court, Southern District of Florida, the United States District Court of Appeals, Eleventh Circuit and the U.S. Supreme Court. Ms. Jensen graduated from Stetson University receiving a Bachelor of Arts degree in sociology. She received her Juris Doctorate from Nova University, where she graduated Magna Cum Laude and served as a senior staff member of the Nova Law Review. Ms. Jensen is listed as Top Pension Attorney in Pension Law by the South Florida Legal Guide, annually since 2005. She is also an associate member of the Florida Public Pension Trustees Association and a member of the National Association of Public Pension Attorneys.

ADAM P. LEVINSON

Adam Levinson is a partner with the law firm of Klausner, Kaufman, Jensen & Levinson. Upon graduation from the University of Miami School of Law, Mr. Levinson clerked for Chief Judge Alan R. Schwartz at the State of Florida Third District Court of Appeal. After completing his judicial clerkship, Mr. Levinson worked as a commercial litigator in one of Florida's oldest and largest law firms. Since joining the law firm of Klausner, Kaufman, Jensen & Levinson, Mr. Levinson has specialized in the representation of public sector pension plans, with an emphasis on plan drafting, board counseling, and fiduciary responsibility in the area of pension investing. He is a member of the Florida and California Bars and is admitted to practice before the United States District Court, Southern and Middle Districts, and the United States Court of Appeals, Eleventh Circuit. Mr. Levinson graduated Magna Cum Laude from the University of Michigan receiving a Bachelor of Arts degree in history and political science. Mr. Levinson received his Juris Doctorate from the University of Miami School of Law, where he graduated Magna Cum Laude and served as an articles and comments editor for the University of Miami Law Review. Mr. Levinson is a frequent speaker at the Florida Public Pension Trustees Association.

SHAUN H. MALVIN

Shaun Malvin is an associate with the law firm of Klausner & Kaufman, P.A. Mr. Malvin graduated Cum Laude from the University of Florida, receiving a Bachelor of Arts degree in political science, and graduated Cum Laude from the University of Florida Levin College of Law with a Juris Doctorate degree. While attending law school at the University of Florida Levin College of Law, Mr. Malvin volunteered with the Internal Revenue Service's Volunteer Income Tax Assistance program providing tax return preparation assistance to low-income clients and with Three Rivers Legal Services providing information to clients involved in landlord-tenant disputes. Additionally, he also counseled and represented clients in family law matters as a Certified Legal Intern as part of the Virgil Hawkins Civil Representation Clinic at the University of Florida. Mr. Malvin previously worked with Klausner & Kaufman as a law clerk during the summer of 2006. Upon graduating from law school, Mr. Malvin worked as an associate with a national law firm for two years in the firm's litigation department where he gained significant experience representing corporate clients, financial institutions, and individuals in a variety of practice areas. At Klausner & Kaufman, his practice is now solely dedicated to representing public employee pension funds and related entities. He is a member of the Florida Bar and is admitted to practice before all Florida state courts, the United States District Court for the Southern District of Florida, and the United States District Court for the Middle District of Florida.

EXHIBIT 3

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et. al.,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Defendant.

Case No. 3:10-cv-845-J-32MCR

DECLARATION OF WILLIAM C. FREDERICKS IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

WILLIAM C. FREDERICKS, declares as follows:

1. I am a member of the law firm of Bernstein Litowitz Berger & Grossmann LLP. I submit this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. My firm, which served as co-Lead Counsel for Plaintiffs in the Action, was involved in all aspects of the litigation and settlement of the Action, as set forth in the Joint Declaration submitted by Plaintiffs' Counsel in support of Plaintiffs' motion for final approval of the Settlement and Plaintiffs' Counsel's motion for an award of attorneys' fees and reimbursement of expenses.

3. The schedule attached hereto as Exhibit 1 is a summary of the amount of time spent by each attorney and professional support staff member of my firm who was involved in litigating this Action, and the resulting lodestar calculation based on my firm's current billing

rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm that are included in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted in other class action litigation.

5. The total number of hours expended on this Action by my firm from its inception through the date of this declaration is 2,166.75. The total lodestar for my firm is $1,135,185.00, consisting of $1,057,725.00 for attorneys' time and $77,460.00 for professional support staff time.

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

7. As detailed in the schedule attached hereto as Exhibit 2, my firm has incurred a total of $31,527.17 in unreimbursed expenses in connection with the prosecution of this Action from its inception through the date of this declaration.

8. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on June 22, 2012.

WILLIAM C. FREDERICKS

EXHIBIT 1

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

TIME REPORT

Inception through June 22, 2012

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Beata Farber	157.25	$700.00	$110,075.00
William C. Fredericks	323.75	800.00	259,000.00
Avi Josefson	52.75	650.00	34,287.50
Gerald H. Silk	75.50	800.00	60,400.00
Senior Counsel			
Rochelle Feder Hansen	49.50	675.00	33,412.50
Associate			
John J. Mills	333.00	550.00	183,150.00
Matthew L. Berman	888.00	425.00	377,400.00
Litigation Support			
Jesse Baidoe	51.50	260.00	13,390.00
Michael Hartling	65.00	225.00	14,625.00
Andrea R. Webster	14.00	290.00	4,060.00
Paralegal			
Virgilio Soler, Jr.	156.50	290.00	45,385.00
TOTALS	**2,166.75**		**$1,135,185.00**

EXHIBIT 2

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

EXPENSE REPORT

Inception through June 22, 2012

CATEGORY	AMOUNT
On-Line Legal Research	$5,159.88
On-Line Factual Research	429.99
Document Management/Litigation Support	5,132.19
Postage & Express Mail	502.13
Local Transportation	2,598.02
Internal Copying	1,563.75
Outside Copying	884.81
Out of Town Travel	5,903.70
Working Meals	228.06
Staff Overtime	209.34
Mediation Fees	3,125.00
Subtotal:	**$25,736.87**
Outstanding Invoices:	
Court Reporting & Transcripts	5,790.30
Subtotal:	**$5,790.30**
TOTAL EXPENSES:	**$31,527.17**

EXHIBIT 3

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

ATTORNEYS AT LAW

NEW YORK • CALIFORNIA • LOUISIANA

FIRM RESUME

Visit our web site at www.blbglaw.com for the most up-to-date information on the firm, its lawyers and practice groups.

Bernstein Litowitz Berger & Grossmann LLP, a national law firm with offices located in New York, California and Louisiana, 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; intellectual property; 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), and the Ontario Teachers' Pension Plan Board, the largest public pension funds in North America, collectively managing nearly $500 billion in assets; the Los Angeles County Employees' Retirement Association (LACERA); the Chicago Municipal, Police and Labor Retirement Systems; the State of Wisconsin Investment Board; the Retirement Systems of Alabama; the Connecticut Retirement Plans and Trust Funds; the City of Detroit Pension Systems; the Houston Firefighters' and Municipal Employees' Pension Funds; 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.

Since its founding in 1983, Bernstein Litowitz Berger & Grossmann LLP has litigated some of the most complex cases in history and has obtained over $20 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 four of the ten largest securities recoveries in history.

As Co-Lead Counsel for the Class representing Lead Plaintiff the New York State Common Retirement Fund in *In re WorldCom, Inc. Securities Litigation*, arising from the financial fraud and subsequent bankruptcy at WorldCom, Inc., we obtained unprecedented settlements totaling more than $6 billion from the investment bank defendants who underwrote WorldCom bonds, the second largest securities recovery in history. Additionally, the former WorldCom Director Defendants agreed to pay over $60 million to settle the claims against them. An unprecedented first for outside directors, $24.75 million of that amount is coming out of the pockets of the individuals – 20% of their collective net worth. Also, after four weeks of trial, Arthur Andersen, WorldCom's former auditor, settled for $65 million. In July 2005, settlements were reached with the former executives of WorldCom, bringing the total obtained for the Class to over $6.15 billion.

The firm was also Co-Lead Counsel in *In re Cendant Corporation Securities Litigation*, which settled for more than $3 billion in cash. This settlement, the largest sums ever recovered from a public company and a public accounting firm, includes some of the most significant corporate governance changes ever achieved through securities class action litigation. The firm represented Lead Plaintiffs CalPERS, the New York State Common Retirement Fund, and the New York City Pension Funds on behalf of all purchasers of Cendant securities during the Class Period. The firm also recovered over $1.3 billion for investors in Nortel Networks, and the settlements in *In re McKesson HBOC Inc. Securities Litigation* totaled over $1 billion in monies recovered for investors. Additionally, the firm was lead counsel in the celebrated *In re Washington Public Power Supply System Litigation*, which, after seven years of litigation and three months of jury trial, resulted in what was then the largest securities fraud recovery ever – over $750 million.

A leader in representing institutional shareholders in litigation arising from the widespread stock options backdating scandals of recent years, the firm recovered nearly $920 million in ill-gotten compensation directly from former officers and directors in the *UnitedHealth Group, Inc. Shareholder Derivative Litigation*. The largest derivative recovery in history, the settlement is notable for holding individual wrongdoers accountable for their role in illegally backdating stock options, as well as for the company's agreement to far-reaching reforms to curb future executive compensation abuses. (Court approval of the recovery is pending.)

The firm's prosecution of Arthur Andersen LLP, for Andersen's role in the 1999 collapse of the Baptist Foundation of Arizona ("BFA"), received intense national and international media attention. As lead trial counsel for the defrauded BFA investors, the firm obtained a cash settlement of $217 million from Andersen in May 2002, after six days of what was scheduled to be a three month trial. The case was covered in great detail by *The Wall Street Journal, The New York Times, The Washington Post*, "60 Minutes II," National Public Radio, and the BBC, as well as various other international news outlets.

The firm is also a recognized leader in representing the interests of shareholders in M&A litigation arising from transactions that are structured to unfairly benefit the company's management or directors at the shareholder's expense. For example, in the high-profile *Caremark Takeover Litigation,* the firm obtained a landmark ruling from the Delaware Court of Chancery ordering Caremark's board to disclose previously withheld information, enjoin a shareholder vote on CVS' merger offer, and grant statutory appraisal rights to Caremark shareholders. CVS was ultimately forced to raise its offer by $7.50 per share, equal to more than $3 billion in additional consideration to Caremark shareholders.

Equally important, Bernstein Litowitz Berger & Grossmann LLP has successfully 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 similarly 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.

More recently, BLB&G prosecuted the *In re Pfizer, Inc. Derivative Litigation*, which resulted in a historic $75 million dedicated fund to be used solely to support the activities of an unprecedented Regulatory and Compliance Committee created in the settlement, which not only materially enhances the Pfizer board's oversight but may set a new benchmark of good corporate governance for all highly regulated companies. The action arose from Pfizer's illegal marketing of prescription drugs which resulted in one of the largest health care frauds in history.

In addition, on behalf of twelve public pension funds, including the New York State Common Retirement Fund, CalPERS, LACERA, and other institutional investors, the firm successfully prosecuted *McCall v. Scott*, a derivative suit filed against the directors and officers of Columbia/HCA Healthcare Corporation, the subject of the largest health care fraud investigation in history. This settlement included a landmark corporate governance plan which went well beyond all recently enacted regulatory reforms, greatly enhancing the corporate governance structure in place at HCA.

The firm also represents intellectual property holders who are victims of infringement in litigation against some of the largest companies in the world. Our areas of specialty practice include patents, copyrights, trademarks, trade dress, and trade-secret litigation, and our attorneys are recognized by industry observers for their excellence.

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' losses – an extraordinary result in consumer class cases.

Our firm is dedicated to litigating with the highest level of professional competence, striving to secure the maximum possible recovery for our clients in the most efficient and professionally responsible manner. In those cases where we have served as either lead counsel or as a member of plaintiffs' executive committee, the firm has recovered billions of dollars for our clients.

THE FIRM'S PRACTICE AREAS

Securities Fraud Litigation

Securities fraud litigation is the cornerstone of the firm's litigation practice. Since its founding, the firm has tried and settled many high profile securities fraud class actions and continues to play a leading role in major securities litigation pending in federal and state courts. Moreover, since passage of the Private Securities Litigation Reform Act of 1995, which sought to encourage institutional investors to become more pro-active in securities fraud class action litigation, the firm has become the nation's leader in representing institutional investors in securities fraud and derivative litigation. The firm has the distinction of having prosecuted many of the most complex and high-profile cases in securities law history, recovering billions of dollars and obtaining unprecedented corporate governance reforms on behalf of our clients.

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 enables 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 prosecuted actions challenging numerous highly publicized corporate transactions which violated fair process and fair price, and the applicability of the business judgment rule. The group has also addressed issues of corporate waste, shareholder voting rights claims, 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.

Intellectual Property

BLB&G's Intellectual Property Litigation practice group is dedicated to protecting the creativity and innovation of individuals and firms. Patent cases exemplify the type of complex, high-stakes litigation in which we specialize. Our areas of concentration include patent, trademark, false advertising, copyright, and trade-secret litigation. We have successfully prosecuted these actions against infringers in both federal and state courts across the country, in foreign courts and before administrative bodies. The firm is currently prosecuting patent cases on behalf of inventors in a variety of industries including electronics, liquid crystal display ("LCD") panels, and computer technology.

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

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 creditor's committees against auditors, appraisers, lawyers, officers and directors, and others defendant who may have contributed to a clients' 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 competence and diligence of the firm and its members. A few examples are set forth below.

Judge Denise Cote (United States District Court for the Southern District of New York) has noted, several times on the record, the quality of BLB&G's representation of the Class in *In re WorldCom, Inc. Securities Litigation*. Judge Cote on December 16, 2003:

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

In granting final approval of the $2.575 billion settlement obtained from the Citigroup Defendants, Judge Cote again praised BLB&G's efforts:

> "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 February 2005, at the conclusion of trial of *In re Clarent Corporation Securities Litigation*, The Honorable Charles R. Breyer of the United States District Court for the Northern District of California praised the efforts of counsel: "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…. The evidence was carefully presented to you….They got dry subject matter and made it interesting… [brought] the material alive… good trial lawyers can do that…. I've had fascinating criminal trials that were far less interesting than this case. [I]t's a great thing to be able to see another aspect of life… It keeps you young…vibrant… [and] involved in things… These trial lawyers are some of the best I've ever seen."

* * *

"I do want to make a comment again about the excellent efforts…[these] firms put into this case and achieved. Earlier this year, I wrote a decision in *Revlon* where I actually replaced plaintiff's counsel because they hadn't seemed to do the work, or do a good job…In doing so, what I said and what I meant was that I think class and derivative litigation is important; that I am not at all critical of class and derivative litigation, and that I think it has significant benefits in terms of what it achieves for stockholders, or it can. It doesn't have to act as a general tax for the sale of indulgences for deals. 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. So, if you had book ends, you would put the *Revlon* situation on one book end and you'd put this case on the other book end. You'd hold up the one as an example of what not to do, and you hold up this case as an example of what to do."

Vice Chancellor J. Travis Laster, Delaware Court of Chancery praising the firm's work in the *Landry's Restaurants, Inc. Shareholder Litigation* on October 6, 2010

* * *

In granting the Court's approval of the resolution and prosecution of *McCall v. Scott*, a shareholder derivative lawsuit against certain former senior executives of HCA Healthcare (formerly Columbia/HCA), Senior Judge Thomas A. Higgins (United States District Court, Middle District of Tennessee) said that the settlement "confers an

exceptional benefit upon the company and the shareholders by way of the corporate governance plan. . . . 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."

* * *

Judge Walls (District of New Jersey), in approving the $3.2 billion *Cendant* settlement, said that the recovery from all defendants, which represents a 37% recovery to the Class, "far exceeds recovery rates of any case cited by the parties." The Court also held that the $335 million separate recovery from E&Y is "large" when "[v]iewed in light of recoveries against accounting firms for securities damages." In granting Lead Counsel's fee request, the Court determined that "there is no other catalyst for the present settlement than the work of Lead Counsel. . . . This Court, and no other judicial officer, has maintained direct supervision over the parties from the outset of litigation to the present time. In addition to necessary motion practice, the parties regularly met with and reported to the Court every five or six weeks during this period about the status of negotiations between them. . . . [T]he Court has no reason to attribute a portion of the Cendant settlement to others' efforts; Lead Counsel were the only relevant material factors for the settlement they directly negotiated." The Court found that "[t]he quality of result, measured by the size of settlement, is very high. . . . The Cendant settlement amount alone is over three times larger than the next largest recovery achieved to date in a class action case for violations of the securities laws, and approximately ten times greater than any recovery in a class action case involving fraudulent financial statements. . . The E&Y settlement is the largest amount ever paid by an accounting firm in a securities class action." The Court went on to observe that "the standing, experience and expertise of the counsel, the skill and professionalism with which counsel prosecuted the case and the performance and quality of opposing counsel were high in this action. Lead Counsel are experienced securities litigators who ably prosecuted the action." The Court concluded that this Action resulted in "excellent settlements of uncommon amount engineered by highly skilled counsel with reasonable cost to the class."

* * *

After approving the settlement in *Alexander v. Pennzoil Company*, the Honorable Vanessa D. Gilmore of the United States District Court for the Southern District of Texas ended the settlement hearing by praising our firm for the quality of the settlement and our commitment to effectuating change in the workplace. "... the lawyers for the plaintiffs ... did a tremendous, tremendous job. ... not only in the monetary result obtained, but the substantial and very innovative programmatic relief that the plaintiffs have obtained in this case ... treating people fairly and with respect can only inure to the benefit of everybody concerned. I think all these lawyers did an outstanding job trying to make sure that that's the kind of thing that this case left behind."

* * *

On February 23, 2001, the United States District Court for the Northern District of California granted final approval of the $259 million cash settlement in *In re 3Com Securities Litigation*, the largest settlement of a securities class action in the Ninth Circuit since the Private Securities Litigation Reform Act was passed in 1995, and the fourth largest recovery ever obtained in a securities class action. The district court, in an Order entered on March 9, 2001, specifically commented on the quality of counsel's efforts and the settlement, holding that "counsel's representation [of the class] was excellent, and ... the results they achieved were substantial and extraordinary." The Court described our firm as "among the most experienced and well qualified in this country in [securities fraud] litigation."

* * *

United States District Judge Todd J. Campbell of the Middle District of Tennessee heard arguments on Plaintiffs' Motion for Preliminary Injunction in *Cason v. Nissan Motor Acceptance Corporation Litigation*, the highly publicized discriminatory lending class action, on September 5, 2001. He exhibited his own brand of candor in commenting on the excellent work of counsel in this matter: "In fact, the lawyering in this case... is as good as I've seen in any case. So y'all are to be commended for that."

* * *

In approving the $30 million settlement in the *Assisted Living Concepts, Inc. Securities Litigation*, the Honorable Ann L. Aiken of the Federal District Court in Oregon, praised the recovery and the work of counsel. She stated that, "...without a doubt...this is a...tremendous result as a result of very fine work...by the...attorneys in this case."

* * *

The Honorable Judge Edward A. Infante of the United States District Court for the Northern District of California expressed high praise for the settlement and the expertise of plaintiffs' counsel when he approved the final settlement in the *Wright v. MCI Communications Corporation* consumer class action. "The settlement. . . . is a very favorable settlement to the class. . . . to get an 85% result was extraordinary, and plaintiffs' counsel should be complimented for it on this record. . . . The recommendations of experienced counsel weigh heavily on the court. The lawyers before me are specialists in class action litigation. They're well known to me, particularly Mr. Berger, and I have confidence that if Mr. Berger and the other plaintiffs' counsel think this is a good, well-negotiated settlement, I find it is." The case was settled for $14.5 million.

* * *

At the *In re Computron Software, Inc. Securities Litigation* settlement hearing, Judge Alfred J. Lechner, Jr. of the United States District Court for the District of New Jersey approved the final settlement and commended Bernstein Litowitz Berger & Grossmann's efforts on behalf of the Class. "I think the job that was done here was simply outstanding. I think all of you just did a superlative job and I'm appreciat[ive] not only for myself, but the court system and the plaintiffs themselves. The class should be very, very pleased with the way this turned out, how expeditiously it's been moved."

* * *

The *In re Louisiana-Pacific Corporation Securities Litigation*, filed in the United States District Court, District of Oregon, was a securities class action alleging fraud and misrepresentations in connection with the sale of defective building materials. Our firm, together with co-lead counsel, negotiated a settlement of $65.1 million, the largest securities fraud settlement in Oregon history, which was approved by Judge Robert Jones on February 12, 1997. The Court there recognized that ". . . the work that is involved in this case could only be accomplished through the unique talents of plaintiffs' lawyers . . . which involved a talent that is not just simply available in the mainstream of litigators."

* * *

Judge Kimba M. Wood of the United States District Court for the Southern District of New York, who presided over the six-week securities fraud class action jury trial in *In re ICN/Viratek Securities Litigation*, also recently praised our firm for the quality of the representation afforded to the class and the skill and expertise demonstrated throughout the litigation and trial especially. The Court commented that ". . . plaintiffs' counsel did a superb job here on behalf of the class. . . This was a very hard fought case. You had very able, superb opponents, and they put you to your task. . . The trial work was beautifully done and I believe very efficiently done. . ."

* * *

Similarly, the Court in the *In re Prudential-Bache Energy Income Partnership Securities Litigation*, United States District Court, Eastern District of Louisiana, recognized Bernstein Litowitz Berger & Grossmann LLP's ". . . professional standing among its peers." In this case, which was settled for $120 million, our firm served as Chair of the Plaintiffs' Executive Committee.

* * *

In the landmark securities fraud case, *In re Washington Public Power Supply System Litigation* (United States District Court, District of Arizona), the district court called the quality of representation "exceptional," noting that "[t]his was a case of overwhelmingly unique proportions. . . a rare and exceptional case involving extraordinary services on behalf of Class plaintiffs." The Court also observed that "[a] number of attorneys dedicated significant portions of their professional careers to this litigation, . . . champion[ing] the cause of Class members in the face of commanding and vastly outnumbering opposition. . . [and] in the face of uncertain victory. . . . [T]hey succeeded admirably."

* * *

Likewise, in *In re Electro-Catheter Securities Litigation*, where our firm served as co-lead counsel, Judge Nicholas Politan of the United States District Court for New Jersey said, "Counsel in this case are highly competent, very skilled in this very specialized area and were at all times during the course of the litigation...always well prepared, well spoken, and knew their stuff and they were a credit to their profession. They are the top of the line."

* * *

In our ongoing prosecution of the *In re Bennett Funding Group Securities Litigation*, the largest "Ponzi scheme" fraud in history, partial settlements totaling over $140 million have been negotiated for the class. While the action continues to be prosecuted against other defendants, the United States District Court for the Southern District of New York has already found our firm to have been "extremely competent" and of "great skill" in representing the class.

* * *

Judge Sarokin of the United States District Court for the District of New Jersey, after approving the $30 million settlement in *In re First Fidelity Bancorporation Securities Litigation*, a case in which were lead counsel, praised the ". . . outstanding competence and performance" of the plaintiffs' counsel and expressed "admiration" for our work in the case.

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

In re WorldCom, Inc. Securities Litigation -- (United States District Court for the Southern District of New York) The largest securities fraud class action in history. The court appointed BLB&G client the **New York State Common Retirement Fund** as Lead Plaintiff and the firm as Lead Counsel for the class in this securities fraud action arising from the financial fraud and subsequent bankruptcy at WorldCom, Inc. The complaints in 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. As a result, investors suffered tens of billions of dollars in losses. The Complaint 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 (most notably, Jack Grubman, Salomon's star telecommunications analyst), and by WorldCom's former CEO and CFO, Bernard J. Ebbers and Scott Sullivan, respectively. On November 5, 2004, the Court granted final approval of the $2.575 billion cash settlement to settle all claims against the Citigroup defendants. In mid-March 2005, 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, bringing the total over $6 billion. Additionally, by March 21, 2005, 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 case generated headlines across the country – and across the globe. In the words of Lynn Turner, a former SEC chief accountant, the settlement sent a message to directors "that their own personal wealth is at risk if they're not diligent in their jobs." After four weeks of trial, Arthur Andersen, WorldCom's former auditor, settled for $65 million. In July 2005, settlements were reached with the former executives of WorldCom, bringing the total obtained for the Class to over $6.15 billion.

In re Cendant Corporation Securities Litigation -- (United States District Court, District of New Jersey) Securities class action filed against Cendant Corporation, its officers and directors and Ernst & Young (E&Y), its auditors. Cendant settled the action for $2.8 billion and E&Y settled for $335 million. The settlements are the third largest in history in a securities fraud action. Plaintiffs alleged that the company disseminated materially false and misleading financial statements concerning CUC'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. A major component of the settlement was Cendant's agreement to adopt some of the most extensive corporate governance changes in history. The firm 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.

Baptist Foundation of Arizona v. Arthur Andersen, LLP -- (Superior Court of the State of Arizona in and for the County of Maricopa) Firm client, the **Baptist Foundation of Arizona Liquidation Trust** ("BFA") filed a lawsuit charging its former auditors, the "Big Five" accounting firm of Arthur Andersen LLP, with negligence in conducting its annual audits of BFA's financial statements for a 15-year period beginning in 1984, and culminating in BFA's bankruptcy in late 1999. Investors lost hundreds of millions of dollars as a result of BFA's demise. The lawsuit alleges that Andersen ignored evidence of corruption and mismanagement by BFA's former senior management team and failed to investigate suspicious transactions related to the mismanagement. These oversights of accounting work, which were improper under generally accepted accounting principles, allowed BFA's undisclosed losses to escalate to hundreds of millions of dollars, and ultimately resulted in its demise. On May 6, 2002, after one week of trial, Andersen agreed to pay $217 million to settle the litigation.

In re Nortel Networks Corporation Securities Litigation -- ("Nortel II") (United States District Court for the Southern District of New York) Securities fraud class action on behalf of persons and entities who purchased or acquired the common stock of Nortel Networks Corporation. The action charged Nortel, and certain of its officers and directors, with violations of the Securities Exchange Act of 1934, alleging that the defendants knowingly or, at a minimum, 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, and BLB&G was appointed Lead Counsel for the Class by the court in July 2004. On February 8, 2006, BLB&G and Lead Plaintiffs announced that they and another plaintiff had reached an historic agreement in principle with Nortel to settle litigation pending against the Company for approximately $2.4 billion in cash and Nortel common stock (all figures in US dollars). The Nortel II portion of the settlement totaled approximately $1.2 billion. 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 $1.3 billion.

In re McKesson HBOC, Inc. Securities Litigation -- (United States District Court, Northern District of California) Securities fraud litigation filed on behalf of purchasers of HBOC, McKesson and McKesson HBOC securities. On April 28, 1999, the Company issued the first of several press releases which announced that, due to its improper recognition of revenue from contingent software sales, it would have to restate its previously reported financial results. Immediately thereafter, McKesson HBOC common stock lost $9 billion in market value. On July 14, 1999, the Company announced that it was restating $327.8 million of revenue improperly recognized in the HBOC segment of its business during the fiscal years ending March 31, 1997, 1998 and 1999. The complaint alleged that, during the Class Period, Defendants issued materially false and misleading statements to the investing public concerning HBOC's and McKesson HBOC's financial results, which had the effect of artificially inflating the prices of HBOC's and the Company's securities. On September 28, 2005, the court granted preliminary approval of a $960 million settlement which BLB&G and its client, Lead Plaintiff the **New York State Common Retirement Fund**, obtained from the company. On December 19, 2006, defendant Arthur Andersen agreed to pay $72.5 million in cash to settle all claims asserted against it. On the eve of trial in September 2007 against remaining defendant Bear Stearns & Co. Inc., Bear Stearns, McKesson and Lead Plaintiff entered into a three-way settlement agreement that resolved the remaining claim against Bear Stearns for a payment to the class of $10 million, bringing the total recovery to more than $1.04 billion for the Class.

HealthSouth Corporation Bondholder Litigation -- (United States District Court for the Northern District of Alabama {Southern Division}) On March 19, 2003, the investment community was stunned by the charges filed by the Securities and Exchange Commission against Birmingham, Alabama based HealthSouth Corporation and its former Chairman and Chief Executive Officer, Richard M. Scrushy, alleging a "massive accounting fraud." Stephen M. Cutler, the SEC's Director of Enforcement, said "HealthSouth's fraud represents an appalling betrayal of investors." According to the SEC, HealthSouth overstated its earnings by at least $1.4 billion since 1999 at the direction of Mr. 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 number of executives at HealthSouth, including its most senior accounting officers – including every chief financial officer in HealthSouth's history – pled guilty to criminal fraud charges. In the wake of these disclosures, numerous securities class action lawsuits were filed against HealthSouth and certain individual defendants. On June 24, 2003, the Honorable Karon O. Bowdre of the District Court appointed the **Retirement Systems of Alabama** to serve as Lead Plaintiff on behalf of a class of all purchasers of HealthSouth bonds who suffered a loss as a result of the fraud. Judge Bowdre appointed BLB&G to serve as Co-Lead Counsel for the bondholder class. On February 22, 2006, the RSA and BLB&G announced that it and several other institutional plaintiffs leading investor lawsuits arising from the scandal had reached a class action settlement with HealthSouth, certain of the company's former directors and officers, and certain of the company's insurance carriers. The total consideration in that settlement was approximately $445 million for shareholders and bondholders. On April 23, 2010, RSA and BLB&G announced that it had reached separate class action settlements with UBS AG, UBS Warburg LLC, Benjamin D. Lorello, William C. McGahan and Howard Capek (collectively, UBS) and with Ernst & Young LLP (E&Y). The total consideration to be paid in the UBS settlement is $100 million in cash and E&Y agreed to pay $33.5 million in cash. Bond purchasers will also receive approximately 5% of the recovery achieved in Alabama state court in a separate action brought on behalf of HealthSouth against UBS and Richard Scrushy. The total settlement for injured HealthSouth bond purchasers will be in excess of $230 million, which should recoup over a third of bond purchaser damages.

Ohio Public Employees Retirement System, et al. v. Freddie Mac, et al. -- (United States District Court for the Southern District of Ohio {Eastern Division}) Securities fraud class action filed on behalf of the **Ohio Public Employees Retirement System** and the **State Teachers Retirement System of Ohio** against the Federal Home Loan Mortgage Corporation ("Freddie Mac") and certain of its current and former officers. The Class included all purchasers of Freddie Mac common stock during the period July 15, 1999 through June 6, 2003. The Complaint alleged that Freddie Mac and certain current or former officers of the Company issued false and misleading statements in connection with 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. On November 21, 2003, Freddie Mac restated its previously reported earnings in connection with these improprieties, ultimately restating more than $5.0 billion in earnings. In October 2005, with document review nearly complete, Lead Plaintiffs began deposition discovery. On April 25, 2006, the parties reported to the Court that they had reached an agreement in principle to settle the case for $410 million. On October 26, 2006, the Court granted final approval of the settlement.

In re Washington Public Power Supply System Litigation -- (United States District Court, District of Arizona) Commenced in 1983, the firm was appointed Chair of the Executive Committee responsible for litigating the action on behalf of the class. The action 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.

In re Wachovia Preferred Securities and Bond/Notes Litigation -- (United States District Court, Southern District of New York) Securities class action, filed on behalf of certain Wachovia bonds or preferred securities purchasers, 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 violated Generally Accepted Accounting Principles ("GAAP") by publicly disclosing loan loss reserves that were materially inadequate at all relevant times. 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 & Company in 2008. Wachovia and its affiliated entities settled the action for $590 million, while KPMG agreed to pay $37 million. The combined $627 million recovery is among the 15 largest securities class action recoveries in history and the largest to date obtained in an action arising from the subprime mortgage crisis. It also is believed to be the largest settlement ever in a class action case asserting only claims under the Securities Act of 1933. The case also represents one of a handful of largest securities class action recoveries ever obtained where there were no parallel civil or criminal securities fraud actions brought by government authorities. The settlement is pending subject to final Court approval. The firm represented Co-Lead Plaintiffs **Orange County Employees' Retirement System** and **Louisiana Sheriffs' Pension and Relief Fund** in this action.

In re Lucent Technologies, Inc. Securities Litigation -- (United States District Court for the District of New Jersey) A securities fraud class action filed on behalf of purchasers of the common stock of Lucent Technologies, Inc. from October 26, 1999 through December 20, 2000. In the action, BLB&G served as Co-Lead Counsel for the shareholders and Lead Plaintiffs, the **Parnassus Fund** and **Teamsters Locals 175 & 505 D&P Pension Trust**, and also represented the **Anchorage Police and Fire Retirement System** and the **Louisiana School Employees' Retirement System**. Lead Plaintiffs' complaint charged Lucent with 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. On September 23, 2003, the Court granted preliminary approval of the agreement to settle this litigation, a package valued at approximately $600 million composed of cash, stock and warrants. 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.

In re Refco, Inc. Securities Litigation -- (United States District Court of the Southern District of New York) Securities fraud class action on behalf of persons and entities who purchased or acquired the securities of Refco, Inc. ("Refco" or the "Company") during the period from July 1, 2004 through October 17, 2005. 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 August 10, 2005 initial public offering of common stock, As a result, Refco filed one of the largest bankruptcies in U.S. history as a result. Settlements have been obtained from multiple company and individual defendants, and the total recovery for the Class is expected to be in excess of $407 million.

In re Williams Securities Litigation -- (United States District Court for the Northern District of Oklahoma) Securities fraud class action filed on behalf of a class of all persons or entities that purchased or otherwise acquired certain securities of The Williams Companies. The action alleged securities claims pursuant to Section 10(b) of the Securities Exchange Act of 1934 and Section 11 of the Securities Act of 1933. After a massive discovery and intensive litigation effort, which included taking more than 150 depositions and reviewing in excess of 18 million pages of documents, BLB&G and its clients, the Arkansas Teacher Retirement System and the Ontario Teachers' Pension Plan Board, announced an agreement to settle the litigation against all defendants for $311 million in cash on June 13, 2006. The recovery is among the largest ever in a securities class action in which the corporate defendant did not restate its financial results.

In re DaimlerChrysler Securities Litigation -- (United States District Court for the District of Delaware) A securities class action filed against defendants DaimlerChrysler AG, Daimler-Benz AG and two of DaimlerChrysler's top executives, charging that Defendants acted in bad faith and misrepresented the nature of the 1998 merger between Daimler-Benz AG and the Chrysler Corporation. According to plaintiffs, defendants framed the transaction as a "merger of equals," rather than an acquisition, in order to avoid paying an "acquisition premium." Plaintiffs' Complaint alleges that Defendants made this representation to Chrysler shareholders in the August 6, 1998 Registration Statement, Prospectus, and Proxy, leading 97% of Chrysler shareholders to approve the merger. BLB&G is court-appointed Co-Lead Counsel for Co-Lead Plaintiffs the **Chicago Municipal Employees Annuity and Benefit Fund** and the **Chicago Policemen's Annuity and Benefit Fund**. BLB&G and the Chicago funds filed the action on behalf of investors who exchanged their Chrysler Corporation shares for DaimlerChrysler shares in connection with the November 1998 merger, and on behalf of investors who purchased DaimlerChrysler shares in the open market from November 13, 1998 through November 17, 2000. The action settled for $300 million.

In re The Mills Corporation Securities Litigation -- **(**United States District Court, Eastern District of Virginia) On July 27, 2007, BLB&G and **Mississippi Public Employees' Retirement System** ("Mississippi") filed a Consolidated Complaint against The Mills Corporation ("Mills" or the "Company"), a former real estate investment trust, certain of its current and former senior officers and directors, its independent auditor, Ernst & Young LLP, and its primary joint venture partner, the KanAm Group. This action alleged that, during the Class Period, Mills issued financial statements that materially overstated the Company's actual financial results and engaged in accounting improprieties that enabled it to report results that met or exceeded the market's expectations and resulted in the announcement of a restatement. Mills conducted an internal investigation into its accounting practices, which resulted in the retirement, resignation and termination of 17 Company officers and concluded, among other things, that: (a) there had been a series of accounting violations that were used to "meet external and internal financial expectations;" (b) there were a set of accounting errors that were not "reasonable and reached in good faith" and showed "possible misconduct;" and (c) the Company "did not have in place fully adequate accounting information systems, personnel, formal policies and procedures, supervision, and internal controls." On December 24, 2009, the Court granted final approval of settlements with the Mills Defendants ($165 million), Mills' auditor Ernst & Young ($29.75 million), and the Kan Am Defendants ($8 million), bringing total recoveries obtained for the class to $202.75 million plus interest. This settlement represents the largest recovery ever achieved in a securities class action in Virginia, and the second largest ever achieved in the Fourth Circuit Court of Appeals.

In re Washington Mutual, Inc., Securities Litigation -- (United States District Court, Western District of Washington) Securities class action filed against Washington Mutual, Inc., certain of its officers and executive officers, and its auditor, Deloitte & Touche LLP. In one of the largest settlements achieved in a case related to the fallout of the financial crisis, Washington Mutual's directors and officers agreed to pay $105 million, the Underwriter Defendants (consisting of several large Wall Street banks) agreed to pay $85 million, and Deloitte agreed to pay $18.5 million to settle all claims, for a total settlement of $208.5 million. Plaintiffs allege that Washington Mutual, aided by the Underwriter Defendants and Deloitte, misled investors into investing in Washington Mutual securities by making false statements about the nature of the company's lending business, which had been marketed as low-risk and subject to strict lending standards. The action alleges that when Washington Mutual experienced a severe drop in the value of its assets and net worth during the financial crisis, it became evident that the losses were related to its increasing focus on high-risk and experimental mortgages, and their gradual abandonment of proper standards of managing, conducting and accounting for its business. The firm represented the **Ontario Teachers' Pension Plan Board** in this case. The settlement is pending subject to final Court approval.

Wells Fargo Mortgage Pass-Through Litigation -- (United States District Court, Northern District of California) Securities class action filed against Wells Fargo, N.A. and certain related defendants. After extensive litigation and discovery, Wells Fargo agreed to pay $125 million to resolve all claims against all defendants. This is the first settlement of a class action asserting Securities Act claims related to the issuance of mortgage-backed securities. Plaintiffs allege that the Offering Documents related to the issuance of mortgage pass-through certificates contained untrue statements and omissions related to the quality of the underlying mortgage loans and that Wells Fargo had disregarded or abandoned its loan underwriting and loan origination standards. The firm represented **Alameda County Employees' Retirement Association**, the **Government of Guam Retirement Fund**, the **Louisiana Sheriffs' Pension and Relief Fund** and the **New Orleans Employees' Retirement System** in this action. The settlement is pending subject to final Court approval.

In re New Century Securities Litigation -- (United States District Court, Central District of California) Securities class action against New Century Financial Corp., certain of its officers and directors, its auditor, KPMG LLP, and certain underwriters. This action arises from the sudden collapse of New Century, a now bankrupt mortgage finance company focused on the subprime market, and alleges that throughout the Class Period, the defendants artificially inflated the price of the Company's securities through false and misleading statements concerning the significant risks associated with its mortgage lending business. In particular, the Company and the Individual Defendants failed to disclose that New Century maintained grossly inadequate reserves against losses associated with loan defaults and delinquencies. These understated reserves, which detract directly from earnings, caused the Company to significantly overstate its publicly reported earnings. The defendants also falsely represented internal controls relating to loan origination, loan underwriting and financial reporting existed at all or were effective. Following extensive negotiations, the parties settled the litigation for a total of approximately $125 million, a feat characterized by numerous industry observers as "enormously difficult given the number of parties, the number of proceedings, the number of insurers, and the amount of money at stake" (*The D&O Diary*). The firm represented Lead Plaintiff the **New York State Teachers' Retirement System** in this action.

Corporate Governance and Shareholders' Rights

UnitedHealth Group, Inc. Shareholder Derivative Litigation -- (United States District Court, District of Minnesota) Shareholder derivative action filed on behalf of Plaintiffs 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 ("Public Pension Funds"). The action was brought in the name and for the benefit of UnitedHealth Group, Inc. ("UnitedHealth" or the "Corporation") against certain current and former executive officers and members of the Board of Directors of UnitedHealth. It alleged that 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 nearly $920 million in ill-gotten compensation directly from the former officer defendants – the largest derivative recovery in history. The settlement is notable for holding these individual wrongdoers

accountable for their role in illegally backdating stock options, as well as for the fact that the company agreed to far-reaching reforms to curb future executive compensation abuses. 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."

Caremark Merger Litigation -- (Delaware Court of Chancery - New Castle County) Shareholder class action against the directors of Caremark RX, Inc. ("Caremark") for violations of their fiduciary duties arising from their approval and continued endorsement of a proposed merger with CVS Corporation ("CVS") and their refusal to consider fairly an alternative transaction proposed by Express Scripts, Inc. ("Express Scripts"). On December 21, 2006, BLB&G commenced this action on behalf of the **Louisiana Municipal Police Employees' Retirement System** and other Caremark shareholders in order to force the Caremark directors to comply with their fiduciary duties and otherwise obtain the best value for shareholders. In a landmark decision issued on February 23, 2007, the Delaware Court of Chancery ordered the defendants to disclose additional 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. The Court also heavily criticized the conduct of the Caremark board of directors and, although declining to enjoin the shareholder vote on procedural grounds, noted that subsequent proceedings will retain the power to make shareholders whole through the availability of money damages. The lawsuit forced CVS to increase the consideration offered to Caremark shareholders by a total of $7.50 per share in cash (over $3 billion in total), caused Caremark to issue a series of additional material disclosures, and twice postponed the shareholder vote to allow shareholders sufficient time to consider the new information. On March 16, 2007, Caremark shareholders voted to approve the revised offer by CVS.

In re Pfizer Inc. Shareholder Derivative Litigation **--** (United States District Court, Southern District of New York) Shareholder derivative action brought by Court-appointed Lead Plaintiffs **Louisiana Sheriffs' Pension and Relief Fund** ("LSPRF") and **Skandia Life Insurance Company, Ltd.** ("Skandia") and fellow shareholders, in the name and for the benefit of Pfizer Inc. ("Pfizer" or the "Company"), against members of the Board of Directors and senior executives of the Company. On September 2, 2009, the U.S. Department of Justice announced that Pfizer agreed to pay $2.3 billion as part of a settlement to resolve civil and criminal charges regarding the illegal marketing of at least 13 of the Company's most important drugs – including the largest criminal fine ever imposed for any matter and the largest civil health care fraud settlement in history. The Complaint alleged that Pfizer's senior management and Board 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 Parties engaged in extensive discovery between March 31, 2010 and November 12, 2010, including discovery-related evidentiary hearings before the Court, the production by Defendants and various third parties of millions of pages of documents. On December 14, 2010, the Court granted preliminary approval of a proposed settlement. Under the terms of the proposed settlement, Defendants agree to create a new Regulatory and Compliance Committee of the Pfizer Board of Directors (the "Regulatory Committee") that will exist for a term of at least five years. The Committee will have a broad mandate to oversee and monitor Pfizer's compliance and drug marketing practices and, together with Pfizer's Compensation Committee, to review the compensation policies for Pfizer's drug sales related employees. The new Regulatory Committee's activities will be supported by a dedicated fund of $75 million, minus any amounts awarded by the Court to Plaintiffs' Counsel as attorneys' fees and expenses. The proposed settlement also provides for the establishment of an Ombudsman Program as an alternative channel to address employee concerns about legal or regulatory issues.

In re ACS Shareholder Litigation (Xerox) -- (Delaware Court of Chancery) Shareholder class action filed on behalf of the **New Orleans Employees' Retirement System** ("NOERS") and similarly situated shareholders of Affiliated Computer Service, Inc. ("ACS" or the "Company"), against members of the Board of Directors of ACS ("the Board"), Xerox Corporation ("Xerox"), and Boulder Acquisition Corp. ("Boulder"), a wholly owned subsidiary of Xerox. The action alleged that the members of the ACS Board breached their fiduciary duties by approving a merger with Xerox 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, including an approximately 3.5% termination fee and a no-

solicitation provision. These deal protections, along with the voting agreement that Deason signed with Xerox (which required him under certain circumstances to pledge half of his voting interest in ACS to Xerox) essentially locked-up the transaction between ACS and Xerox. Plaintiffs, therefore, sought a preliminary injunction to enjoin the deal. After intense discovery and litigation, the parties also agreed to a trial in May 2010 to resolve all outstanding claims. On May 19, 2010, Plaintiffs reached a global settlement with defendants for $69 million. In exchange for the release of all claims, Deason agreed to pay the settlement class $12.8 million while ACS agreed to pay the remaining $56.1 million. The Court granted final approval to the settlement on August 24, 2010.

In re Dollar General Corporation Shareholder Litigation -- (Sixth Circuit Court for Davidson County, Tennessee; Twentieth Judicial District, Nashville) Class action filed against Dollar General Corporation ("Dollar General" or the "Company") for breaches of fiduciary duty related to its proposed acquisition by the private equity firm Kohlberg Kravis Roberts & Co. ("KKR"), and against KKR for aiding and abetting those breaches. 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 KKR. On March 13, 2007, BLB&G 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. The Court appointed BLB&G Co-Lead Counsel and **City of Miami General Employees' & Sanitation Employees' Retirement Trust** as Co-Lead Plaintiff. 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.

Landry's Restaurants, Inc. Shareholder Litigation -- (Delaware Court of Chancery) A derivative and shareholder class action arising from the conduct of Landry's Restaurants, Inc.'s ("Landry's" or "the Company") chairman, CEO and largest shareholder, Tilman J. Fertitta ("Fertitta"). Fertitta and Landry's board of directors (the "Board") breached their fiduciary duties by stripping Landry's public shareholders of their controlling interest in the Company for no premium and severely devalued Landry's remaining public shares. In June 2008 Fertitta agreed to pay $21 per share to Landry's public shareholders to acquire the approximately 61% of the Company's shares that he did not already own (the "Buyout"). Fertitta planned to finance the Buyout by obtaining funds from a number of lending banks. In September 2008 before the Buyout closed, Hurricane Ike struck Texas and damaged certain of the Company's restaurants and properties. Fertitta used this natural disaster, and the general state of the national economy, to leverage renegotiation of the Buyout. By threatening the Board that the lending banks might invoke the material adverse effect clause of the Buyout's debt commitment letter – even though no such right existed – Fertitta drastically reduced his purchase price to $13.50 a share in an amended agreement announced on October 18, 2008 (the "Amended Transaction"). In the wake of this announcement, Landry's share price plummeted, and Fertitta took advantage of Landry's depressed stock price by accumulating shares on the open market. Despite the Board's recognition of Fertitta's stock accumulation outside the terms of the Amended Transaction, it did nothing to protect the interests of Landry's minority shareholders. By December 2, 2008, Fertitta owned more than 50% of the Company, and sought to escape his obligations under the amended agreement. Roughly one month later, Fertitta and the lending banks used a routine request of the Company to cause the Board to terminate the Amended Transaction, thereby allowing Fertitta to avoid paying a termination fee. On February 5, 2009, BLB&G filed a lawsuit on behalf of Plaintiff **Louisiana Municipal Police Employees' Retirement System** and other public shareholders, and derivatively on behalf of Landry's, against Fertitta and the Board seeking to enforce the Buyout and various other reliefs. On November 3, 2009, Landry's announced that its Board approved a new deal with Fertitta, whereby Fertitta would acquire the approximately 45% of Landry's outstanding stock that he does not already own for $14.75 per share in cash (the "Proposed Transaction"). On November 12, 2009, the Court granted Plaintiff's motion to supplement its original complaint to add additional claims involving breaches of fiduciary duty by Fertitta and the Landry's Board related to the Proposed Transaction.

After over a year of intensive litigation in which the Court denied defendants' motion to dismiss on all grounds, settlements were reached resolving all claims asserted against Defendants, which included the creation of a settlement fund composed of $14.5 million in cash. With respect to the conduct surrounding the 2009 Proposed Transaction, the settlement terms included significant corporate governance reforms, and an increase in consideration to shareholders of the purchase price valued at $65 million.

In re Yahoo! Inc., Takeover Litigation -- (Delaware Court of Chancery) Shareholder class action filed on behalf of the Police & Fire Retirement System of the City of Detroit and the General Retirement System of the City of Detroit (collectively "Plaintiffs") (the "Detroit Funds"), and all other similarly situated public shareholders (the "Class") of Yahoo! Inc. ("Yahoo" or the "Company"). The action alleged that the Board of Directors at Yahoo breached their fiduciary duties by refusing to respond in good faith to Microsoft Corporation's ("Microsoft") non-coercive offer to acquire Yahoo for $31 per share - a 62% premium above the $19.18 closing price of Yahoo common stock on January 31, 2008. The initial complaint filed on February 21, 2008 alleged that Yahoo pursued an "anyone but Microsoft" approach, seeking improper defensive options to thwart Microsoft at the expense of Yahoo's shareholders, including transactions with Google, AOL, and News Corp. The Complaint also alleged the Yahoo Board adopted improper change-in-control employee severance plans designed to impose tremendous costs and risks for an acquirer by rewarding employees with rich benefits if they quit and claimed a constructive termination in the wake of merger. Following consolidation of related cases and appointment of BLB&G as co-lead counsel by Chancellor Chandler on March 5, 2008, plaintiffs requested expedited proceedings and immediately commenced discovery, including document reviews and depositions of certain third parties and defendants. In December 2008, the parties reached a settlement of the action which provided significant benefits to Yahoo's shareholders including substantial revisions to the two challenged Change-in-Control Employee Severance Plans that the Yahoo board of directors adopted in immediate response to Microsoft's offer back in February of 2008. These revisions included changes to the first trigger of the severance plans by modifying what constitutes a "change of control" as well as changes to the second trigger by narrowing what amounts to "good reason for termination" or when an employee at Yahoo could leave on his own accord and claim severance benefits. Finally, the settlement provided for modifications to reduce the expense of the plan. The Court approved the settlement on March 6, 2009.

Ceridian Shareholder Litigation -- (Delaware Chancery Court, New Castle County) Shareholder litigation filed in 2007 against the Ceridian Corporation ("Ceridian" or "the Company"), its directors, and Ceridian's proposed merger partners on behalf of BLB&G client, **Minneapolis Firefighter's Relief Association** ("Minneapolis Firefighters"), and other similarly situated shareholders, alleging that the proposed transaction arose from the board of directors' breaches of their fiduciary duty to maximize shareholder value and instead was driven primarily as a means to enrich Ceridian's management at the expense of shareholders. Ceridian is comprised primarily of two divisions: Human Resources Solutions and Comdata. The Company's biggest shareholder pursued a proxy fight to replace the current board of directors. In response to these efforts, the Company disclosed an exploration of strategic alternatives and later announced that it had agreed to be acquired by Thomas H. Lee Partners, LP ("THL") and Fidelity National Financial, Inc. ("Fidelity"), and had entered into a definitive merger agreement in a deal that values Ceridian at $5.3 billion, or $36 per share. In addition, Ceridian's directors were accused of manipulating shareholder elections by embedding into the merger agreement a contractual provision that allowed THL and Fidelity an option to abandon the deal if a majority of the current board is replaced. This "Election Walkaway" provision would have punished shareholders for exercising the shareholder franchise and thereby coerce the vote. The defendants were also accused of employing additional unlawful lockup provisions, including "Don't Ask Don't Waive" standstill agreements, an improper "no-shop/no-talk" provision, and a $165 million termination fee as part of the merger agreement in order to deter and preclude the successful emergence of alternatives to the deal with THL and Fidelity. Further, in the shadow of the ongoing proxy fight, Ceridian refused to hold its annual meeting for over 13 months. Pursuant to Section 211 of the Delaware General Corporation Law, BLB&G and Minneapolis Firefighters successfully filed a petition to require that the Company hold its annual meeting promptly which resulted in an order compelling the annual meeting to take place. BLB&G and Minneapolis also obtained a partial settlement in the fiduciary duty litigation. Pursuant to the settlement terms, the "Election Walkaway" provision in the merger agreement and the "Don't Ask Don't Waive" standstills were eliminated, letters were sent by the Ceridian board to standstill parties advising them of their right to make a superior offer, and the "no-shop/no-talk" provision in the merger agreement was amended to significantly expand the scope of competing transactions that can be considered by the Ceridian board. On February 25, 2008, the court approved the final settlement of the action.

McCall v. Scott -- (United States District Court, Middle District of Tennessee). A derivative action filed on behalf of Columbia/HCA Healthcare Corporation – now "HCA" – against certain former senior executives of HCA and current and former members of the Board of Directors seeking to hold them responsible for directing or enabling HCA to commit the largest healthcare fraud in history, resulting in hundreds of millions of dollars of loss to HCA. The firm represented the **New York State Common Retirement Fund** as Lead Plaintiff, as well as the **California**

Public Employees' Retirement System ("**CalPERS**"), the **New York City Pension Funds**, the **New York State Teachers' Retirement System** and the **Los Angeles County Employees' Retirement Association** ("**LACERA**") in this action. Although the district court initially dismissed the action, the United States Court of Appeals for the Sixth Circuit reversed that dismissal and upheld the complaint in substantial part, and remanded the case back to the district court. On February 4, 2003, the Common Retirement Fund, announced that the parties had agreed in principle to settle the action, subject to approval of the district court. As part of the settlement, HCA was to adopt a corporate governance plan that goes well beyond the requirements both of the Sarbanes-Oxley Act and of the rules that the New York Stock Exchange has proposed to the SEC, and also enhances the corporate governance structure presently in place at HCA. HCA also will receive $14 million. Under the sweeping governance plan, the HCA Board of Directors is to be substantially independent, and would have increased power and responsibility to oversee fair and accurate financial reporting. In granting final approval of the settlement on June 3, 2003, the Honorable Senior Judge Thomas A. Higgins of the District Court said that the settlement "confers an exceptional benefit upon the company and the shareholders by way of the corporate governance plan."

Official Committee of Unsecured Creditors of Integrated Health Services, Inc. v. Elkins, et al. -- (Delaware Chancery Court) The Official Committee of Unsecured Creditors (the "Committee") of Integrated Health Services ("HIS"), filed a complaint against the current and former officers and directors of IHS, a health care provider which declared bankruptcy in January 2000. The Committee, on behalf of the Debtors Bankruptcy Estates, sought damages for breaches of fiduciary duties and waste of corporate assets in proposing, negotiating, approving and/or ratifying excessive and unconscionable compensation arrangements for Robert N. Elkins, the Company's former Chairman and Chief Executive Officer, and for other executive officers of the Company. BLB&G is a special litigation counsel to the committee in this action. The Delaware Chancery Court sustained most of Plaintiff's fiduciary duty claims against the defendants, finding that the complaint sufficiently pleaded that the defendants "consciously and intentionally disregarded their responsibilities." The Court also observed that Delaware law sets a very high bar for proving violation of fiduciary duties in the context of executive compensation. Resulting in a multi-million dollar settlement, the Integrated Health Services litigation was one of the few executive compensation cases successfully litigated in Delaware.

Employment Discrimination and Civil Rights

Roberts v. Texaco, Inc. **--** (United States District Court for the Southern District of New York) 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. Two years of intensive investigation on the part of the lawyers of Bernstein Litowitz Berger & Grossmann LLP, including retaining the services of high level expert statistical analysts, revealed that African-Americans were significantly under-represented in high level management jobs and Caucasian employees were promoted more frequently and at far higher rates for comparable positions within the Company. Settled for over $170 million. Texaco also agreed to a Task Force to monitor its diversity programs for five years. The settlement has been described as the most significant race discrimination settlement in history.

ECOA - GMAC/NMAC/Ford/Toyota/Chrysler - Consumer Finance Discrimination Litigation (multiple jurisdictions) -- 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: In March 2003, the United States District Court for the Middle District of Tennessee granted final approval of the settlement of the class action pending against Nissan Motor Acceptance Corporation ("NMAC"). Under the terms of the settlement, 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. The company will also contribute $1 million to America Saves, to develop a car financing literacy program targeted toward minority consumers. The settlement also provides for the payment of $5,000 to $20,000 to the 10 people named in the class-action lawsuit.

- GMAC: In March 2004, 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 sixty 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. The pre-approval credit program followed the example laid down in the successful program that NMAC implemented. The GMAC program extended to African-American and Hispanic customers throughout the United States and will offer no less than 1.25 million qualified applicants "no markup" loans over a period of five years. In addition, GMAC further agreed to (i) change its financing contract forms to disclose that the customer's annual percentage interest rate may be negotiable and that the dealer may retain a portion of the finance charge paid by the customer to GMAC, and (ii) to contribute $1.6 million toward programs aimed at educating and assisting consumers.

- DaimlerChrysler: In October 2005, the United States District Court for the District of New Jersey granted final approval of the settlement of BLB&G's case against DaimlerChrysler. Under the Settlement Agreement, 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 (i) include disclosures on its contract forms that the consumer can negotiate the interest rate with the dealer and that DaimlerChrysler may share the finance charges with the dealer, (ii) send out 875,000 pre-approved credit offers of no-mark-up loans to African-American and Hispanic consumers over the next several years, and (iii) contribute $1.8 million to provide consumer education and assistance programs on credit financing.

- Ford Motor Credit: In June 2006, the United States District Court for the Southern District of New York granted final approval of the settlement in this class action lawsuit. Under the terms of the settlement, Ford Credit agreed to make contract disclosures in the forms it creates and distributes to dealerships informing consumers that the customer's Annual Percentage Rate ("APR") may be negotiated and that sellers may assign their contracts and retain their right to receive a portion of the finance charge. Ford Credit also agreed to: (i) maintain or lower its present maximum differential between the customer APR and Ford Credit's "Buy Rate"; (ii) to contribute $2 million toward certain consumer education and assistance programs; and (iii) to fund a Diversity Marketing Initiative offering 2,000,000 pre-approved firm offers of credit to African-American and Hispanic Class Members during the next three years.

- Toyota Motor Credit: In November 2006, the United States District Court for the Central District of California granted final approval of the settlement of BLB&G's case against Toyota. Under the Settlement Agreement, Toyota agreed to limit the amount of mark-up on certain automobiles for the next three years with a cap of 2.50% on loans for terms of sixty (60) months or less; 2.00% on loans for terms of sixty-one (61) to seventy-one (71) months; and 1.75% on loans for terms of seventy-two (72) months or more. In addition, Toyota agreed to: (i) disclose to consumers that loan rates are negotiable and can be negotiated with the dealer; (ii) fund consumer education and assistance programs directed to African-American and Hispanic communities which will help consumers with respect to credit financing; (iii) offer 850,000 pre-approved, no mark-up offers of credit to African-Americans and Hispanics over the next five years; and offer a certificate of credit or cash to eligible class members.

Alexander v. Pennzoil Company -- (United States District Court, Southern District of Texas) A class action on behalf of all salaried African-American employees at Pennzoil alleging race discrimination in the Company's promotion, compensation and other job related practices. The action settled for $6.75 million.

Butcher v. Gerber Products Company -- (United States District Court, Southern District of New York) Class action asserting violations of the Age Discrimination in Employment Act arising out of the mass discharging of approximately 460 Gerber sales people, the vast majority of whom were long-term Gerber employees aged 40 and older. Settlement terms are confidential.

Consumer Class Actions

DoubleClick -- (United States District Court, Southern District of New York) Internet Privacy. A class action on behalf of Internet users who have had personal information surreptitiously intercepted and sent to a major Internet advertising agency. In the settlement agreement reached in this action, DoubleClick committed to a series of industry-leading privacy protections for online consumers while continuing to offer its full range of products and services. This is likely the largest class action there has ever been - virtually every, if not every, Internet user in the United States.

General Motors Corporation -- (Superior Court of New Jersey Law Division, Bergen County) A class action consisting of all persons who currently own or lease a 1988 to 1993 Buick Regal, Oldsmobile Cutlass Supreme, Pontiac Grand Prix or Chevrolet Lumina or who previously owned or leased such a car for defective rear disc brake caliper pins which tended to corrode, creating both a safety hazard and premature wearing of the front and rear disc brakes, causing extensive economic damage. Settled for $19.5 million.

Wright v. MCI Communications Corporation -- (United States District Court, District of California) Consumer fraud class action on behalf of individuals who were improperly charged for calls made through MCI's Automated Operator Services. Class members in this class action received a return of more than 85% of their losses. Settled for $14.5 million.

Empire Blue Cross -- (United States District Court, Southern District of New York) Overcharging health care subscribers. BLB&G was lead counsel in a recently approved $5.6 million settlement that represented 100% of the class' damages and offered all the overcharged subscribers 100 cents on the dollar repayment.

DeLima v. Exxon -- (Superior Court of Hudson County, New Jersey) A class action complaint alleging false and deceptive advertising designed to convince consumers who did not need high-test gasoline to use it in their cars. A New Jersey class was certified by the court and upheld by the appellate court. Under terms of the settlement, the class received one million $3 discounts on Exxon 93 Supreme Gasoline upon the purchase of at least 8 gallons of the gasoline.

Toxic/Mass Torts

Fen/Phen Litigation ("Diet Drug" Litigation) -- (Class action lawsuits filed in 10 jurisdictions including New York, New Jersey, Vermont, Pennsylvania, Florida, Kentucky, Indiana, Arizona, Oregon and Arkansas) The firm played a prominent role in the nationwide "diet drug" or "fen-phen" litigation against American Home Products for the Company's sale and marketing of Redux and Pondimin. The suits alleged that a number of pharmaceutical companies produced these drugs which, when used in combination, can lead to life-threatening pulmonary hypertension and heart valve thickening. The complaint alleged that these manufacturers knew of or should have known of the serious health risks created by the drugs, should have warned users of these risks, knew that the fen/phen combination was not approved by the FDA, had not been adequately studied, and yet was being routinely prescribed by physicians. This litigation led to one of the largest class action settlements in history, the multi-billion dollar Nationwide Class Action Settlement with American Home Products approved by the United States District Court for the Eastern District of Pennsylvania. In this litigation, BLB&G was involved in lawsuits filed in the 10 jurisdictions and was designated Class Counsel in the Consolidated New York and New Jersey state court litigations. Additionally, the firm was Co-Liaison Counsel in the New York litigations and served as the State Court Certified Class Counsel for the New York Certified Class to the Nationwide Settlement.

CLIENTS AND FEES

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.

As stated, our client roster includes many large and well known financial and lending institutions and pension funds, as well as privately held corporate entities which are attracted to our firm because of our reputation, particular expertise and fee structure.

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 a retention where our fee is at least partially 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.

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.

The Bernstein Litowitz Berger & Grossmann Public Interest Law Fellowship, 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 Bernstein Litowitz Berger & Grossmann Fellows will be able to leave law school free of any law school debt if they make a long term commitment to public interest law.

Firm sponsorship of *inMotion*, New York, NY. BLB&G is a sponsor of inMotion, 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, typically associates at law firms or in-house counsel, who provide *pro bono* counsel to these women. Several members and associates of the firm volunteer their time and energies to help women who need divorces from abusive spouses, or representation on legal issues such as child support, custody and visitation. To read more about inMotion and the remarkable services it provides, visit the organization's website at www.inmotiononline.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 of Bernstein Litowitz Berger & Grossmann LLP, and the family and friends of Paul M. Bernstein. Established in 1990, the scholarship 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 fellow students and 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 at 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. 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.

THE MEMBERS OF THE FIRM

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.

A member of the firm's Management Committee, Mr. Silk is one of the partners who oversee the firm's new matter department, in which he, along with a group of financial analysts and investigators, counsels institutional clients on potential legal claims. He was the subject of "Picking Winning Securities Cases," a feature article in the June 2005 issue of *Bloomberg Markets* magazine, which detailed his work for the firm in this capacity. *Lawdragon* magazine has named him 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. Mr. Silk has also been selected for inclusion among *New York Super Lawyers* every year since 2006.

Mr. Silk is currently advising institutional investors worldwide on their rights with respect to claims involving transactions in residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs). He is also 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 (see Gretchen Morgenson, "Mortgage Investors Turn to State Courts for Relief," *The New York Times*, July 11, 2010).

Mr. Silk is also representing public pension funds who participated in a securities lending program administered and managed by Northern Trust Company and sustained losses as a result of Northern Trust's alleged breaches of fiduciary duty. 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.

Mr. Silk was one of the principal attorneys responsible for prosecuting the *In re Independent Energy Holdings Securities Litigation*. A case against the officers and directors of Independent Energy as well as several investment banking firms which underwrote a $200 million secondary offering of ADRs by the U.K.-based Independent Energy, the litigation was resolved for $48 million. Mr. Silk has also prosecuted and successfully resolved several other securities class actions, which resulted in substantial cash recoveries for investors, including *In re Sykes Enterprises, Inc. Securities Litigation* in the Middle District of Florida, and *In re OM Group, Inc. Securities Litigation* in the Northern District of Ohio. 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.

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 "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 is a frequent 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.

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WILLIAM C. FREDERICKS is a partner in the New York office of Bernstein Litowitz Berger & Grossmann LLP. He began his legal career as a law clerk for the Hon. Robert S. Gawthrop III of the U.S. District Court for the Eastern District of Pennsylvania, and then spent seven years practicing securities and complex commercial litigation as an associate at Simpson Thacher & Bartlett and Willkie Farr & Gallagher before moving to the plaintiffs' side of the bar in 1997. Since then, Mr. Fredericks has represented investors as a lead or co-lead counsel in dozens of securities class actions, including *In re Wachovia Preferred Securities and Bond/Notes Litig.* (S.D.N.Y.) (total settlements of $627 million, reflecting the largest recovery ever in a pure Securities Act case that did not involve any parallel government fraud claims); *In re Rite Aid Securities Litig.* (E.D. Pa.) (total settlements of $323 million, including the then-second largest securities fraud settlement ever against a Big Four accounting firm); *In re Sears Roebuck & Co. Securities Litig.* (N.D. Ill.) ($215 million settlement, reflecting the largest section 10(b) recovery in history not involving either a financial restatement or parallel government fraud claims); *In re State Street ERISA Litig.* ($89 million settlement, one of the largest ERISA class action settlements to date) and *Irvine v. Imclone Systems, Inc.* (S.D.N.Y.) ($75 million settlement). He has also obtained significant recoveries on behalf of creditor interests, including recoveries against News Corp. on behalf of the receiver in bankruptcy of Australis Holdings Pty. Limited, and recoveries on behalf of the Friedman's Creditor Trust against certain former outside attorneys, auditors and financial advisers of Friedman's, Inc. Mr. Fredericks' current cases include *In re Merck & Co., Inc. Securities Litig.* (D.N.J.), where he played a lead role on the team that obtained a rare 9-0 decision for plaintiffs (and remand to the district court) in a securities fraud case from the United States Supreme Court in *Merck & Co., Inc. v. Reynolds*, 130 S.Ct. 1784 (2010).

Mr. Fredericks graduated from Columbia University School of Law in 1988, where he was awarded the Toppan Prize in Advanced Constitutional Law, the Beck Prize in Property Law, the Greenbaum Prize for Legal Writing, and the Gov. Thomas E. Dewey Prize for best oral argument in the final round of Columbia's 1988 Harlan Fiske Stone Moot Court Honor Competition. He earned his B.S., with High Honors, from Swarthmore College, and also holds an M. Litt. degree in international relations from Oxford University.

Mr. Fredericks has been a panelist on numerous programs sponsored by various organizations, including the Practising Law Institute (PLI) and the American Law Institute/American Bar Association (ALI/ABA). He is a member of the Association of the Bar of the City of New York (former chairman, Committee on Military Affairs and Justice), The American Bar Association, and The Federal Bar Council. He is admitted to the bar of the State of New York and to the bars of the United States Supreme Court, the U.S. Courts of Appeals for the Second, Third, Sixth and Tenth Circuits, and the U.S. District Courts for the Southern and Eastern Districts of New York, and the District of Colorado.

EDUCATION: Swarthmore College, B.A., Political Science, High Honors, 1983. University of Oxford (England), M.Litt., International Relations, 1988. Columbia University, J.D., 1988; three-time Harlan Fiske Stone Scholar; Articles Editor, *The Columbia Journal of Transnational Law*.

BAR ADMISSIONS: New York; U.S. District Courts for the Southern and Eastern Districts of New York and the District of Colorado; U.S. Courts of Appeals for the Second, Third, Sixth and Tenth Circuits; U.S. Supreme Court.

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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.

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 is presently prosecuting 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.

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 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.

SENIOR COUNSEL

ROCHELLE FEDER HANSEN has handled a number of high profile securities fraud cases at the firm, including *In re StorageTek Securities Litigation*, *In re First Republic Securities Litigation*, and *In re RJR Nabisco Litigation*. Ms. Hansen has also acted as Antitrust Program Coordinator for Columbia Law School's Continuing Legal Education Trial Practice Program for Lawyers.

EDUCATION: Brooklyn College of the City University of New York, B.A., 1966; M.S., 1976. Benjamin N. Cardozo School of Law, J.D., *magna cum laude*, 1979; Member, *Cardozo Law Review*.

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

ASSOCIATES

JOHN J. MILLS' practice concentrates on Class Action Settlements and Settlement Administration. Mr. Mills also has experience representing large financial institutions in corporate finance transactions.

EDUCATION: Duke University, B.A., 1997. Brooklyn Law School, J.D., *cum laude*, 2000; Member of *The Brooklyn Journal of International Law;* Carswell Merit Scholar recipient.

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

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MATTHEW L. BERMAN practices out of the New York office, where he prosecutes securities fraud, corporate governance & shareholder rights on behalf of the firm's institutional clients, as well as employment discrimination suits and patent infringement cases on a behalf of other plaintiffs.

Prior to joining BLB&G, Mr. Berman worked as an attorney in private practice, where he primarily advised clients in labor and employment matters.

He received a J.D. from Fordham University School of Law, where he served as a judicial intern to the Honorable Denny Chin, former United States District Judge for the Southern District of New York, and currently a Judge of the United States Court of Appeals for the Second Circuit. In addition, he worked as an intern at the Nassau County District Attorney's Office, as well as at Fordham University's Unemployment Action Center clinic where he counseled individuals seeking to obtain unemployment insurance benefits.

EDUCATION: Bucknell University, B.A., 1994. Fordham University School of Law, J.D., 1999, Notes & Articles Editor of the *Fordham University Environmental Law Journal*.

BAR ADMISSION: New York, Massachusetts.

EXHIBIT 4

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

BOARD OF TRUSTEES OF THE CITY OF LAKE WORTH EMPLOYEES' RETIREMENT SYSTEM, et. al.,

Plaintiffs,

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,

Case No. 3:10-cv-845-J-32MCR

Defendant.

DECLARATION OF IVELISSE BERIO LEBEAU IN SUPPORT OF PLAINTIFFS' COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES FILED ON BEHALF OF SUGARMAN & SUSSKIND, P.A.

IVELISSE BERIO LEBEAU, declares as follows:

1. I am an attorney at the law firm of Sugarman & Susskind, P.A. I submit this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. My firm, which served as co-Lead Counsel for Plaintiffs in the Action, was involved in all aspects of the litigation and settlement of the Action, as set forth in the Joint Declaration submitted by Plaintiffs' Counsel in support of Plaintiffs' motion for final approval of the Settlement and Plaintiffs' Counsel's motion for an award of attorneys' fees and reimbursement of expenses.

3. The schedule attached hereto as Exhibit 1 is a summary of the amount of time spent by each attorney of my firm who was involved in litigating this Action, and the resulting lodestar calculation based on my firm's current billing rates. The schedule was prepared from

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

4. The hourly rates for the attorneys in my firm that are included in Exhibit 1 are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted in other class action litigation.

5. The total number of hours expended on this Action by my firm, from the preliminary investigation and evaluation of the case through the date of this declaration, is 758.50.[1] The total lodestar for my firm is $346,525.00 for attorneys' time.

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

7. As detailed in the schedule attached hereto as Exhibit 2, my firm has incurred a total of $2,141.73 in unreimbursed expenses in connection with the prosecution of this Action from its inception through the date of this declaration.

8. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

[1] My firm also expended additional hours in connection with the development of facts and analysis of legal issues that led to the filing of this Action; those additional hours are not reported here.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on June 14, 2012.

IVELISSE BERIO LEBEAU

EXHIBIT 1

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

SUGARMAN & SUSSKIND, P.A.

TIME REPORT

Inception through June 14, 2012

NAME	HOURS	HOURLY RATE	LODESTAR
Attorneys:			
Ivelisse Berio LeBeau	710.00	$450.00	$319,500.00
Robert A. Sugarman	30.50	650.00	19,825.00
Kenneth R. Harrison, Sr.	18.00	400.00	7,200.00
TOTALS	**758.50**		**$346,525.00**

EXHIBIT 2

Board of Trustees of the City of Lake Worth Employees' Retirement System, et al., v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated
Case No. 3:10-cv-845-J-32MCR

SUGARMAN & SUSSKIND, P.A.

EXPENSE REPORT

Inception through June 14, 2012

CATEGORY	AMOUNT
Document Management/Litigation Support	$804.70
Postage & Express Mail	$347.21
Outside Copying	$575.23
Out of Town Travel	$414.59
TOTAL EXPENSES:	**$2,141.73**

EXHIBIT 3

SUGARMAN & SUSSKIND
PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman
Howard S. Susskind
Kenneth R. Harrison, Sr.
Noah Scott Warman
D. Marcus Braswell, Jr.
Pedro A. Herrera
Ivelisse Berio LeBeau

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Toll Free 1-800-329-2122
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Sugarman and Susskind is a Florida based law firm dedicated to protecting working people, their wages and working conditions, their pensions, and their health care benefits. Our committed attorneys have expertise in the complementary areas of union-side labor law, employee benefit law and employment law, allowing us to provide tailored legal services to unions, their members, employee benefit plan trustees, and individual employees. We provide both compliance and litigation services, representing benefit plan trustees and individuals in fiduciary breach and benefit litigation relating to private and public employee benefit plans.

Representative Clients and Services:

Labor Unions: We provide comprehensive representation for labor unions, addressing the full spectrum of their unique legal concerns. Among our clients are locals affiliated with the Teamsters, Firefighters, Carpenters, UNITE HERE, OPEIU, UA and IBEW, who rely on us for their legal needs such as organizing, picketing and demonstrations, as well as contract review, arbitrations, and litigation.

Employee Benefit Plan Trustees: We provide a broad range of services for the trustees of multiemployer and municipal employee pension and health benefit plans. Our clients include benefit plans for locals affiliated with the Teamsters, IBEW, and UA, as well as the boards of more than 65 municipal employee benefit plans throughout Florida. We also represent trustees in litigation brought on behalf of plans, including contract actions and actions claiming breaches of fiduciary duty by service providers.

Individual Employees: We represent employees in wage and hour litigation to recover regular and overtime wages; plan participants seeking promised benefits under employee benefit plans sponsored by single employers; and participants seeking recovery on behalf of such plans for breaches of fiduciary duty.

Specialized Services:

Sugarman and Susskind can provide unique services drawing on our collective experience in labor law and employee benefits law such as:

VEBAs: Formation of independent VEBA trusts to fund and provide health benefits to employees and retirees.

Fiduciary Education: Consultation services for plan trustees with respect to particular inquiries or to assist in overall compliance.

Fiduciary Audits: Independent review of practices and procedures relating to compliance with ERISA fiduciary duties, DOL requirements and best practices.

DOL Investigations: Assistance in responding to investigations initiated by the DOL.

ERISA Service Providers: Assistance in reviewing and negotiating contracts with service providers to health and pension benefit plans, including pharmacy benefit managers, insurance companies, PPOs

and investment consultants. Litigation on behalf of the trustees of employee benefit plans against service providers.

401(k) and Defined Contribution Plans: Review and evaluation of members' losses under 401(k) and defined contribution pension benefit plans.

Union Election-Related Litigation: Assistance in complying with the laws regulating union officers' elections and in defending local unions in election-related litigation.

Picketing and Demonstrations: Skilled representation in planning and defending our clients' picketing and demonstrations in court and before the NLRB.

Attorneys:

Sugarman and Susskind attorneys are licensed in Florida, Massachusetts and Illinois. We can also serve clients nationally through our network of co-counsel in other states.

Robert Sugarman:	Founding Partner, Board Certified Labor and Employment Lawyer, and Fellow of the College of Labor and Employment Attorneys. In addition to his union work Bob represents many municipal employee benefit plan boards of trustees.
Howard Susskind:	Founding Partner and Fellow of the College of Labor and Employment Attorneys. Howard represents the boards of trustees of many jointly administered multiemployer benefit funds in addition to providing services to unions.
Ken Harrison	Former Assistant Chief of the City of Miami Police Department and Former Captain in the Coast Guard Reserve. Ken was a union official and a trustee of a municipal employee benefit plan before becoming a lawyer representing such trustees. Experienced in internal affairs investigations, veterans' rights and negotiating severance agreements.
Ivelisse Berio LeBeau	Former Attorney for the U.S. Department of Labor specializing in Fiduciary Enforcement under ERISA. Ivelisse brings a unique perspective to her practice focusing on ERISA fiduciary compliance and litigation, including issues relating to ERISA plan service providers.
Noah Warman	Graduate of the University of Chicago and the University of Virginia Law School. Noah is a dedicated union and individual employee rights attorney who has practiced for more than 14 years in Florida and Illinois representing unions and employees.
Marcus Braswell	Graduate of Duke University and cum laude graduate of the Florida State University College of Law. Marcus has extensive litigation experience representing multiemployer and municipal benefit plans in collection actions, as well as representing union officials in federal district court.
Pedro Herrera	Summa cum laude graduate of the University of Miami, cum laude graduate of the University of Pennsylvania Law School, and Recipient of a Certificate in Business and Public Policy from the Wharton School of Business. Pedro's practice focuses on employee benefits law.

Sugarman & Susskind provides experienced and dedicated legal representation in employee benefits, labor, and wage and hour law matters throughout the state of Florida and beyond. Additional information is available on our website, www.sugarmansusskind.com, including biographical backgrounds of our attorneys.

Ivelisse Berio LeBeau, Esq.

Ms. Berio LeBeau joined Sugarman & Susskind, a labor law firm in Coral Gables, Florida, in 2007. Her practice focuses on employee benefits law under the federal Employee Retirement Income Security Act ("ERISA"), with an emphasis on litigation and compliance matters relating to the fiduciary responsibilities imposed by ERISA. Ms. Berio LeBeau counsels the boards of trustees of jointly administered multiemployer pension and welfare benefit funds, represents multiemployer plan trustees in litigation, and represents employees in employment law matters, including participants in ERISA benefit plans.

Ivelisse previously served as a Trial Attorney in the Solicitor's Office of the U.S. Department of Labor in Boston for 13 years. At the Department of Labor she represented the Employee Benefits Security Administration ("EBSA") in lawsuits brought under ERISA alleging that fiduciaries to employee pension and welfare benefit plans breached fiduciary duties imposed by ERISA or were engaged in transactions prohibited under ERISA, including actions against fiduciaries who had made imprudent investment decisions and against service providers who generated and retained undisclosed revenue. Ivelisse also provided legal support and assistance during EBSA investigations and created training materials for EBSA investigators to use in drafting subpoenas and preparing cases for litigation.

Ms. Berio LeBeau is active in the Employee Benefits Committee of the American Bar Association's Labor and Employment Law Section. She is currently a Co-Chair of the Board of Senior Editors working on the Third Edition of *Employee Benefits Law* (BNA Books) with an anticipated publication date in 2012. Ivelisse had previously served as a Senior Editor, Rewrite Editor, Chapter Editor and Contributing Author on the 2004 – 2010 annual Supplements to *Employee Benefits Law 2nd Ed.* (BNA Books). From 2004 to 2006 she was a Government Fellow to the Employee Benefits Committee. Ivelisse is also a frequent speaker on employee benefits law topics.

Prior to joining the Department of Labor Ms. Berio LeBeau was a litigation associate at the Boston, Massachusetts law firm Brown, Rudnick, Freed and Gesmer, and served as a law clerk to the late Honorable Joseph P. Warner, former Chief Justice of the Massachusetts Appeals Court. She is a graduate of Mount Holyoke College and a *cum laude* graduate of Boston College Law School. Ivelisse is bilingual and bicultural, crediting her fluency in Spanish to her Puerto Rican roots.

Robert A. Sugarman, Esq.

Mr. Sugarman is a partner in the law firm of Sugarman & Susskind, P.A., and a Florida board-certified labor and employment lawyer. He has provided legal services to multiemployer and public sector plans for over 30 years. Mr. Sugarman's firm currently represents over 15 multiemployer and 60 municipal pension plans. He is a former adjunct professor, Florida International University, and serves as an instructor for the Certified Employee Benefit Specialist® program and the Certificate of Achievement in Public Plan Policy (CAPPPTM). In addition, Mr. Sugarman is a member of the International Foundation of Employee Benefit Plans and the National Association of Public Pension Attorneys; has served as an executive board member of the Florida Bar Labor Law Section; served as a member of the board of directors of the AFL-CIO Lawyers Coordinating Committee; and is a fellow of the College of Labor and Employment Lawyers. He has been continuously listed in The Best Lawyers in America since 1989. Mr. Sugarman has spoken before many organizations including the Government Finance Officers Association, the State of Florida Division of Retirement, the American Society of Actuaries, the Florida Public Pension Trustees' Association and the National Association of Police Organizations on legal issues relating to employee benefits. He received his B.A. degree from George Washington University and holds a J.D. degree from the University of Virginia Law School.

Kenneth R. Harrison, Sr., Esq.

Mr. Harrison is a partner with the law firm of Sugarman & Susskind P.A., in Coral Gables, Florida, practicing in the area of employment and labor law focusing on union side issues that include employee benefits and pension law. He is a University of Miami School of Law graduate and also holds a Masters of Science Degree in Management from Biscayne College (St. Thomas University) and a Bachelor of Business Degree accounting major from the University of Miami. Ken was recognized as the outstanding senior of his law school graduating class.

Ken entered law school after completing a 26-year law enforcement career, retiring from the City of Miami (Florida) Police Department as Assistant Chief. For 16 years during his career in law enforcement he served as a trustee for Miami's Police and Fire Pension Funds. Ken is a founding member of the Florida Pension Trustees Association (FPPTA), currently serving as Director Emeritus and is a Certified Public Pension Trustee. Additionally, for 10 of his years in law enforcement, he was active in police labor organizations at the local, state and national levels.

Ken is active in the Miami Law community having served on the School of Law Alumni Association, the Coral Gables Bar Association and the Dade County Bar Association in various positions and on numerous Committees. He is a frequent speaker at pension and labor conferences, presenting at the AFL-CIO Labor Lawyers Conference, the State of Florida Department of Retirement seminars and the FPPTA schools and conferences.